

The Trial of Octavien Ngenzi and Tito Barahira

Court of Assizes, Paris
May 2016



Octavien Ngenzi

Tito Barahira

Daily court reports of the trial filed by Alan Gauthier for Le Collectif des Parties Civiles pour le Rwanda (CPCR), translated into English. The original French reports, with further details and their 2018 appeal, are on the CPCR website:

<https://www.collectifpartiescivilesrwanda.fr/category/proces-ngenzibarahira/>

Ngenzi/Barahira trial 10 May 2016

A trial that has trouble getting started, the responsibility for which lies with the defence. The day begins with the constitution of the jury, 6 jurors and 5 alternate jurors are drawn by lot and sworn in.

The President reminded the audience that "this is a historic trial and the proceedings will be televised". Maitre Mathe, NGENZI's lawyer, then raises preliminary objections and belatedly addresses her conclusions on these objections to the parties. She wants this trial to be exemplary and launches into a long diatribe, beginning by saying that: "*since the beginning (of the proceedings) the defence has not been able to find its place in it*". Referring to the numerous testimonies that will be heard, she underlines that the witnesses "*make mistakes, lie...*", claiming that a certain number of testimonies are "*questionable*", especially since "*Rwanda is a bloody dictatorship*". This will be her leitmotiv.

She regrets that the defence was not involved in the investigations, that the file does not contain sufficiently clear maps... and asks for a "*transport to the scene*" as well as access to the database that was used in the case, and in particular the "*elements deleted without her opinion*".

To justify her request for a visit to the scene, she again asserts that "*the witnesses will come and say what they want to say, what they have been told to say...*".

She therefore wants the debates to be interrupted, the trial to be adjourned and consequently the detainees to be released. Maitre Mathe does not fail to point out that she has "*many opponents in this trial*"; "*I have private accusers, the CPCR*" who "*even enter Rwandan prisons*". She goes on to say that, among the many witnesses called, "*those who do not support the prosecution have been dismissed*". She added, after having reiterated that she had many opponents, "*we are alone*". And once again, she is indignant at the CPCR for daring to "*raise funds, even in Rwanda*". She

concludes that a foreign power is financing the trial, a foreign power that lives *"in a climate of terror"*: the witnesses live *"under control, under the terror of the Rwandan government"*.

Maitre Meilhac, BARAHIRA's lawyer, agrees and in turn supports the request of his colleague from the defence, a defence that feels helpless. *"In the land of human rights, a trial must be exemplary,"* he concluded.

The floor is given to the civil parties. Maitre Laval introduces himself as the lawyer of the CPCR and, addressing the jurors, *"the CPCR, which has been presented to you as a representative of an appalling dictatorship... and which has considerable financial means"*. He evokes the numerous victims of the family of Dafroza GAUTHIER, a founding member of the CPCR, decimated during the Tutsi genocide.

"What haunts this room", he continues, *"is more than one million people. The associations are here to make the victims' voices heard"*. And he adds that *"the defence wants to discredit this trial"*. Maitre Laval paid tribute to the investigating magistrates who were "above suspicion".

He ended his speech with these words: *"The defence wants to suspend the trial and ask for the release of the accused! They want to inoculate you (the jurors) with the poison of doubt."*

The other lawyers for the civil parties in turn oppose the postponement of the trial and ask the Court to reject the defence's request.

The Advocate General, Mr Philippe Courroye, will follow the same line of reasoning, systematically dismantling the arguments of the defence:

- Transport to the scene is an issue that has already been decided, and is not possible for a court of law.
- Equality of arms is ensured: *"The defence lawyers have been defending the case since the beginning, and I am personally pleased about this because I want to have a strong defence in front of me that can ensure the rights of the accused."*
- Pooling of resources: *"You have to stop fantasising"*, said the Attorney General, *"the Public Prosecutor is not the opponent of the defence. It is the lawyer of the law. It defends the general interest"*.
- Witnesses: *"They would be pressured? This is an assumption. If witnesses are taken in charge it is to ensure the independence of their testimony."*

The Advocate General concluded by asking the Court to reject the defence's arguments, *"the victims are entitled to have this trial"*.

After the suspension of the proceedings, to allow the Court to deliberate, the President announced that the trial would continue, thus rejecting the defence's requests.

Maitre Mathe then raised a new incident, again presenting her conclusions late to the parties. She then raised the issue of the two anonymous witnesses called to testify at the trial.

The civil parties contest the positions of the defence and after a further recess for deliberation, the Court rejects the defence's submissions.

This is followed by an indigestible reading of all the witnesses called, some of whom did not come forward following their notification to appear. Quite a long time is devoted to the renunciation of Mr GUICHAOUA to come and testify, as he was not called by the Public Prosecutor. This was regretted by all parties.

The day ends with the (summarised) reading of the indictment by the President of the Assize Court:

- Reminder of the procedure
- Historical background
- Information on the administrative organisation of Rwanda in 1994
- Reminder of the facts of the case
- Reading of incriminating and exculpatory evidence
- Qualifications retained for the facts

Following this reading, the President addressed the accused to ask them what their position was in relation to the facts of which they were accused. To this BARAHIRA replies that he has done nothing, that he pleads not guilty, that the testimonies are inventions and that he had provided the investigating judge with all the elements showing that he was a *"victim of calumny"*. NGENZI replies that he also pleads not guilty, that he *"was never really incriminated"* and that he is not *"here to defend the genocidaires"*, that *"an innocent population was taken [in Rwanda]"* and that as mayor he *"did everything to avoid it"* but that he was *"unable to manage the events"*.

The day thus ended with the denial of the accused.

We hope that despite the delay in the day's proceedings, the debates can begin very soon.

Interrogation of Tito BARAHIRA's CV 11 May 2016. Day 2

The whole morning is devoted to the personality of Tito BARAHIRA. The President asked the accused to speak freely about his past.

Childhood and training. Mr BARAHIRA talks about his childhood with his family. He begins with his primary school years, close to home, then a little further away. Beaten by his teacher in the second year, far from home, he was finally withdrawn from school. The following year he returned to school, until the sixth grade, which he had to repeat after failing the secondary school entrance test, which he passed the following year. Three years of secondary school, followed by a teacher training college in Zaza where he obtained his teaching diploma. After two years of teaching, he went to Butare for a teaching internship.

Political commitment. When HABYARIMANA's coup d'état took place in 1973, he wanted to come and work in Kigali where he obtained a position at the Ministry of Youth and Sports, in charge of youth training. He had known the Minister who was from his native region. In 1976, he was appointed mayor of Kabarondo. He remained in this position until 1986, when he decided not to renew his mandate. As mayor, he was also regional president of the MRND, the single party created by the president of the republic. In 1987, he was hired by the Electrogaz company in Kibungo where he worked *'until 1994 when the war against those we called the rebels began'*.

The period of the genocide summed up by his flight. After the attack on the president's plane, Mr BARAHIRA refers to a *"period of mourning and war"*, during which the rebels continued to fight. *"This period led to many problems in several places in Kabarondo and throughout the country, massacres that caused the death of several victims, including Tutsis.* In fear, he found it necessary to flee with his family. There is no mention of the killings in the different sectors, neither at the church in Kabarondo, nor at the health centre, nor at the IGA... The first fortnight of April 1994 is summed up by his flight, during which he

finds himself alone with his eldest son. He spent several weeks looking for his wife and other children: First Burundi, then the Benako camp in Tanzania where he joins thousands of Hutu refugees and learns that his wife has returned to Rwanda. He lived in this camp for two years, then left for Nairobi, the capital of Kenya. His wife will come to visit him and then go back to Rwanda where she works. She eventually left for France in 1997 and was granted political asylum a year later.

Arrival in France. His eldest son, with whom he stayed in Nairobi, arrived in France in 2001. It was not until 25 December 2004 that he in turn managed to settle in France where he tried to integrate. However, he was ill and worked for two years at the Inspection académique de Toulouse, then in a cleaning service. When he retired, he was imprisoned for the first time after an international arrest warrant was issued. His request for extradition to Rwanda was rejected. Released, he was placed under judicial supervision. He was re-arrested in 2013 and appeared in custody.

Questions from the Chair. A series of questions from the president followed: why did he ask for an interpreter when he was always questioned in French? His relationship with his parents, his brothers and sisters, the material conditions in which they lived, their religion... All these questions help to understand the personality of the accused a little better but do not seem to be of capital interest. The President also wanted to know whether the fact that he had known the Minister of Youth was of any help to him in becoming a civil servant in that same ministry. Tito BARAHIRA does not dare to say so, but it seems obvious. The same is true for his appointment as mayor, even if BARAHIRA claims to have been surprised by this appointment. Especially since, as mayor, he became de facto local president of the MRND. He justified his resignation in 1986 by citing health problems. In January 1994, the former 'youth leader' in Kigali was again appointed president of the MRND. Tito BARAHIRA will be questioned about his marital life, about the divorce that his wife will ask for as soon as he arrives in France, simply because she had taken the habit of living without him.

What about his relationship with NGENZI? He knew him because, when he was burgomaster, Octavien NGENZI had been appointed agronomist in Kabarondo. His hobbies? Football, reading, when he had the time, which means rarely. His health? Three dialysis sessions a week, a trying detention because of the solitude. In prison he cannot go for walks because he often gets dizzy and has ankle ulcers. Visits in prison? They are rare. Only his eldest son has visited him a few times. According to the prison administration's report, he is a quiet prisoner.

Finally, the president reads the report of Mrs. AUPETIT, the personality investigator, who is unable to attend for health reasons. When asked whether he still had influence over his fellow citizens after his resignation as mayor, he said: "No, I have become an ordinary citizen again". Did he really? It is hard to believe.

Maître PARUELLE, lawyer for the civil party, then asked him about "genocide". *"Concerning those who died, it was called massacres. I cannot deny that it was genocide. But personally, I didn't even know the word genocide"*. Edifying!

The public prosecutor questions the accused in turn. Several "pointed" questions that somewhat embarrass the accused.

- Do you know the Kangura newspaper? You have read it

- I knew it but never read it.

- What about RTLM radio?

- I know it but I never listened to it. I couldn't pick it up. I know that RTLM was commenting on the progress of the war in the country.

- By whom were you appointed mayor?

- By President HABYARIMANA, on the proposal of the Minister of the Interior.

- And RWAGAFILITA? (the strong man of the region, commander of the gendarmerie in Kibungo).

- He intervened in my job search!

- Did you retain a certain prestige after your resignation? The *Interahamwe*?

- I had no contact with the *Interahamwe*. There were none in Kabarondo!

Who can believe it.

The hearing was interrupted because Mr BARAHIRA had to undergo dialysis. The Attorney General will resume his examination tomorrow.

Ngenzi/Barahira trial 12 May 2016. Day 3

- End of Tito BARAHIRA's personality investigation.
- Octavien NGENZI's personality investigation.
- Testimony of Ms ROSSINES, personality investigator.
- Testimony of Viateur RUMASHANA.
- Testimony of Stéphane AUDOIN-ROUZEAU, Director of Studies at the EHESC.
(Ecole de Hautes Etudes de Sciences Sociales).

End of Tito BARAHIRA's personality investigation.

The Advocate General asks Tito BARAHIRA his final questions and seeks to know why he did not follow his wife to Rwanda. "*Things were not going well in the country and she was the one who had a job,*" he replies. As to the fact that they did not resume their life together when he arrived in France in 2004, Mr. Barahira said that his wife had told him that she "*could live alone.*"

Maître MEILHAC in turn asks a series of questions which are not very interesting and which force Tito BARAHIRA to launch into anecdotes that are not very useful.

Octavien NGENZI's personality investigation.

The rest of the morning will be devoted to hearing Octavien NGENZI's account of his childhood: his siblings, his schooling and his difficulties in continuing school at the end of primary school. During the year 1972/1973, he claims to have had to leave school, chased away by his classmates for having been

mistaken for a Tutsi. He was 'saved' by a certain KAREKEZI who took him as his son. This was followed by studies in an agricultural section. He was appointed agronomist in Kabarondo where he met BARAHIRA. He then obtained a grant from the Swiss Cooperation and went to Kenya to study forestry. After spending two years in Kenya, he obtained a position in the Byumba region. Miraculously, on 6 May 1986, while riding a service motorbike, he was stopped by a car and told that he had to meet the Minister of Agriculture urgently: he had just been appointed Mayor of Kabarondo. He remained in this position until 16 April 1994, when he fled to Tanzania, to the Benako camp. He then went to Kenya, the Comoros and Mayotte, where he was arrested in 2010.

Regarding the death of his father, he puts forward two versions: he was killed by the RPF in 1995 or he died of illness on his release from prison. He seems to lean, without much certainty, towards the first hypothesis. He adds that there was a certain complicity with his mother who recently died on his birthday, 15 April 2016: he is in mourning.

In her questions, the president returned to the events of 1993, but the accused stated that "*nobody knew whether I was Hutu or Tutsi. The schoolchildren classified me as a Tutsi*". However, "*in Kabarondo, there has never been any racism. In this region we don't know who is Hutu or Tutsi*". Not a very convincing statement. Why, in 1995, did he not return to Rwanda following a visit to Benako by a Rwandan government minister? "*I preferred to ask for asylum rather than to return*. He added: "*The RPF has been killing since 1990, it continues, it continues, I don't know how long!*"

And RWAGAFILITA, does he know him? He knows him but he still does not understand how he became mayor. Did RWAGAFILITA, the most powerful man in the region, give him a push? "*He may have favoured my nomination but I wanted to be someone more important than mayor*."

The MRND, to which he belonged, was, according to him, only a movement at the beginning and not a political party. It was only when the multiparty system was introduced that it became a political party to which he belonged. He was elected member of the Kibungo prefectural committee.

Marital life, health? He pays tribute to his wife who is "*a courageous woman*" and thanks God for having given him 7 children. But loneliness weighs on him. He has just spent 16 years alone. In prison, he appreciates the music which rests him. He will leave Fleury-Mérogis prison once to attend the funeral of his mother-in-law on 30 June 2012. The prison administration's report is rather favourable to him and although he receives quite a few visits from his family, he suffers from his detention, which he considers "political". Since the publication of the OMA (Ordonnance de Mise en Accusation) by the investigating judges, he says he is "stressed". "*Prison is not a good place, it can destroy psychologically. I don't like violence, I like old people my age who are cool*". When asked why a son of RWAGAFILITA filed a visit permit: "*It's out of village solidarity!*"

Testimony of Ms ROSSINES, personality investigator.

Ms. ROSSINES met Octavian on three occasions. We learn that his father, an alcoholic, had hit his mother, which had marked him. The genocide, in his mouth, becomes "*the civil conflict of 1994*". Feeling threatened in Benako, he ends up going to the Comoros in 1997 where his wife joins him a year later. In prison, "*he is kind, likes to serve*". He would like to write a book.

During the meetings, he was always very coherent, and never spoke about his mother or his sisters. Of all the people the investigator tried to contact, such as Laurent BUCYIBARUTA, who will testify (and who is also the subject of a complaint since 2000), none wished to answer. If he becomes a Muslim in the Comoros (he was already called Omar), it is to benefit from aid. He even went so far as to say, speaking of his "*utilitarian conversation*", that he was a "*prostitute*". He regrets having taken the pseudonym of Jean-Marie Vianney NTAGANIRA, but it was to be able to join his children. He will never obtain a residence permit.

It was the turn of the civil parties' lawyers to ask questions. Sophie DECHAUMET, a lawyer for the CPR, asks him if his father was Hutu: "*That's what he told me. That is also what is written on his identity card. Asked why he had gone so long without news of his mother, he said: "It's for political reasons. I am in exile. I am always running to a land of asylum. And then I had no means of communication. Now the present government has distributed telephones.*

"About ten people accuse you of having changed your attitude from 1990 onwards," the lawyer continues. NGENZI's response: "*These people are forced to say so.*

Why give a false identity in 2005? "*To come with false papers to ask for a new file.*

By questioning him about his relationship with a civil party, Mr Oscar KAJANAGE, a childhood friend whose wife was killed, Maître ARZALIER puts Mr NGENZI in difficulty. "*I did not have the means to protect those who were dear to me. If you see him, tell him that I am suffering from his state of health. KAJANAGE came to my house, I went to his house. What he is accusing me of is not true.* Evoking the memory of Dative, Oscar's wife, who came to take refuge in the communal office, he starts to cry. Extremism? We will only see it from 8 April in Kabarondo. It was fear that gripped the population. He was not aware that extremism was on the rise. However, SURVIE's lawyer pointed out to him that he had provided a report on security to the prefect in 1992! "*It was a problem between Hutu and Tutsi*"!!!

Did he retain any prestige at the Benako camp? "*The UNHCR relied on those who governed in Rwanda.*

Testimony of Mr. Viateur RUMASHANA.

Mr RUMASHANA knew Octavien NGENZI from having worked with him in Kabarondo as assistant to the mayor from December 1988 to October 1990. He then left to study in the Soviet Union and returned for a short stay in 1991. He now works in Belgium, at the European Union. He says that the position of mayor was an important one and that the MRND was indeed a political party. He has always had good relations with the mayor. Colonel RWAGAFIFILITA was the only senior officer in the prefecture, the Chief of Staff of the gendarmerie, a man of great ability. He reports that he lost many members of his family in 1994, even though he is Hutu: "*Those who died were those who could not flee*".

Testimony of Mr. Stéphane AUDOIN-ROUZEAU, Director of Studies at the EHESC (Ecole de Hautes Etudes de Sciences Sociales).

A lecture is given. Speaking modestly "*not as an expert but as a researcher*", Mr AUDOIN-ROUZEAU admits that in April 1994 he understood nothing of what was happening in Rwanda, that he was not interested in it: "*I missed it, I believed in the idea broadcast in the media of an "atavistic hatred", I believed in the physical difference between Hutus and Tutsis...*".

How can we explain this lack of interest in Rwanda, this distant country, taught nowhere and before which "we are powerless"?

1) "This genocide, which is very similar to the genocide of the Armenians and the genocide of the Jews, must be given a prominent place at the end of the 20th century. They have **the same root**: the racist and racialist thinking of the end of the 19th and the beginning of the 20th century. This racialism was found in the Ottomans in the context of the genocide of the Armenians, in defeated Germany and in Nazism, against the Jews and against the Slavs. This thought spread to the Great Lakes region at the end of the 19th century: travellers, German and Belgian colonists who racialised Rwandan society.

2) Like the other two genocides, the genocide of the Tutsis occurred in a period of war and in the anxiety of defeat. War creates a 'different time', making possible a policy of extermination, inconceivable in peacetime.

3) The characteristics of the Tutsi genocide. To claim that it was a "*popular revolt*" after the death of President HABYARIMANA is "*an absurd view*". This historical configuration has never happened anywhere. The violence of the neighbourhood gave an extreme speed of execution that left no chance to the victims. In this violence, the essential role of the state, of the interim genocidal government, relayed by the prefects, the burgomasters, the representatives of the different parties including the MRND, the military, without forgetting the popular support, must be underlined. The Rwandan population did not mobilise on its own.

In conclusion, Mr. AUDOIN-ROUZEAU quotes Raul HILBERG, Jewish American historian and political scientist of Austrian origin, and author of "The Extermination of the Jews of Europe" (latest version 2006): "*The perpetration of genocide against the Jews stopped in 1945, but the phenomenon has continued*". He continues: "*The genocide of the Rwandan Tutsis will gradually become more and more important in our understanding of the contemporary tragedy*."

The following series of questions will allow the witness to clarify his thoughts on various points.

- Massacre? Genocide? You have to go back to the definition. In a genocide people are killed for what they are. It is a total extermination.

- Double genocide? This is the most elaborate form of negationism. No one disputes the war crimes that may have been committed by the RPA when it returned to the Congo. But this notion of 'reciprocity' is '*perverse*'.

- Pressure on witnesses? "*Survivors speak readily, they throw what they have experienced in your face. I have never felt that this speech was framed. The survivors are sometimes very critical of government policy towards them. The policy of forced reconciliation causes great frustration. The survivors have free speech. The genocide is over but the survivors are afraid that it will start again. The victims live in the midst of their killers in great fear. The fire smoulders under the ashes, the page has not been turned.*"

- Can we speak of a preparation for genocide? "*The genocide did not begin in 1959, that is an absurd view. It was between 1990 and 1994 that the genocide was put in place, with Hutu Power and with the help of the Interahamwe militias. There is no genocide without a state, without the preparation of a state.*" However, the professor will be led to recognise that the genocide began with the Arusha agreements in August 1993.

- Refugee camps? *"The genocidaires fled with their weapons and settled in camps near the borders. These camps were made for the reconquest. A state could not tolerate base camps to eliminate witnesses. Hence the RPA's incursions into Congo.*

- Role of foreign powers? *"Painful subject for French people. France did not want to see what the 1990/1993 massacres meant. The French military flew to the aid of the routed FAR... Operation Turquoise was controversial... The prospect of co-belligerency to try to stop the progression of the RPF... "*

Mr AUDOIN-ROUZEAU ended his presentation with these words: *"In this refusal to see, there is a form of unconscious racism, a mistake that I bitterly regret".*

The floor was finally given to the defence. Needless to say, this intervention provoked strong reactions from the defence lawyers, in particular from Maître MATHE who crossed swords with the professor. Quite violent comments were exchanged, which it is not necessary to report here. Maître MEILHAC's question on reconciliation brought some serenity back to the room.

Ngenzi/Barahira trial 13 May 2016. Day 4

- Hearing of Jeanne MUREKATETE former wife of Tito BARAHIRA.
- Hearing of Patrick BARAHIRA, eldest son.
- Hearing of Jean-Marie NDAGIJIMANA, former minister, former ambassador.
- Hearing of Joseph MATATA.

Hearing of Mrs. Jeanne MUREKATETE former wife of Tito BARAHIRA.

For Mrs MUREKATETE, Mr BARAHIRA was a *"good husband and a good father respected by everyone when he was mayor"*. Her statement will tell us little about the personality of her ex-husband, except that at home they did not talk about politics and that she knew almost nothing about his involvement in the MRND. On the other hand, she seems to know the *Interahamwe* militia better than her husband, even if she has only heard of them. As for RWAGAFILITA, he was the strong man that everyone talks about. During the whole genocide, Tito BARAHIRA went out simply to get food and work in the fields! Mrs MUREKATETE does not know much about the events that took place in the commune. She heard gunshots; fear made them flee and in this flight she was separated from her husband and her elder son. When she returned to Rwanda, she lived with her mother in Byumba and then managed to obtain papers for France where her older sister lived. When her husband finally joined her, she did not want to live with him. She knew NGENZI: *"He got on well with everyone. He was gentle. I knew his wife. As for the genocide, she did not see anything, and she "prefers not to know"*.

Hearing of Patrick BARAHIRA, eldest son.

When his father was mayor, he was still young. Born in 1979, Patrick describes a father who took good care of his children, a *"protective"* father. He remembers scenes of war, people fleeing, the fear of the *Interahamwe*. He then recalls their stay in Benako camp, their life in Nairobi and his arrival in Toulouse in December 2000. His father arrived four years later and he was surprised to learn that he *"was linked to these events"*. He hopes that *"the guilty parties will be punished but not the others"*, and that *"one day only one thing will be remembered: "That we are Rwandans"*. NGENZI? *"People loved him, respected him. He was a good person, generous, kind. But I didn't know him very well.*

Hearing of Jean-Marie NDAGIJIMANA, former minister, former ambassador.

Ambassador in Paris at the outbreak of the genocide, Mr. NDAGIJIMANA intervened as a witness in the context. With the assassination of Félicien GATABAZI, at the end of February 1994, an attack that he attributes to the RPF, he very quickly understood that there would be misfortune in Rwanda. He presents himself as someone who tried to mediate between the different protagonists: the interim government, the RPF and the army. He understood that *"the RPF's objective was to take power"*. *"This does not justify the genocide,"* he adds immediately.

He goes on to talk about all the steps he took so that France could intervene in Rwanda. But according to him, one of the belligerents, the RPF, did everything to prevent the countries that wanted to intervene. He also talks about his trips to Washington, to the United Nations.

Mr. NDAGIJIMANA's position is to say that both sides were killed. But he also underlines the responsibility of the authorities in the massacres: *"The villagers could not have killed without the approval of the authorities"*. The army? *The FAR did not have the means to wage war. But the RPF massacred on its way: men, women, children. Everyone wanted to go to the final solution.*

When asked whether a mayor could be unaware of this, he said: *"Not possible! Except for a burgomaster who is not too smart!"* He added: *"The massacre of the Bagogwe (Tutsi pastors in the North), in Ngororero, was perpetrated by the RPF"*. No one had yet heard this version but he got it from some RPF officers who told him: *"We wanted to resume the war, we had to provoke by killing the Bagogwe. (sic)*

The militia? *"The militia, I know them from before. Those who massacred in 1994, they are mainly those of the MRND, the Interahamwe"*. He then recalled that the president of the Interahamwe in Kigali is Robert KAJUGA, a Tutsi and that the *"RPF had heated up heads to accelerate the massacres and then take power. !!!* It was 1.15pm and only the Chairperson was able to ask questions. Mr NDAGIJIMANA said that he could not come back in the afternoon because he had an appointment: *"I would lose a lot if I could not go"*. He gave his agreement for 6 p.m.

When he resumed, the questions followed one another. He was asked about *"the massacres on both sides"* of which he spoke. *"In 1963, 1965, 1967, when the Tutsi refugees attacked Rwanda, there were reprisals against the Tutsis inside. When I learned about the attack on HABYARIMANA, I said "It's ruined"."*

Massacre or genocide? *If there is an intention to destroy, there is genocide. If we follow the Mapping report (a report that denounces war crimes in the Congo) there can be genocide of the Hutus.* For him, *"KAGAME sacrificed the Tutsis"*.

Maître AKORRI, Survie's lawyer, asks him a final question: *"What do you think of the trials in France?"* *"I welcome all trials concerning the genocide in Rwanda, and I applaud anything that can help to break the cycle of impunity. But the RPF must also answer for its crimes. I am not here to defend the accused. If they have committed crimes, they must be punished. My association is fighting for equality between Rwandans... There was no genocide of Hutus against Tutsis, but a genocide of some Hutus against Tutsis. All criminals must be prosecuted in all equality, in all justice."*

Hearing of Mr. Joseph MATATA.

Or when Mr MATATA does Matata!

Mr MATATA begins by making an almost exhaustive list of all the burgomasters and prefects assassinated during and after the genocide to show that "*the burgomasters were the target of the killers*", that they are more *in* the camp of the victims than in that of the executioners. As if by chance, the only one he forgets to mention is the prefect of Butare, Jean-Baptiste HABYARIMANA who, until his dismissal, had preserved his prefecture. The beginning of the massacres in the South coincided with his ouster and his execution on the occasion of the visit of President Théodore SINDIKUBWABO who asked the people to do "*the work*". In fact, Joseph MATATA's thinking can be summed up in a double obsession: in Rwanda, "*witnesses are solicited, trained like actors to lie because they live under the terror of a totalitarian regime*". This twofold obsession comes up again and again. Bringing the notion of a 'culture of lies' into Rwandan culture before the jury without placing it precisely in that culture, and having it endorsed by a Tutsi priest from the late 1950s, is at the very least bad faith and borders on imposture.

Another fixed idea that he develops in each of his speeches is that witnesses are affiliated with "*syndicates of informers who promise them help*". Anyone who knows MATATA or who has met him at trials or conferences will not be surprised by these remarks. Joseph MATATA, once again, is doing MATATA. And to finally dare to warn the Court and the jurors to be wary of the witnesses who will come to testify before them. This will provoke the reaction of the Advocate General, Mr Philippe COURROYE: "*Sir, are you aware that you have an insulting attitude towards French justice?*"

The floor, as it should be, is given to the defence, which perhaps regrets having had Mr MATATA summoned. Ms MATHE, Octavien NGENZI's lawyer, concludes, without taking up any of his comments: "*Exile is an immense pain, Mr MATATA. Knowing that your country lives under a regime of terror... You have the attitude of an exile!*"

Will this conclusion be enough to dispel the unease that has built up in the courtroom? Nothing is less certain.

NGENZI/BARAHIRA trial Tuesday 17 May 2016. Day 5

- Hearing of Mr. Jacques SEMELIN, research director at the CNRS and professor at Sciences Po.
- Hearing of Mr. Ignace BAGILISHEMA, mayor acquitted in 2001 by the ICTR.
- Viewing of documentaries: "Confronting evil", Rwanda 94", "Kill them all" and "An untold story".

Hearing of Mr. Jacques SEMELIN, research director at the CNRS and professor at Sciences Po.

"If I have come, it is in memory of a man, Raphaël Lemkin, inventor of the concept of genocide. I have come in his memory. It is in these terms that Mr. SEMELIN's speech begins. Then, addressing the Court and mainly the jurors, he said: "I am also thinking of you, given the complexity of the facts and the heaviness of your task". "Are we in the presence of unthinkable events? No, too thinkable on the contrary, and trying to understand and explain them does not mean minimising them. The scale of these crimes makes the perpetrators deny them. Will we then be able to understand everything? Of course not. This calls for modesty because, he concludes his preamble, "there is the black hole of our own barbarism."

Mr. SEMELIN then tried to clarify the notion of "genocide", the term most often used when talking about mass crimes. And he immediately specified that "*not every massacre is genocide*", genocide corresponding to a "*process of total violence*".

The teacher then sets out three possible approaches to the notion of massacre:

- the perpetrators of these crimes are calculating their way to power.

- some psychopathological, irrational elements can be brought out, which in the discourse is manifested by the presence of paranoia. There is a delusional rationality in mass crimes, which makes the victims say: "*It's as if people have gone mad*". But the perpetrators of these crimes are not crazy, they are "normal" people.

- The massacre can also be analysed as a mental process that proceeds from a cognitive operation and that is related to the imaginary and the real. The Hutus have constructed a representation of fear of the Tutsis, just as the Nazis did with the Jews. "*The fear of being destroyed by the imagined other leads to the extermination of the other*". Note that this third dimension does not cancel out the other two.

And then to enumerate the factors that lead to genocide, factors well analysed by Mr AUDOIN-ROUZEAU last Thursday:

- crisis context: unemployment, institution in crisis, economic crisis in the mid-1980s, war period.

- The very important role of intellectuals and ideologues who do not hesitate to suggest that "*if we started by getting rid of these people, things would be much better*".

- Hence the discourse of '*them*' and '*us*'. The "*us*", the Hutus, we were humiliated by the Tutsis. the Hutus, we have been humiliated by the Tutsis. We have a revenge to take. "*The 'them', the enemies, the other who is in excess, who arrived late on our land, the other who becomes 'suspect', whether Tutsi or Hutu considered as traitors. This discourse does not always produce devastating effects, but we must recognise the weight of words that prefigure mass crimes.*

- in a given international context: states are spectators, the international community does not react. He recalled the words of Tacitus: "*Some wanted it, others did it, many let it happen*". In this context of war, "*the human being is metamorphosed, time and space are modified*". What counts is the duality of "friend" and "enemy". "*Only the Tutsi/Hutu identity justifies the victim*".

He emphasised the essential role of decision-makers who are well supported on the ground by local managers. "*In Rwanda, politics whips the wild horse instead of taming it*". This will manifest itself in Rwanda through massacres between neighbours and even within families. Tutsis are hunted like animals. And to underline the role of RTLM (Radio Télévision Mille Collines), in a Christianised country where people no longer hesitate to desecrate churches that used to be refuges.

To conclude, Mr. SEMELIN distinguishes two logics:

- a logic of destruction, typical of war. You have to destroy to win and in this perspective the RPF was able to commit war crimes.

- logic of destruction/eradication, of uprooting. To such an extent that from April 1994 onwards, Tutsis could no longer flee, the borders were closed. And he reminds us that '**there was only one genocide in Rwanda, that of the country's minority**'.

The questions will allow Mr. SEMELIN to clarify his thoughts. There was no spontaneous revolt when President HABYARIMANA died. We must not forget the notion of "killer/saviour", the one who hid Tutsis but did not hesitate to kill others. However, not all Hutus killed, the status of the "just" is recognised. As for impunity, this is the main factor in Rwanda: "*Go ahead, you will not be punished. You will even be rewarded*". The state is "*a criminal state that no longer respects the ban on murder*".

A question from Maître LAVAL, lawyer for the CPCR, led to further developments:

- the crime of genocide is indeed the crime of being born, of being born Tutsi for Rwanda. The crime against humanity would rather target the massacre of the 'moderate' Hutus, the political enemies. Hence the distinction in the charges.

- People are not born killers, they become them

- abdication of moral judgement.

- consistency of the genocidal approach: from 1991/1992, an increasingly sophisticated plan for the extermination of the Tutsis was put in place, with an acceleration of the process during the assassination of the president.

A question from the Advocate General, Philippe COURROYE, allowed Mr. SEMELIN to specify the major milestones that led to the genocide, starting with the vision of the coloniser, then evoking the time of independence when the "majority people" took power. However, for him, the genocide did not start in 1959, but in the years 1991/1992, a period in which the bureaucracy plays an important role. A burgomaster could not ignore the hate speech on RTLM: "*Even the Nazis did not do that!*"

New question from the public prosecutor: "*How important do you consider such a trial to be?*"

Answer: **This trial is fundamental for Rwanda, for relations between France and Rwanda, for the victims and for all those who are trying almost in vain to see justice done.**

The floor is finally given to the defence. Maître MATHE develops some of his own ideas and the president asks him to ask his questions. The most important, but perhaps also the most insidious, concerns the massacre of the Hutu elites as soon as the plane fell: "*Is this extermination part of the genocide*" insofar as the definition of the word genocide includes "total or **partial**" elimination? Mr. SEMELIN does not fall into the trap. "*I see where you want to take me. The massacre of "moderate Hutus" is a crime against humanity, not genocide.*"

Hearing of Mr. Ignace BAGILISHEMA, mayor acquitted in 2001 by the ICTR.

Mr. BAGILISHEMA was burgomaster of the commune of Mabanza, in the former prefecture of Kibuye. He admits that he did everything he could to save what could be saved and that he was overwhelmed. The ICTR followed his line of defence. He elaborates on the role of the bourgmestre in a commune and states that he was prosecuted because he was bourgmestre. For him, if there was genocide, the fault lies with

the RPF who started the war. In his commune, he was interested in the Tutsi families who sent their children to the front in support of the RPF. Before 1994, the population listened to the authorities; this was no longer the case after the attack. He specified that his role was one of pacification but that he was not sent the reinforcements he requested to protect the population. With the introduction of a multi-party system, the difficulties began, with all parties wanting to take power. As everyone said that the president had been killed by the RPF, all the Tutsis became enemies. In his commune, he claims to have struggled against '*Tutsi extremists and Hutu extremists*'. And he denounced the ICTR's 'experts', experts who do not know the reality: '*If we had only heard the experts, I would not have been acquitted. I also owe my acquittal to the fact that the tribunal travelled to Rwanda at my request.*' This statement obviously delighted the defence, which had made this transport a prerequisite for the trial on the opening day.

He then recalls the conditions of his appointment, how he made identity cards to save Tutsis, the reports sent to the prefect, his resignation which he wanted to give in 1992 but in the end preferred to remain in his post so as not to be seen as a coward. And yet, he no longer had any authority over the population.

"The RPF was your enemy, all right, but the women, the children", the prosecutor asserts. After a moment's hesitation, Mr. Bagilishema admits: "*It was racial hatred*"!

Viewing of the documentaries "Confronting evil", Rwanda 94", "Kill them all" (described as propaganda by Master MATHE) and "An untold story", broadcast by the BBC in October 2014. Only the latter documentary will be the subject of reactions.

In a very forceful manner, Maître Sophie DECHAUMET asked the court to show great vigilance because it was a "*historical falsification*", "*negationism*". And to enumerate the elements of this falsification:

- false death toll: according to the BBC, 200,000 Tutsis were killed and 800,000 Hutus!

- notion of double genocide developed in this documentary.

- This documentary led to numerous protests to the BBC, including that of some 40 intellectuals.

- we are not here to judge President KAGAME and his regime

- about the attack, the documentary stops at the false order of judge BRUGUIERE, contradicted in many points by the findings of judge TREVIDIC who succeeded him (the conclusions are still not published!).

- to say that the attack is *the "trigger"* is to deny the genocide.

To conclude: "*This report is scandalous*". This view was shared by the civil parties, but also by the defence, which had produced it in the file. Maître AKORRI said in turn that this documentary is "*outrageous for the victims*". "*The victims would be "responsible for their own martyrdom"*", added Maître ARZALIER.

Maître MEILHAC, Tito BARAHIRA's lawyer, said he was "*surprised by the posture of the Civil Parties*".

Ngenzi/Barahira trial

Wednesday 18 May 2016. Day 6

- Hearing of Jean-François DUPAQUIER, journalist.
- Hearing of Mr Eric GILLET, lawyer.

Hearing of Mr. Jean-François DUPAQUIER, journalist.

In 1972, Mr DUPAQUIER was in Burundi where the genocide of the Hutus was taking place. It was impossible to say anything bad about President MICOMBERO and to tell the truth, nobody was interested. When he learned that the RPF had entered Rwanda by force on October 1, 1990, he was very afraid and he says he announced that the regime of President HABYARIMANA was going to exterminate the Tutsis.

At that time, Mr DUPAQUIER was very surprised to read in the magazine Kangura "*The 10 commandments of the Bahutu*

He knew the damage that such a publication could do. President Habyarimana was received at the Elysée Palace on 3 April 1991. During the press conference, Mr DUPAQUIER mentioned the publication of this document and pointed out that this would not be possible in France: "*Sir, in Rwanda, this is called freedom of expression*".

Later, in 1992, false information broadcast on the public antennas of Radio Rwanda provoked massive massacres of Tutsis. As editor-in-chief of *L'événement du Jeudi*, Mr DUPAQUIER tried to inform by publishing an article entitled "*France at the bedside of an African fascism*". Mr DUPAQUIER equates the Interahamwe militiamen with the SS, the youth leaders. He went to Rwanda several times after the genocide, because of the murder of many journalists, mainly Tutsi, and published "*Les Médias du génocide*" with Jean-Pierre CHRETIEN and Marcel KABANDA. Contrary to what may have been said, "*this genocide was not an outburst of popular savagery*". The thinkers are high level intellectuals who will quickly give in to propaganda in a campaign of hatred.

Questioned by the Chairwoman, the journalist recalled that without President KAGAME no one would have been able to prevent a counter-genocide. In the course of his investigations, he was able to enter the Rwandan prisons and consult the archives, which were all in French. At the beginning, the survivors were happy to talk, but they eventually became weary of the slowness of the justice system. As for the witnesses, he always had the feeling that they were telling the truth.

"If we compare the genocide to a tree, we can say that its roots are deep and go back to 1959. After President KAYIBANDA took power, the Tutsis in the interior were regularly victims of pogroms, each time Tutsi refugees tried to return by force. KAYIBANDA had threatened to exterminate them all. The Tutsi became the 'enemy within'. The massacre of the Bagogwe, Tutsi pastors in the North, in January 1991, was a sort of trial run, as were the Bugesera massacres in March 1992. Under pressure from the international community, Ferdinand NAHIMANA, Director General of the Rwandan Information Office (ORINFOR) loses his post. He contributed to the creation of RTLM (Radio Télévision Libre des Mille Collines) which, during the genocide, was listened to almost everywhere in Rwanda, except in certain inaccessible areas. This radio station practically supplanted all the media: "It hypnotised Rwanda". Commercial at the beginning, it was enough to pay 5,000 Rwandan francs to become a shareholder. Félicien KABUGA (wanted by the ICTR and still on the run) was the main shareholder. A radio station run

by the RPF, Radio Muhabura, was, according to André SIBOMANA, director of a Catholic magazine, "*a boring propaganda radio*".

As for the extremist newspaper Kangura, although its 15,500 copies (for Issue 6 in any case) were mainly read in Kigali, '*its circulation in the country was colossal*'. One copy could be read by 50 people and was even photocopied.

From 1992 onwards, parallel networks were created, the most famous of which was the *Zero Network*, zero Tutsis. During a meeting on 21 November 1991 in Buturori, it was requested that the Tutsis be exterminated before they exterminated the Hutus. 75% of the Tutsis present in Rwanda in 1994 were killed; they represented approximately 13% of the population. It was the day after this meeting that Léon MUGESERA, a genocide ideologue, gave his famous Kabaya speech in which he called for the Tutsis to be sent back to Ethiopia by throwing them into the Nyabarongo River (MUGESERA has just been sentenced to life imprisonment after being extradited from Canada to Rwanda).

The quota policy that has been in place for many years limits the ambitions of the Tutsis. Under HABYARIMANA, out of 142 burgomasters, there were 2 Tutsis! Among the 1000 most important people in Rwanda, the burgomasters had to be counted as they had great authority over the population.

Hearing of Mr Eric GILLET, lawyer.

"Genocide is the result of problems that have been unresolved for a long time". Thus begins Maître GILLET's intervention. Three important factors for understanding:

- The social revolution of 1959 will produce many Tutsi refugees who will migrate to Europe, but also to neighbouring countries, including Uganda. In October 1990, those from Uganda, gathered within the RPF, wanted to return to the country by force, all attempts to return peacefully having failed. The Tutsis from the interior were considered 'accomplices' of the RPF, arrested en masse and locked up in the Nyamirambo stadium, a popular district of Kigali.

- In Rwanda, there is a permanent segregation situation. The Tutsi is marginalised.

- With the arrival in power of Juvénal HABYARIMANA, a Hutu opposition from the North against Hutu from the South was added, which complicated the situation. The establishment of a multi-party system around 1992 saw the emergence of parties opposed to the MRND, but all these parties were essentially Hutu.

It was with the arrest of the Tutsis at the end of 1990 that Maître GILLET was contacted by a "Committee for the Defence of Human Rights" and was asked, in 1991, to defend journalists. In January 1993, he was mandated by the FIDH to co-chair with Mrs Alison Desforges (Human Rights Watch) a Commission of Inquiry which visited the North of the country and Butare, essentially. This enquiry was broadcast in March 1993 and highlighted the chain of responsibility for the massacres that were to foreshadow the 1994 genocide.

At that time, control over the population was very tight. Every Rwandan was a member of the MRND from birth. The Bugesera massacres in March 1992 involved militiamen transported by official buses; the army, the police and the gendarmerie were not left out. The MRND militiamen, the Interahamwe, were the most

active but each political party had its own militia. In these massacres, Maître GILLET underlines the privileged role of the mayors. In Butare, he found abundant written documentation made up of communal sources: *"The commune is at the heart of the system"*. This means that the testimonies are not the only sources of investigation, testimonies that were the subject of a *"major campaign of denigration at the first trial in Brussels"* in the spring of 2001. The witness knows little about the prefecture of Kibungo, but it can be assumed that *"it happened in a similar way"*, even if the genocide took place very early in this region and that it first began in Kigali where care was taken to eliminate Hutu opponents. And Maître GILLET added: *"The genocide spreads according to the behaviour of the international community. As it does not react, the genocide spreads. In Kibungo, the strong man is RWAGAFILITA, "an extremely influential person who had returned to service" when he was retired.*

By eliminating the Tutsis, HABYARIMANA wants to unite around him the Hutus divided by the multiparty system. The arms caches were multiplied: the genocide was carefully prepared by a group of HABYARIMANA's entourage, including Théoneste BAGOSORA who, after the signing of the Arusha agreements on 4 August 1993, exclaimed: *"I am going to prepare the apocalypse"*. This sentence will be contested by Maître MATHE, NGENZI's lawyer: the ICTR did not retain it in the condemnation of the 'mastermind of the genocide'. Maître GILLET replies that this does not mean that this sentence was not uttered.

The latter stressed that the genocide should have been triggered earlier, in January. But the Belgian army, which had been warned, did everything in its power not to give in to provocation.

Maître MATHE, pressed for time (Mr BARAHIRA had to leave for his dialysis) said she was "embarrassed". She asked the witness whether the Kibungo prefecture was not one of the prefectures that had been somewhat neglected. Maître GILLET does not dispute this. He had not investigated in Kibungo, but Alison Desforges had. He reminds us once again of the major role of the bourgmestre in the genocide, he who has the absolute confidence of the president, even if, *"with the establishment of civil self-defence in 1994, the bourgmestre will be a little more left to his own devices"*.

A final question from the defence concerning Joseph MATATA who testified on Friday. *"Mr MATATA was very pro-FPR at the time. But we had to remove him as a translator during our investigations because he did not translate what the witnesses were saying,"* said Eric GILLET.

Maître GILLET ended his intervention by acknowledging that there is currently a policy of control of human rights organisations in Rwanda. This cannot displease Mr NGENZI's lawyer.

Ngenzi/Barahira trial Thursday 19 May 2016. Day 7

- Hearing of Olivier GRIFFOUL, Gendarmerie Lieutenant, investigator.
- Hearing of Aline KAGOYIRE, survivor.
- Hearing of Gilbert BITTI, international criminal lawyer.
- Hearing of Jean-Loup DENBLYDEN, Belgian soldier in 1994, engineer at CERN.
- Screening of the documentary From Arusha to Arusha.

Hearing of Olivier GRIFFOUL, Gendarmerie Lieutenant, investigator.

This day of hearings was mainly devoted to the hearing of OPJ Olivier GRIFFOUL who reported on the investigations in Rwanda in the context of the investigation of Octavien NGENZI and Tito BARAHIRA.

Mr GRIFFOUL first of all explains that the region of Eastern Rwanda is a bit apart and that there is a certain frustration at not being taken into account by the central power, he speaks of "the Hollow of Rwanda". He explains that it is on this frustration that Colonel RWAGAFILITA will then play to enlist and influence the population of the region. During the investigation, it was revealed that numerous massacres had been committed throughout the commune of KABARONDO, but the OPJ specified that the investigations were mainly focused on the massacres linked to the two accused. He explained that the most complicated thing was to place the events in chronological order since Rwandans live mainly by the rhythm of the sun and therefore do not have a very precise perception of dates. The OPJ then summarised the chronology that had finally been retained with regard to the events that had taken place in the commune of KABARONDO: from 6 to 13 April, the massacres in the sectors of KABARONDO began, with in particular the action of the Simba Batalion militia and the arrival of refugees at the KABARONDO church; on 13 April, a massacre at the KABARONDO church; in the days that followed, the massacres at the health centre and the IGA; and finally, the searches. The OPJ nevertheless points out that tensions existed previously in the commune, particularly because it is a region close to Uganda from where the RPF was waging war. Thus, in general, young people in their twenties were often considered to be accomplices of the RPF and there had been arrests in this sense.

In her questions, the President tried to find out more precisely what the links were between Octavien NGENZI and the militias or influential authorities of the prefecture, mainly Colonel RWAGAFILITA. The OPJ noted that it was clear from the investigation that Colonel RWAGAFILITA had a link with the accused, and that he had financed his studies, but also supported his appointment as burgomaster. With regard to the links between Octavien NGENZI and the militias of the region, on numerous occasions witnesses indicated that they had seen the accused in the presence of members of these militias, particularly in a bar in the commune.

The President then turned to the location of the accused more precisely during the facts that would be studied during the trial. For this purpose, videos made by the investigators of the commune of KABARONDO were shown in order to enable the jurors and the Court to better understand the geography of the commune.

Finally, the questions turn to the conduct of the witness hearings. Mr GRIFFOUL then explained that on arriving on site he made contact with witnesses who had already been heard and selected by the Rwandan police and who had certainly been prepared for these hearings. But he explained that during the investigation he also tried to interview "new" witnesses who had never been contacted by the Rwandan authorities. Regarding the pressure that may be put on witnesses, the OPJ said that it is not possible to say that there is no pressure. But this pressure can have multiple causes, the government in place but also the fact that the perpetrators and victims live very close.

The Advocate General, Philippe COURROYE, will return to the influence of Colonel RWAGAFILITA as well as to his genocidal ideology and his participation in the incitement and finally to the links he may have had with Octavien NGENZI. He also addressed the control that Octavien NGENZI could have had over the commune, to which the OPJ replied that the argument put forward by the accused that he no longer had control over the commune at that time was pure fiction.

The end of the morning and the beginning of the afternoon were devoted to questions from the defence, which were numerous, sometimes going so far as to question the work done by the investigators and their impartiality. Maitre MATHE returned mainly to the hearing of witnesses, as well as the existence of "professional witnesses", a fact that has been denounced by the reports of many NGOs. The OPJ replied that this is indeed a phenomenon that exists in Rwanda, but that they are now well identified and excluded from the proceedings. He added that when inconsistencies appeared in the testimonies, he pointed out their contradictions to the witnesses so that the magistrate could be aware of these contradictions when reading the hearings. In general, Mr GRIFFOUL always tried to remain nuanced in his remarks, indicating that in certain cases these were his perceptions of things and that they were not necessarily acquired truths, nuances that were sometimes completely obscured by the defence, which attributed clear-cut statements to witnesses.

Hearing of Aline KAGOYIRE, survivor.

The afternoon continued with the hearing of Aline KAGOYIRE, a survivor from the BUTARE prefecture in southern Rwanda. With great emotion, she told the Court what she had experienced during the genocide, but also what she had seen of the segregationist policy put in place before 1994 and the influence that the burgomasters could have.

Hearing of Gilbert BITTI, international criminal lawyer.

Subsequently, an eminent jurist in international criminal law, Gilbert BITTI, intervened in order to explain the nuances of definition between the crime against humanity and that of genocide. He explained that in order to prove the concerted plan necessary for the qualification of genocide, it is not necessary to find previous documentary evidence, but that this plan can be deduced from a series of acts. He also discusses the problem of testimonial evidence, the main form of evidence in these cases. Witnesses have experienced traumatic events and are heard several times over sometimes very long periods. Therefore, the focus should not be on the intrinsic consistency of the testimony but on its extrinsic consistency with the general situation under investigation.

During the questions put by the lawyers of the civil parties, Maitre LAVAL, lawyer for the CPR, wished to ask Mr. BITTI for clarification regarding the difference between the crime of genocide and that of common criminal agreement.

The defence focused on questions relating to the procedure in force before international courts. For example, Maitre MATHE asked for details on the possibility of travelling to the field, but also on the way witnesses are taken care of. This is a debate that seems irrelevant since it concerns Anglo-Saxon law

procedures whereas French procedure is inspired by Romano-Germanic law. But this does not mean that the rights of the defence are less well respected in French courts.

Hearing of Jean-Loup DENBLYDEN, Belgian soldier in 1994, engineer at CERN.

Jean-Loup DENBLYDEN, who was stationed in Rwanda at the very beginning of the genocide, then intervened as the last witness of the day. He had been sent to Kigali as part of the evacuation of foreign nationals. He also recounts with great emotion the collection of survivors' testimonies that he had to carry out. He also mentions the calls for help sent during the genocide, but is distressed when he talks about the impossibility of helping the victims.

On the pre-genocide phase he also mentions the existence of quotas in the administration and schools.

Finally, on the current situation in Rwanda, he does not paint a rosy picture of the country. But he mentions an interesting reconstruction of the country with members of the government changing and evolving. But he also mentions the fact that some survivors are still threatened by people with a genocidal ideology.

Screening of the documentary *From Arusha to Arusha*

Finally, the day ended with the screening of the film *From Arusha to Arusha*. Given the late hour, 9.15pm, the Chairperson closed the day without any questions on the documentary.

It should be noted that the hearing of Filip REYTJENS was postponed to a later date, which is not yet known, due to a problem with the video-conferencing system.

Ngenzi/Barahira trial

Day 20 May. Day 8 morning

- Case of Emmanuel HABYARIMANA, witness called by the defence.
- Hearing of Dr BERNARD, cardiologist who conducted the medical expertise of Tito BARAHIRA.
- The case of André GUICHAOUA, an expert quoted by the defence.

Case of Emmanuel HABYARIMANA, witness called by the defence.

Mr Emmanuel Habyarimana lives in Martini, Switzerland. He did not come to testify because his travel and accommodation expenses could not be covered by the French justice system, which is what Maître MATHE complained about when the president, Mme Madeleine MATHIEU, suggested that we "*pass over*", in other words that the witness not be heard. (At a previous hearing, Maître MATHE had said that his firm could "*make the advance*"!) The court, having deliberated, decided to "*pass over*". However, it was proposed to read his statement.

Mr HABYARIMANA was a second lieutenant in the Rwandan army: training in Louvain, then war school in Brussels. When he returned to Rwanda in 1990, he was suspected of being pro-RPF and imprisoned. Sent to the front in 1990, he left Rwanda for Bukavu (Zaire) and returned to Rwanda after the genocide. He worked in Kibungo from 1986 to 1988, and knows Pierre-Célestin RWAGAFILITA, who is in the environment of Protais ZIGIRANYIRAZO, Agathe HABYARIMANA's brother, and Colonel Laurent

SERUBUGA, deputy chief of staff of the FAR before the genocide (**Editor's note:** the latter two reside in France and are the target of complaints lodged by the CPCR. ZIGIRANYIRAZO, scandalously acquitted by the ICTR, is looking for a host country and is still living in Arusha, at the mercy of the international community).

In 2002, he was Minister of Defence in Rwanda and then took refuge in Switzerland. According to his testimony, the RPF took advantage of the Arusha Accords (4 August 1993) to infiltrate the whole country. He only denounces the massacres of the RPF, which 'practised the scorched earth policy, gathering the population to massacre them afterwards'. (**Editor's note:** these accusations are very similar to what is known as '*mirror accusations*': one accuses others of what one has done oneself). He ends by saying that the bourgmestres did not have time to ask for help and that the military did not participate in the massacres.

Hearing of Dr BERNARD, cardiologist who conducted the medical expertise of Tito BARAHIRA.

Without wishing to reveal any medical secrets, Dr BERNARD emphasises that Tito BARAHIRA's general condition is generally satisfactory. However, he has suffered from severe renal failure since 2005 and is awaiting a kidney transplant. He also suffers from high blood pressure and has been treated for hepatitis C, from which he has recovered.

His state of health is compatible with his detention, a state of health that "*has rather improved*". It would be desirable for each hearing to last no more than two hours and for him to have a room where he can rest.

The case of André GUICHAOUA, an expert quoted by the defence.

Mr GUICHAOUA refused to testify, as Maître MATHE was looking for an expert who would "stand out from the others". In his letter of 25 April 2016, which will be read out, he takes offence at the fact that Octavien NGENZI's lawyer told him that he would "force" him to testify if he refused.

The President read out his letter to the Court. It is true that he has collected a lot of testimony and participated in many trials. However, he refuses to intervene in a case that he does not know, specifies that until now he has always been summoned by the prosecution and finally that he has never testified for the defence. He rejects the idea that he is being asked to intervene to '*rebalance experts who are too favourable to the civil parties*'.

The President will then read several extracts from reports or documents drawn up by Mr Guichaoua, which are to be found in the proceedings **[1]**.

1) 1998 report on the functioning of the administration.

It is difficult to go into detail. He recalls the important role of the bourgmestre, the local leader of the MRND, at the heart of this administration. The burgomaster is the representative of the government in all areas of activity, a conciliator in local conflicts, especially land conflicts. We live in a '*clientelist system*', with the burgomaster building '*his own vertical network*', under the eye of a '*protector*'. Before the genocide, the MRND ran 100 communes out of 143, but in the prefecture of Kibungo, all the burgomasters were from the MRND. In April 1994, the burgomaster had a wide margin of manoeuvre, even if his position was sometimes untenable from 6 April onwards. It was sometimes necessary to neutralise the burgomaster in order to continue the massacres which, in Kibungo, from 7 April onwards, were carried

out by the military. And to emphasise that the massacres became more intense when the burgomasters were involved in the massacres.

2) **Statement by Mr GUICHAOUA (19 December 2012)** before the investigating judges in the SIMBIKANGWA trial.

He mentions several historical stages to understand the situation:

- settlement of Rwanda and the colonial period

- the 1959 social revolution

- The seizure of power by Juvénal HABYARIMANA during the coup d'état of 1993 and the establishment of the 2nd Republic. The Hutus of the North are privileged. Many Tutsis took refuge outside the country, notably in Uganda.

- arrest of many Tutsis considered to be accomplices of the RPF following the attack of 1 October 1990.

- introduction of multiparty system after much international pressure. MRND allies itself with the CDR (Hutu extremists)

- 4 August 1993, signing of the Arusha agreements which provide for the distribution of powers, particularly in the army, agreements denounced by the FAR (Forces Armées Rwandaise).

- assassination of the Burundian president, Melchior NDADAYE. In Rwanda, the parties split in two: birth of Hutu Power

- Following the flight of the Minister of Defence, James GASANA, the Hutu military in the North take control of the situation: the importance of the militias, except in Butare, thanks to the prefect Jean-Baptiste HABYARIMANA who will be dismissed and assassinated.

- After the attack, it is the entourage of the HABYARIMANA family that takes the situation in hand. The role of Colonel BAGOSORA who resumes his duties (**NDR:** as will SERUBUGA and RWAGAFILITA).

3) Declaration before the Belgian authorities. The prefecture of Kibungo will be won over by ethnic exasperation. The MRND is powerful and RWAGAFILITA is the strong man. Strong implantation of the Interahamwe. Mr GUICHAOUA speaks of major massacres in Kibungo and underlines the important role of the traders in financing the Interahamwe.

4) Rwanda 2008 on the rule of law (submitted by Maître MATHE).

With the Gacaca, the disenchantment of those subject to trial occurs; he speaks of a "monstrous judicial system". He insists on the role of the RPF and mentions the existence of 'false, almost professional witnesses'.

5) GUICHAOUA Tribune of 13 November 2014. "*The Tutsi genocide was not prepared 4 years in advance*".

Afternoon: hearing of H  l  ne DUMAS, research fellow at the CNRS, and the first two witnesses from Rwanda, Mr Isa  e IRYIVUZE, summoned by Ma  tre MATHE, and Ms V  ronique MUKAKIBOGO, civil party alongside the CPR.

Alain GAUTHIER

1. The dossier includes excerpts from "*Rwanda, from war to genocide: criminal policies in Rwanda, 1990-1994*" - La D  couverte (Paris), a work completed by an online site containing abundant documentation.

For more references, see our "Bibliography" page.

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Ngenzi/Barahira trial Friday 20 May 2016 Day 8 afternoon

- Hearing of H  l  ne DUMAS, research fellow at the CNRS, teacher at Sciences Po.
- Hearing of Isa  e IRYIVUZE, witness called by Ma  tre MATHE.
- Hearing of V  ronique MUKAKIBOGO, civil party with the CPR.

Hearing of H  l  ne DUMAS, research fellow at the CNRS, teacher at Sciences Po [1].

Brought up in the incantation of "Never again", Mrs DUMAS discovered Rwanda in 2004, an encounter that was a "shock" when she discovered the traces of the genocide on the sites, the bodies. She then realised the "radical nature of the massacres". After several stays in Rwanda, she published her thesis on the Gacaca courts, "spaces for speaking out", which enabled her to write "a micro-local history". She evokes two murderous logics: that of the state and that of social groups, neighbours, families... It was not only necessary to kill, but also to "humiliate, rape"... Her intervention is then articulated around three axes:

- **time.** There are 39 expressions in Kinyarwanda to designate the division of time. The Tutsis who were hunted down did not have the possibility of putting days on the calendar that structures our time. For the victims, '*time is different*'. The references are the death of a neighbour, the attacks, the rapes; no calendar reference. This time is disrupted: "*The day was night and the night was day*", referring to the fact that the survivors were in hiding during the day and could only come out at night. And if they make mistakes on dates, the consistency of their testimonies must be retained.

- **space.** The house, the enclosure, protective spaces, become sources of danger. It is the outside that becomes a place of refuge. The churches, places of refuge, are also the epicentre of the massacres. They were the second most important place of massacre after the hills. In the past, people took refuge in church under the protection of priests. It was impossible to imagine being killed in a sacred place. By going to the churches, the victims believed in divine protection. Moreover, if some remained hidden in false ceilings, others fled, crossing spaces unknown to them, swamps, forests...

- **death.** Genocide upsets the boundary between life and death. And to take the example of a woman who says she died four times: when she was hit with a club and thrown into a mass grave, when she was hit again after emerging from the grave and was raped, at the Kibuye stadium where the survivors were gathered (they were decimated by weapons, grenades, machetes...) and finally on the Bisesero hill which she had finally reached and where an attempt was made to smoke her in a cave. *"At each time, she describes herself as dead, and when she returns to her hill of origin, she is taken for a ghost"*.

In response to the Chairperson's question about trying to find out the causes of the genocide, the witness quoted the following: *"The more massive an event is, the more difficult it is to find the causes. And to mention a combination of several causes in the genocide of the Tutsis. Ms DUMAS also insists on the importance of language, in particular the much used language of hunting in the "language of the genocide"*. As for the gacaca, much more time is needed to assess their effectiveness (the same applies to the effectiveness of the justice system). However, it must be admitted that there was an authenticity of speech in the 12,000 gacaca organised throughout the country. There were lies, but that was inevitable. One positive point: the gacaca made it possible to find the bodies of the victims quite often. The gacaca were a real place of justice but it is up to the survivors to say how they experienced this time of justice. There were 800,000 convictions for categories 1 and 2, those who committed crimes, and 1,000,000 convictions for the third category: looting, theft, etc. Although the accused were given heavy prison sentences (the death penalty was abolished in 2007), there were also acquittals, particularly when the notion of 'coercion' was recognised.

The *"informer's unions"*? asks Maître DECHAUMET. This is a cliché. Not all Rwandans are liars. Can we compare the three great genocides of the 20th century? Of course. There is an inter-connection between the researchers. In all three cases there is a racial ideology. The role of the neighbours in Rwanda has similarities with the massacres that took place in Poland, for example. In all three genocides there is denial. Presenting the genocide as an inter-ethnic war is denial.

The public prosecutor, Mr COURROYE, questioned the witness on the role of the mayors. The questions followed one another and led to short answers. *"The framers were the prefects and the burgomasters. When a burgomaster refused to have Tutsis executed, he was killed. Saying "I was overwhelmed"?* "On the condition that the bourgmestre was clearly opposed to the massacres. One can also speak of a *"soundscape"* of the genocide: cries and songs of the killers, clamours, cries of the victims... It is impossible to say that one did not hear... The weapons were intended to cause suffering. The nailed club was intended to disfigure the victims, the Tutsi being fantasised for his beauty. They went so far as to expose the genitals of Tutsi women, these unattainable women.... In the evening, there was a party. We were rewarded according to the quality of the 'work' done. One drank and ate meat. The least zealous were condemned to bury the bodies. As for the killers/rescuers? The argument turned against them. In the testimonies, there is a great narrative coherence.

Maître MATHE will discuss the figures concerning the *gacaca*, forgetting that some of the accused have been tried several times, in several *gacaca*.

Hearing of Mr Isaïe IRYIVUZE, witness called by Maître MATHE.

Mr IRYIVUZE knows the defendants very well. His brother, Mr RUZINDANA, was the prefect of Kibungo, who was dismissed and killed. He lived near the church in Kabarondo. He began by giving the names of important people from the region who had a decisive role in the genocide.

He then highlights three facts that he witnessed:

- the attack on the church on 13 April 1994. And to tell how the soldiers coming from Kibungo to go to the front were intercepted by the Interahamwe so that they could attack the church.

- the massacres at the IGA and the Tutsis hidden in the false ceilings

- distribution of grenades. NGENZI hands them over to the *Interahamwe*.

These statements, at least two of them, contradict the witness's testimony on 18 May 2011. He had then claimed to have stayed at home. We realise the reasons why Maître MATHE called this witness who will confirm what he said before the Court. He was present at the three massacre sites and saw NGENZI.

Kangura? Everyone could read it. RTLM? It was on everywhere. To talk about the authority of RWAGAFILITA, he used an expression that made the jurors and the public smile: "*To be a burgomaster, you had to go through RWAGAFILITA as to go to Jesus you had to go through Mary!*"! The *Interahamwe*? MRND militiamen, they participated very actively in the genocide. The MRND did not want the RPF to share power.

Maître MATHE, who spoke last: "*It was I who had you summoned*". And to confront him with his contradictions. "*Before the French judges, he speaks of hearsay, and today he says the opposite!*" The witness cannot answer. The witness was asked a final question regarding his pick-up from his home to the airport in Kigali. Maître MATHE probably wanted to know if the witnesses from Rwanda were taken care of on the spot and by whom! What is the point of the question?

Hearing of Mrs Véronique MUKAKIBOGO, civil party with the CPR.

Mrs MUKAKIBOGO, a retired teacher, has known the two accused since primary school. They received their instructions from RWAGAFILITA. After 1990, it was through a local councillor that she learned what was said about her.

She then recounts the death of her elderly mother for which she blames NGENZI. Her mother was thrown alive into a latrine where she died of asphyxiation. She also accuses BARAHIRA of having killed her brother-in-law, François, a friend of the ex-bourgmestre. He is said to have stuck a sword in the heart of the latter: "*From now on you will no longer speak English or French*"; and to have added: "*You see, guys, I have just given you an example*". Véronique added: "*The whole family was killed: my sister, François and their 5 children! If I am a survivor, the only one of my family, it is because I was not there*". The witness has always said that she knows the events because they were reported to her, but also because she was president of a gacaca between 2002 and 2006 and as such she heard many testimonies. Moreover, since 1990, the two accused had changed a lot.

One last question about BARAHIRA and his removal from his position as bourgmestre in 1986. According to the witness, he killed someone! It is also said that he embezzled money by having his house built with materials from the school! We will leave it at that. End of the hearing at 8.15pm.

Personal comment on the witnesses from Rwanda: both witnesses arrived at Roissy at 6am after a night on the plane, spent the day at the courthouse waiting to testify and left at about 8.30pm. They returned home this morning.

Alain GAUTHIER

1. Hélène DUMAS, *Le génocide au village. Le massacre des Tutsi au Rwanda* - Seuil, Paris (2014).for more references, see our "Bibliography" page.

Ngenzi/Barahira trial Morning of 23 May 2016. Day 9

- Pauline NYIRAMASHASHI, reading from her hearing (deceased).
- Reading of numerous documents, many of which were submitted by the defence.

Pauline NYIRAMASHASHI, reading from her hearing (deceased).

Ms NYIRAMASHASHI was a Tutsi farmer, widowed in 1994: she lost five children during the genocide. She reported that as soon as the attack on President HABYARIMANA was announced, the *Simba Bataliani* **[1]** attacked. NGENZI then came to look for Tutsis "*to shelter them*" (in reality to gather them "*to kill them*") by asking the others to join Kabarondo. When the killers were doing their "job" she said that NGENZI was there. The Tutsis "*agreed to leave the bush*" where they were hiding. She herself went to the church in Kabarondo at night and found two of her children when she arrived at the church in the morning, which she left to go to the Health Centre to have one of her children treated. NGENZI refused to allow the refugees in the church to be supplied: "I suppose he knew we were going to die". At the health centre, the witness reports that Octavien NGENZI came. The latter was said to have said: "*I'm going to clean up the dirt, that is, kill the wounded,*" arguing that the *Inkotanyi* were close by. The witness fled the centre and met with RPF soldiers who saved her.

Hearing of Jean de Dieu MUNYANGABE by video conference postponed, witness is ill.

Reading of numerous documents, many of which were submitted by the defence.

The rest of the morning will be devoted to the rather tedious reading of documents in the file.

1) Report by Mr. Waly Bacre NDIAYE, Special Rapporteur, on his mission to Rwanda from 8 to 17 April 1993. This report was presented on 11 August 1993. Mention is made of the FIDH's International Commission on Human Rights, a commission denounced by the Rwandan authorities for its partiality. It acknowledges that weapons are circulating in profusion, weapons distributed to civilians by the authorities. He also points out "violations of the right to life", 300 Tutsis having been killed in the north of the country. He denounces the role of the Rwandan Armed Forces (FAR), referring to the massacres in the Bigogwe camp. He points out that it was made to look like an RPF attack in order to justify the massacres, and denounces the misdeeds of the militias, especially those of the MRND and the CDR, "*misdeeds committed with complete impunity*". The rapporteur also refers to "*the criminal attitude of certain mayors*" without forgetting to denounce the executions carried out by the RPA (Rwandan Patriotic Army). They also denounced the "*failures of the judicial system which favoured impunity*", the absence of a real police

force in the country, and the "lack of transparency". The absence of a real police force in rural areas. The harmful role of Radio Rwanda, which does not give the same message depending on whether the news is in Kinyarwanda or in French (NDR: means of deceiving the international community). Maître LAVAL, lawyer for the CPCR, asked the president to read the passage that recalls what genocide is and the fact that the Tutsis are designated as targets.

2) Reading of extracts from the Report of the Fact-Finding Mission of the International Federation for Human Rights. Rwanda has been a signatory to the Convention on the Prevention and Punishment of the Crime of Genocide since 15 April 1975. The mission reports that "*many Tutsis were killed or deprived of their property*". According to the clergy, about a hundred civilians were killed by the RPF, which states that the clergy is "*in collusion with the government*". The RPF also reproaches the FAR for settling in the middle of the population who will be victims of the fighting. The members of the Commission only spent a short time in the RPF zone on 17 January 1993, but they denounced human rights violations in this zone.

3) Reading of seven decisions of the National Court of the Right of Asylum (CNDA) at the request of Maître MATHE, who no doubt wants to show that these asylum seekers are the victims of the Rwandan regime.

4) Reading of the Human Rights Watch document "Laws and realities". HRW talks about the reorganisation of the justice system in Rwanda over the period 2005-2008: difficulties in the functioning of the justice system, the scale of crimes in relation to the genocide, the categorisation of crimes (4 categories), the reduction of sentences for those who denounce their accomplices, and a reminder of the 22 executions, before the death penalty was abolished in 2007. HRW provides a history of the Gacaca, doubts about fair trials and mentions cases of torture.

5) KANGURA Journal n°6. The reading has already been done a few days ago.

6) "*Rwanda in the greatest secrecy*". Amnesty International report of October 2012. Denunciation of numerous cases of illegal detention, two disappearances, acts of torture, trial of co-accused of dissident Victoire INGABIRE, former RPF members who leave Rwanda to become "opponents", confessions obtained under duress, Rwanda's policy in the DRC, trial of Victoire INGABIRE

7) "Compromised Justice" by Human Rights Watch on the dysfunction of the Gacaca, corruption, pressure on witnesses to accuse falsely, pressure from the government, intimidation ... Mention of the case of Guy THEUNIS, a Belgian priest formerly imprisoned in Rwanda.

8) Reading of the numerous cases of refusal to extradite to Rwanda (at the request of Maître MEILHAC). Tito BARAHIRA's lawyer forgets to mention the two or three cases in which the Appeal Chambers issued positive decisions that were overturned by the Court of Cassation. (NDR: interesting to read, on the CPCR website, the article by Damien ROETS, professor of international law at the University of Limoges, which refutes the decision of the Court of Cassation).

9) Reading of excerpts from Léon MUGESERA's speech in Kabaya, northern Rwanda (NDR: speech attended by many Rwandan officials at the time).

10) Report of the Economic and Social Council of 18 June 1994 by René Degni-Ségui, special rapporteur of the United Nations Commission on Human Rights. He points out the presence, in the Benako camp in Tanzania, of many people who participated in the genocide and who have regained their authority over the population. Fourteen people were summoned by the Tanzanian authorities and told not to return to

the camp: they ignored the ban. The Benako camp is designated as a "strategic retreat for the militia to serve as a rear base to attack Rwanda.

11) Reading of the hearing of Mr Jean-Pierre CHRETIEN on 25 and 26 March 2014 by the investigating judges. Several themes were raised: the notion of a majority people, the Tutsi considered as the enemy, the AKAZU[3]. With the multi-party system, the MRND became the spokesperson for the Hutu extremists, relayed by the CDR. RTLM, which became operational in October 1993, fought the Arusha Accords, made racist comments and called for hatred. It is heard throughout the country. The massacres (Bagogwe, Bugesera) all follow the same logic and take place at key moments: in Bugesera, just before the constitution of the interim government, massacres considered as 'the massacre of the innocents' by the MDR and in which the Interahamwe participate alongside the military. In the communes, the militias were armed, the Tutsis becoming the 'enemies from within'. The 'civil defence programme? See the agenda of Colonel BAGOSORA. In October 1993, with the assassination of the Burundian president NDADAYE, the birth of Hutu Power was activated.

The morning ended with a request from the Chairperson to dispense with the hearing of Mr Filip REYTJENS, who was unavailable. Some of his writings will be read out.

The morning of tomorrow, Tuesday 24 May, should be devoted to the interrogation of Octavien NGENZI.

1. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.
2. *Inkotanyi*: RPF fighter (term used from 1990).
3. The term *Akazu*, which appeared openly in 1991, means 'little house' in Kinyarwanda. The Akazu is made up of around thirty people, including close or distant members of the family of Agathe KANZIGA, wife of Juvénal HABYARIMANA. Within the Akazu, there are high ranking officials of the FAR (Rwandan Armed Forces) as well as civilians who control the army and public services and monopolise the country's wealth and state-owned companies.

Ngenzi/Barahira trial Day 24 May 2016. Day 10

- Interrogation of Octavien NGENZI.
- Hearing of Wellars MURWANASHYAKA, detainee (video conference).
- Hearing of Michel KARINGANIRE, farmer from Cyinzovu, detainee (videoconference).
- Hearing of Florian MUKESHAMBUKA, from the former commune of Kabarondo.
- Hearing of Oreste NSABIMANA, presented as an "acquaintance" of NGENZI on the planning.

Interrogation of Mr Octavien NGENZI.

Taking the floor and expressing himself freely, Mr NGENZI enumerated a certain number of events that had taken place in his commune from October 1990 onwards. Of the arbitrary arrests, there was only one, that of Godefroid RUZINDANA who later became a prefect. The witness spoke at length about the accountant's case to emphasise that he had never believed that the accountant "could have had links with the RPF", which is what he was accused of. The detention lasted 9 months during which the mayor took his accountant out from time to time to do the accounts. When he was released from prison, the

accountant returned to his post at the request of the bourgmestre. The accountant was killed on 15 April 1994 for not having listened to the advice of his burgomaster: "I regret what happened to him" said NGENZI.

The mayor then reported on some cases related to internal security. The multiparty system in a country at war, in the presence of a population ill-prepared for this development, explains what may have happened, including the arrest of a deputy councillor who had switched from the MRND to the MDR and whom his new party wanted to impose to replace the deceased. Allusion is also made to disturbances that occur during the organisation of an MRND meeting: fights with members of the Liberal Party, the PL. Other events linked to the multiparty system will occur again, a multiparty system that favours banditry and increases drug trafficking. But this happens mainly in cabarets, with the help of alcohol abuse.

If the accused heard about the Bagogwe and Bugesera massacres, it would be through the radio. There was no real ethnic tension in Kabarondo. RWAGAFILITA [1] was an acquaintance, not a friend. He was a powerful, important man, who may have intervened in his appointment as burgomaster: "*I had diplomas that allowed me to reach a higher position than that of burgomaster*", he adds. And he contests the closer links he might have had with RWAGAFILITA. Since he is presented as a racist, '*he would not have put up with me any longer*'. RWAGAFILITA a racist? "When he is tried, we will know. (NDR: RWAGAFILITA died in Cameroon several years ago. Concerning the arrest of Wilson RUTAGARAMA, he justifies it by the fact that he did not have his identity card and had not paid his taxes, but not as an accomplice of the RPF as was said: "*I kept him in prison until he paid his taxes*".

The Kibungo Club? He has heard of it and has never attended a meeting (once, however, according to OFPRA).

The president then analyses several documents found at the commune: reports from the mayor in particular, letters to the prefect, etc. NGENZI takes the opportunity to point out that in 1993 he wanted to leave his post to study in Great Britain. He did not have the funding. However, he never submitted a request to resign.

What is your position on Hutu Power? "*All extremism is to be rejected. I was not an extremist*. And he added: "*I did not have the means to protect people*". As for the death of Prefect RUZINDANA, he learned it from Benako.

"How many Tutsi bourgmestre? In the whole country 2 out of 143, and in Kibungo the 11 burgomasters are Hutus. Mr COURROYE nevertheless pointed out to him that he was giving an idyllic description of Kabarondo while elsewhere in the country serious events were taking place. He was learning all this from the national radio, "*RTL M perhaps*", says the Attorney General? NGENZI states: "*RTL M dramatised the situation, as did Radio Muhabura*" (RPF radio).

And the Ten Commandments of the Bahutu? Hutu Power? Léon MUGESERA's speech in Kabaya? NGENZI's answer: the situation was serious and could lead to a civil war. There was no *Hutu Power* in Kabarondo. As for MUGESERA, he was an extremist. An arrest warrant was issued against him, but not executed. He fled to Canada (NDR: arrested and extradited to Rwanda, he has just been sentenced to life imprisonment).

"And the Tutsi who had become an enemy of the interior? "I concluded that the Tutsis were in danger but what could I do as mayor? More surprising: "I was offered to join the RPF! But going from one extremism to another! I wanted to flee the country!"

In the afternoon, his lawyer, Maître MATHE, asked him questions, some of which put him in danger. Why did he stay in the MRND? *"Unity and peace, that suited me"*. To mention the presence of other parties in Kabarondo, the splits within the parties, the MRND meetings in Kibungo? NGENZI never took the floor in the three meetings of his party. Maître MATHE asked his client for the composition of the staff of his commune in order to show that the Tutsis were not excluded and that NGENZI had appointed several of them. To the last question of knowing what his state of mind was between 1990 and 1994, NGENZI replies: *"It was necessary to put in place the Arusha agreements"*.

There are still questions to be asked of the accused.

Hearing of Wellars MURWANASHYAKA, detainee, by video conference from Kigali.

He asked why he was appearing in this case. He is told that it was the Prosecutor who requested that he be heard. He speaks freely about NGENZI and then about BARAHIRA. He has nothing to reproach either of them. The questions will not allow us to learn much more, except that when asked about the "battles", he ends up recognising that they were directed against the Tutsis. If he said, during his hearing before the French gendarmes that BARAHIRA had divided people into three groups, he now contests it by saying that he was ill. If he pleaded guilty during his *gacaca* trial [2], it was to have his sentence reduced. However, he was sentenced to 30 years in prison! He was not pressured by the country's authorities.

Hearing of Michel KARINGANIRE, farmer from Cyinzovu, detained. By videoconference.

This testimony will not tell us much. Even when asked why he killed, after a long silence: *"When the genocide started, we didn't know that it had to happen like that. We lived well with the Tutsis. Concerning the murder of a certain Jean DAMASCÈNE, I ran, we chased him and we killed him in the valley..."*. The murder of another person and his children? I was there, there were many of us. It was MUGARASI who brought the people from his sector, this MUGARASI whom he blames for all the evils. In any case, he never saw BARAHIRA from April to July 1994.

Hearing of Florian MUKESHAMBUKA, from the former commune of Kabarondo.

"When the war broke out, we refused the killings, which the people of Kigarama reproached us for. We loved the Tutsis and we fought for three days against these people. When thieves from Kabarondo went to steal cows, we stopped them, we didn't want any crimes in our area. We called on NGENZI because he was the authority. "Let these people go, let them eat their meat", the mayor allegedly replied. Encouraged by NGENZI's decision, the thieves organised a murderous attack. After seeing the troop of killers pass in front of my house, I came face to face with BARAHIRA. He was carrying a spear and a machete. The witness then asked himself: "How am I going to kill a human being when I am not even capable of killing a chicken?" There were three of us and he asked us to follow him, but two of us managed to get away from him. *"God has kept us from killing. BARAHIRA followed the group of killers.*

The witness was never implicated in the *gacaca*. He admitted that he was afraid, that he felt threatened by BARAHIRA. *"The Tutsis were indeed the persecuted ethnic group, all the Tutsis. If BARAHIRA was armed, perhaps he wanted to protect his Tutsi wife?"* And he wonders: *"He has a Tutsi wife and he is going to kill the Tutsis!"* He acknowledges that there is a link between the refusal to punish the cow thieves and the massacres that followed. It was an authorisation to steal and kill: *"You don't challenge an authority!"* The

bourgmestre, according to him, had a very great authority. "*BARAHIRA was no longer burgomaster, but he was feared, and he was armed. "We left for Tanzania to escape the RPF army. We told ourselves that they were going to kill everyone!*"

Returning from Tanzania in 1996, the witness said that he was Hutu and that he had prayed to God not to participate in the massacres: he was granted his wish. He even became a member of a gacaca court, admitted that he was not pressured by the authorities to testify and that NGENZI was linked to the *Interahamwe* [3]. If NGENZI did not return from Tanzania, he knows why.

Throughout the hearing, the witness appeared to be trustworthy, and he was able to keep his composure even when questions were flying. Maître LAVAL, faced with Maître MEILHAC's somewhat aggressive attitude towards the witness: "*Torture him while you are at it*". The hearing ended in a somewhat tense atmosphere. But the witness remained dignified.

Hearing of Oreste NSABIMANA, presented as an "acquaintance" of NGENZI on the planning.

One wonders why this witness was cited since he did not personally see most of the events he reports. He reports the incident of the goats that the *Interahamwe* had stolen and butchered and quotes NGENZI as saying: "*You eat the goats while their owner is still alive? And an attack followed on the market, in connection with the burgomaster's reaction. Another fact: while thieves were destroying the witness's house, the bourgmestre allegedly asked him to go and be reconciled with his attackers; there was no need for dissension between Hutus. The defence was at liberty to point out to the witness that he had in fact seen nothing. One may still wonder why the Prosecution decided to call this witness.*"

End of the hearing at 9.30pm

1. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France!
2. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
3. *Interahamwe*: '*Those who work together*', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

Ngenzi/Barahira trial

Morning of Wednesday 25 May 2016. Day 11

- Hearing of Kajengi TWAGIRIMANA, quoted by Maître MEILHAC.
- Hearing of Hassan KALIMBA, by video conference from Rwanda.

The morning is devoted to the hearing, by video conference, of two prisoners who are serving their sentences in Rwanda.

Hearing of Mr Kajengi TWAGIRIMANA, quoted by Maître MEILHAC.

Mr Kajengi TWAGIRIMANA, formerly a farmer in Cyinzovu, stated that he had met Mr BARAHIRA when the latter was leading an attack in his home sector before 13 April 1994. He himself had taken the lead in another group of attackers. It was members of the group of killers that he met who told him that they were under the responsibility of Tito BARAHIRA. He personally did not see the accused because he was in a hurry and there were "*many people*". Figures that vary from 100 to 500 people.

The President did not fail to confront the witness with his contradictions insofar as, having been heard twice, once by OPI Méthode RUBAGUMYA and again by the French gendarmes, he did not make the same statements. When asked whether he was part of the *Interahamwe* [1], he finally admitted, after hesitating, that he was indeed one. As for the rest, he knew practically nothing and hid behind his status as a farmer to say that he knew no more. However, when questioned by the public prosecutor, he specified that the assailants were armed with traditional weapons, machetes and clubs, and that BARAHIRA had authority over the *Interahamwe*. Why kill the Tutsis? "*We were subject to the orders of Burgomaster NGENZI. If the burgomaster had prevented us from 'working', i.e. killing, we would not have left. We did not do it for revenge, it was war*", he continued. To the questions of the defence lawyers who confronted him with his contradictions, he ended up saying that his words had not been transcribed correctly during the two hearings to which he had been subjected. He never saw NGENZI!

Witness in custody who made confusing statements for whom it cannot be said that his testimony was useful. The same will apply to the next witness who is heard after him.

Hearing of Mr Hassan KALIMBA, by video conference from Rwanda.

The witness, a farmer, is serving a life sentence after being sentenced to 19 years in first instance. He was also called by the defence of Tito BARAHIRA. He knows nothing about NGENZI. As for BARAHIRA, he was "*an ordinary citizen who no longer had any power*". He acknowledges that he himself participated in an attack, but he did not lead it, placing the responsibility on a certain MUGARASI. He did not see BARAHIRA either. As to why he participated in the genocide, he replied, reporting MUGARASI's words, that "*anyone who does not follow will see what he (I) is made of!*" It is when he hears the explosion of a grenade that he will be curious to see what is happening. Of course, he did not take part in the massacre in the church on 13 April, and did not even hear the shots, claiming to live 5 km from the place of worship.

When questioned by the public prosecutor, he conceded that BARAHIRA had authority as a former bourgmestre and that "*it was not done to question an authority*". He added that "*the Interahamwe were sometimes stronger than the bourgmestre*" and that "*sometimes they spat in his face!*" Despite being sentenced to life imprisonment, he claims to be '*innocent*'.

This hearing, like the previous one, was very confusing. It seems that we are dealing with detainees who are not telling the truth, or who end up admitting only a very small part of the truth, which will not help the jurors to really understand what happened. We will have to wait for more convincing witnesses, who will really say what they saw and who will have no interest in hiding. Besides, what interest did the two witnesses have?

At the end of the morning, the Chairperson presented a map of the Kabarondo region showing the various locations of the massacres. We will come back to this document later because it needs to be made more usable. The meeting was adjourned to the following day, Thursday 26 May 2016.

1. *Interahamwe: 'Those who work together'*, a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

2.

Ngenzi/Barahira trial

Thursday 26 May 2016. Day 12

- Hearing of Octavien NGENZI on the period from 6 to 12 April 1994.
- Reading of the hearing of Célestin HAVUGIMANA, who is said to have died.
- Hearing of Samson MUSONI, BARAHIRA's first cousin, by video conference.
- Hearing of Méthode RUBAGUMYA, OPJ of the GFTU, section of the prosecutor's office that manages the files of people who have fled the country.

Hearing of Octavien NGENZI on the period from 6 to 12 April 1994.

Mr NGENZI stated that he learned of the attack on President HABYARIMANA's plane on the morning of 7 April from the national radio. Frightened, he tried to convene a meeting of the commune's security committee, but several of its members were absent. He then called a meeting (with the three members present?) with the representatives of the political parties. Only the MRND was missing! The decision was taken to go to one of the neighbourhoods of Kabarondo (Akajagari) to ask people to respect the national communiqué issued by the Ministry of Defence: everyone should stay at home. However, nothing special happened that day.

On 8 April, his friend and neighbour Oscar KAJANAGE tells him that his family has just been decimated. The witness went to Oscar's house but realised that a neighbouring house, that of Antoine BAKAME, was surrounded by a group that wanted to get Gervais RUKINGA, a Tutsi, out. These attackers want to avenge the death of their president. NGENZI is then told that, as his mother is a Tutsi, it is not his place to lecture. He recalled that in 1973, he had been expelled from school because he was thought to be a Tutsi. After having negotiated and succeeded in recovering RUKINGA, he has to transport a seriously injured person in his van. He takes RUKINGA to the church, having realised that his friend's family members have already been buried. At around 4 p.m., he goes to Kibungo (13 km) to see the prefect, to give him a report. On the 9th, called to go to a place where people were fighting, he again spoke with the assailants who wanted to "*kill the Tutsis*". There he met Pauline NYIRAMASHASHI (NDR: her testimony has already been read in part) with two of her grandchildren. He will drop them off at the church. He then transports another injured person to the hospital in Kibungo.

On the 10th, he is called again to mediate between people who were claiming the body of one of the members of their group, Patrice HABYARIMANA, who was killed in the fight. NGENZI interferes again, his objective being to separate the people. He takes the body of the deceased, as well as the latter's nephew, who is seriously injured.

On 11 April, no request for intervention. He had the idea of summoning the representatives of the different religions, the parish priest and the Protestant pastor. This meeting does not lead to anything. NGENZI brings firewood to the people who have taken refuge in the church, many of them coming from Byumba, further north, fleeing the arrival of the RPF and heading for Tanzania.

Finally, on the 12th, Abbé INCIMATATA, the parish priest, asked him to take him to his family at the Kigarama communal office: *"It was the least I could do for someone in distress"*, NGENZI added. In the afternoon, the parish priest comes to ask him to find a plot of land to bury a deceased person. NGENZI says he is distraught because he does not have the medical certificate required to bury someone! He proposes to the priest to bury him on the parish land. Finally the burial will take place in Rwabatwa. NGENZI ends his presentation by evoking the episodes of the "cows and goats" [1]. These are inventions, "this kind of story coming from the 60s", at the time when the cattle of the Tutsis were seized. *"We must not drown human blood in the meat of goats"*, he concluded.

This was followed by numerous questions from the Chairperson, Ms MATHIEU: at the meeting of the parties, the head of the MRND was absent, surprising? Who are the *Interahamwe*? Again the episode of the goats! RWAGAFILITA [2], always! NGENZI justified himself on all points and said that he did not have enough armed forces with him to resist the attackers. To Maître LAVAL, who questioned him, he replied: "I am not here to lie. I am a witness, an accused. I use the means I have to defend myself". He contested Pauline's statements (quoted above) and added that he had not seen any corpses on those days and that he had not brought people to the church with a view to killing them. He only saw two graves and no corpses. There is a rather lively verbal exchange between the lawyers, Maître MATHE, having come to the aid of his client. He says that he got on well with the priest INCIMATATA, until 7 April. Finally, he contests his participation in a meeting led by RWAGAFILITA, an accused at the ICTR having stated that *"all the mayors were present"*. To Maître Sophie DECHAUMET, who pointed out that he had moved around freely and that he had played the role of an ambulance driver: *"Why wasn't I killed? Because in Kabarondo nobody knew that in 1973 I had been mistaken for a Tutsi. Moreover, when I fled, I was taken as an accomplice of the Tutsis. Hence the wound that was inflicted on him during his escape. "The rounds?"* asked Maître PARUELLE. *"I did not want the population to take care of security. There was a risk of overflow"*.

The public prosecutor subjected him in turn to a series of questions. The witnesses who spoke of goats were liars; if he retained a certain authority over the *Interahamwe* [3], it was because he was born in that neighbourhood. If there was no MRND representative at the meeting of political parties, it was because the person designated had not yet taken up his duties. Maître MATHE in turn asked a series of questions so that his client could again justify his conduct during the days preceding the church massacres.

Reading of the hearing of Célestin HAVUGIMANA, who is said to have died.

Sentenced to 25 years in prison because his guilty plea was not accepted. He contests the statements made by the OPJ, Méthode RUBAGUMYA, who will be heard at the end of the day.

Hearing of Samson MUSONI, BARAHIRA's first cousin, by video conference.

The witness admitted that he walked with BARAHIRA but that they soon got separated. BARAHIRA allegedly asked people to be vigilant because there were many potential thieves in the Cyinzovu area. The barrier referred to was not actually a barrier: it was simply a gathering of people to watch the area. The witness only saw BARAHIRA again at the Benako camp in Tanzania. When questioned, the witness said that he reported what he had seen to Bourgmestre NGENZI and that the latter did not react. BARAHIRA was president of the MRND communal, but he had not yet organised a meeting. In fact, during that period, there was no longer any authority. The problem with this witness is that he made three different statements about his meeting with BARAHIRA. He finds it difficult to say which version is the right one.

He ended up saying that there was only one attack that day and that BARAHIRA was not with him when Tutsis were killed. The main person responsible is MUKASI. He did not attend the meeting on the football field in Cyinzovu. What he knows is what he was told. The *Interahamwe*? He doesn't really know who they are! BARAHIRA did have a machete, but it was to work in his banana plantation. During the *gacaca* [4], the witness reported that someone tried to get him to say that BARAHIRA was at the church when he himself was not there. He was asked why his testimony varied from the OPJ's report, but did not explain why. He says he was not pressured during his hearings. Sentenced to 18 years in prison on appeal, he served 20: a mystery!

Hearing of Méthode RUBAGUMYA, OPJ of the GFTU, the section of the public prosecutor's office that manages the files of people who have fled the country.

Mr RUBAGUMYA, tells what he knows about each of the accused as to their active role during the genocide. He then answered calmly and precisely to the questions put to him on his methods of investigation, on the *Interahamwe*. He mentioned the number of 3000 dead in the church and specified that Mr NGENZI still owned property in Kabarondo:

from Ngenzi to Kabarondo.

a detached house which he rents, two shops on the asphalt road with a house at the back. These properties are managed by members of his family.

With regard to the testimony of MUSONI, who said that he had not been present at the church, the OPJ gave an important clarification: if someone acknowledges that he was present at a place of massacre, the church for example, he may be afraid that he will be suspected in turn (N.B.: we have already sensed this phenomenon in other testimonies since the beginning of the trial). MUSONI contests the OPJ's report? *I don't know why he changed his version*". Given the number of cases that Méthode RUBAGUMYA has dealt with during the 8 years he has been at the GFTU, it is quite normal that he cannot remember all the witnesses he has met, says Maître GISAGARA, coming to his rescue. The civil parties will not ask him any further questions, as the witness has been called by the defence.

In response to questions from the public prosecutor, the OPJ stated that there had always been good cooperation with the French investigators who had come to Rwanda on a rogatory commission. He explained how these investigations were conducted. Several OPJs have intervened in these cases, with different interrogation practices: either the question/answer or the more global drafting of the hearing. Both methods are used in Rwanda. As for being on familiar terms, this is not a lack of respect. You can be on first-name terms or polite. The question of the presence of an interpreter who can distort the witness's words was also raised, some even doing so knowingly after having been bribed. As for the interpreter, he or she has no interest in distorting the words of the witnesses who, for their part, are free to speak and say what they want: no pressure, violence or threats.

It is of course the defence lawyers who are going to "bully" the witness the most. Maître MEILHAC will have the delicacy to report the words of the investigator GRIFFOUL, presenting Mr. RUBAGUMYA as someone who was "*stubborn at the beginning, very attentive to the instructions of the government*"! The lawyer is surprised that the international arrest warrant for his client could have been mistaken as to his date and place of birth. The OPJ replied that it was not him who had drawn up the document and that, in any case, "*there was no mistake about the person*".

As was to be expected, Maître MATHE questioned the witness on the minutes of the hearing as to their confidentiality until the trial. The witness confirmed and the lawyer then asked: "*How is it that private persons had access to the file*", referring to the documents provided by the CPR in its complaint. If there was a leak, it was not his doing.

A final question, also expected: "*In Rwanda, how do you get into prison? We ask for authorisation from the Prosecutor General and the prison director*", said the witness. Once again, the CPR is targeted in its practice of collecting testimony from prisoners. Maître MATHE recalls that she has never obtained a list of the names of the victims of Kabarondo and is surprised by this.

The hearing was suspended at 9.40 pm

1. Thieves had seized the cows and goats of a certain TITIRI. According to several witnesses, NGENZI said, "*You eat the goats while their owner is still alive*", thus inciting the massacres that followed. NGENZI asserts that "*these are inventions*", however, the testimonies reporting these remarks multiply throughout the hearings.
2. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from.
3. *Interahamwe: 'Those who work together'*, a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
4. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.

Ngenzi/Barahira trial Friday 27 May 2016. Day 13

- Hearing of Eliezer NGENDAHIMANA, farmer.
- Hearing of Ernest NTAGANDA by video conference.
- Reading of the hearing of Joas NSHIMIYIMANA, about whom the President had decided to "overrule" the previous day.
- Hearing of Samuel NSENGIYUMVA, farmer.
- Hearing of Onesphore BIZIMUNGU, by video conference. Witness called by the defence.

Eliezer NGENDAHIMANA, farmer.

The witness spoke of the "*security meeting*" held on 13 April 1994 on the Cynzovu football field, a meeting chaired by Mr Tito BARAHIRA and to which the inhabitants had been invited by a letter received by one of them, Samuel NSENGIYUMVA. The aim was to take stock of the situation in each cell. The inhabitants of Rugazi were reproached for not having taken enough care of the security in their cells. They were also asked to go and support those in Nyabisenga but they refused to go. The instruction was "*not to kill the Tutsi women who had married Hutus because these women had no ethnicity*". (NDR: The interpreter, who is bound to a word-for-word translation, will not say that this means 'rape', as rape was

a weapon of the genocide). On the other hand, there was no mercy for the Tutsi couples and their children. The witness estimated the number of participants at around 250.

During questioning, the witness was asked to specify that "work" means "kill", and even kill children. And it was indeed BARAHIRA who made these remarks. The witness also specifies that he had to come back and take weapons from his house: machete and club. The others were also armed. After the meeting, back in his cell, the witness went to kill Tutsi in the "project forest"[1] near his home, after receiving orders from Samuel NSENGIYUMVA. This attack allegedly resulted in three victims who had left the church. As for another attack that took place the following day and which caused the death of two people, Eliezer says that his participation was limited to cutting a branch of the coffee tree that was used to kill. The question of barriers was again raised. The witness only saw one, near a bridge, but nothing happened there. The arrival of the *Inkotanyi*[2] made everyone flee. The witness said he pleaded guilty to "*ease his conscience*" because the people who had been killed were "*innocent victims*."

The public prosecutor will ask the witness to specify the conditions in which the three people in the forest died. Answer: "*We asked them where they came from. We hit them with our clubs and they died. I hit them too. There was an old woman, a young man and a 40-year-old man.*" He said that the killings were a response to what BARAHIRA had said on the football field.

PS. The witness was called back at the end of the day, around 7.30 p.m., following the hearing of Onesphore BIZIMUNGU, to ask him to specify whether on the day of the meeting of 13 April 1994 he had seen Samuel NSENGIYUMVA who claimed to have spent the day with him. The witness replied in the negative.

Hearing of Mr Ernest NTAGANDA by video conference.

The witness only wants to talk about Tito BARAHIRA. He reported what Tito BARAHIRA had said and what the previous witness had said. BARAHIRA was the most important person at the meeting he attended: it was therefore he who led it. As a former bourgmestre, he had authority: "*If I obeyed him, it was because we knew each other, because we were neighbours*". The witness, questioned by the president, said that the expression "*ensure security*" meant "*kill the Tutsis*". "*Yes, how could we have killed the mothers and spared the children? Those who gave us the orders were the ones who had studied, they knew how to hide.*"

Contrary to what is written in his statement, the witness said that he did not participate in the destruction of a house and never heard this request from BARAHIRA. On the other hand, he did say: "*You must not kill the Tutsi wife of a Hutu*". The witness also pleaded guilty and was sentenced to 4 years in prison and 4 years of community service.

Reading of the hearing of Joas NSHIMIYIMANA, about whom the President had decided to "overrule" the previous day.

Cousin of BARAHIRA, the witness said that BARAHIRA was a member of MRND/CDR, assimilating the two parties. He said that during the *gacaca* many people accused BARAHIRA of having organised the meeting at the Cynzovu football field. This is what he stated before the Rwandan OPJ.

In a hearing on 18 January 2013 in the presence of French investigators, he said he had not seen BARAHIRA. BARAHIRA had indeed been bourgmestre and like all the leaders, he was a member of the MRND.

Hearing of Samuel NSENGIYUMVA, farmer.

participated in a meeting led by Mr BARAHIRA. There were a lot of them, sitting on the grass. He asked them if they knew why they were there. The participants were told that it was a 'security meeting'. He quoted the speaker: "*You know how it used to be, how our fathers were beaten, how they used to do hard labour while beating us. We are going to look at this issue.*" They were asked to ensure security at home given the RPF advance and to spare the Tutsi girls because their sons would marry them. The people then dispersed. "*We, from Rugazi, went back home. Killers attacked people on their way to church.*"

The witness, when questioned, stated that the people targeted were only Tutsis and that the massacres at the church took place the day after the meeting. As for the expression "to ensure security", this meant "to kill the Tutsis" without saying so openly.

The witness will also say that he was accused during the *gacaca* and was sentenced to 30 years in prison. He will appeal and his sentence will be considerably reduced.

He then reported what BARAHIRA said at the end of the meeting: "*There are things that will make noise, don't worry, it's for security*". Questioned by the Chairperson who became annoyed, the witness ended up saying that these words were said by NGENZI when he met him on the road in his Toyota Hilux.

The public prosecutor in turn questioned the witness as to whether the massacres that followed the meeting were a direct consequence of BARAHIRA's words: "*The massacres were based on the words spoken by BARAHIRA, people left and started the massacres*", said the witness. He met NGENZI on the road to Kabarondo where he was going and confirmed what he had said. He also heard the sound of bullets coming from the church.

Maître MEILHAC will in turn question the witness on the number of participants at the meeting. "*You said 3000.*" "No, 300", replied the witness. "*I was mistaken. What I said today, tomorrow I may have forgotten. It's because I was sick.*" The Interahamwe? "*Before, the Interahamwe was a good group. Afterwards it changed so that today when someone is Interahamwe he is punished. Those who chewed up people became Interahamwe.*"

series of questions. She wanted to know the witness's schedule from the time he left his home until he arrived in France for his hearing. She insisted on his place of residence in Kigali, on the means of travel used by the witness to go from his home to the capital. It was difficult to obtain clear answers. An answer about the means of transport used will trigger laughter on all benches. "*You came in a vehicle. You had a vehicle?*" the lawyer asked. The witness replied, full of good sense: "*I travelled by plane, do you think I had a plane?*" He ends up saying that he used public transport.

Why is the lawyer so interested in the witness's schedule, as she has already done for others when they come to the trial? She must have an idea in the back of her mind.

Hearing of Mr Onesphore BIZIMUNGU, by video conference. Witness called by the defence.

As the witness had no spontaneous statement to make, the Chairperson asked him questions. The witness knew BARAHIRA well as he was first a teacher and then the mayor of Kabarondo. He also introduced him as the "director" of Electrogaz in Kibungo. To his knowledge, he had no political activities. However, he was president of the MRND and leader of the Interahamwe who moved around with clubs and grenades. He participated in a meeting on the Cyinzovu football field. BARAHIRA asked to destroy the house of Joram RWAMIHIGO. He added that the plot to destroy the houses of Tutsis and to kill them had been hatched. "*We went to our house and we killed people, Tutsis*".

Like many other witnesses, he specifies that they were indeed asked to kill Tutsi couples, that "work" does mean "kill". *When a Tutsi was found, he added, "they killed him"*. He did participate in the killing in the "Project Forest"^[1] with Samuel NSINGIYUMVA and Augustin NSABIMANA among others. He also claims to have taken the floor during the meeting to ask BARAHIRA why he was segregating. BARAHIRA was carrying a spear that day. He had kept power over his former constituents. He knew about the massacres at the church because he heard the grenades. However, he estimated that 2000 people attended the meeting at the football field. He himself was armed with a machete at the request of Samuel NSENGIYUMVA. The witness said that he saw NGENZI at the Health Centre on 12 May: a person had come to see him to ask him to ensure their safety. The bourgmestre is said to have replied, "*We will settle the matter*". Hence the massacres of the following day. On the other hand, he did not see NGENZI on the road on the 13th after the meeting on the football field. He had remained with Samuel until around 2 p.m. When questioned by the Advocate General, he spoke again about the meeting with NGENZI at the Health Centre. They had come to see him to discuss health problems at the church. The answer of the burgomaster: "*The problem of the people who are in the church will be solved in the church*". For the witness, this meant that people had to die in church. People went to church because they were being chased away amidst the cries of the *Interahamwe*, the noises they made with cow horns (Editor's note: the witness could also have said "whistles", all ways of provoking fear in the refugees). When asked by the defence, the witness confirmed that NGENZI was armed with a spear. *You are the only one to say so*" concluded Maître MEILHAC, who was somewhat annoyed by the attitude of the witness, who had himself shown signs of annoyance during the hearing.

The hearing was suspended at 8:15pm after the witness Eliezer **NGENDAHIMANA** was recalled urgently. The fourth week of the trial will begin on Monday, during which the massacre at the church will be discussed, starting on Tuesday. We will then really enter into the reality of the genocide and all its horror. The drawings illustrating this article are by Annabelle GIUDICE.

1. Not given to this place by the inhabitants of Kabarondo.
2. *Inkotanyi*: RPF fighter (term used from 1990).

Ngenzi/Barahira trial. Morning of Monday 30 May 2016. Day 14

- Hearing of Augustin NSABIMANA, mason, brother of Eliezer NGENDAHIMANA.
- Hearing of Christophe HATEGEKIMANA, witness presented by the defence, heard by videoconference.
- Hearing of Tito BARAHIRA on the period from 7 to 12 April 1994.

Hearing of Mr Augustin NSABIMANA, bricklayer, brother of Eliezer NGENDAHIMANA.

The witness announced that his testimony would be limited to Mr BARAHIRA. On the morning of 13 April, the witness received a visit from Samuel NSENGIYUMVA who invited him to a meeting at the Cyinzovu football field. Accompanied by cell leaders, they went to the field: BARAHIRA arrived shortly afterwards. "*Do you know why you are here?*", the former mayor began. It was to hunt down the Tutsis wherever they were. Instructions were given not to kill Tutsi women married to Hutus: "*These women are for us!*" BARAHIRA then asked them to go and kill an old Tutsi from the neighbourhood but he was not at home.

When questioned by the Chairperson, the witness replied that he was armed with a piece of wood that he had cut after the meeting. Those who were armed had been warned beforehand. On the football field, the crowd was noisy and only BARAHIRA was said to have addressed the population. Perhaps, however, the people in charge of the cell committees! The witness confirms what the former bourgmestre had said about *the "Tutsi enemy"*. He then described the massacre of the three Tutsis in *"the project wood"* [1]. Other killers went to the church to participate in the massacre. If he obeyed BARAHIRA, it was because he had been an authority. However, he did not see NGENZI because he did not live near the road. The civil parties having given up questioning the witness, it was the public prosecutor's turn to ask questions. *"People were armed with spears and machetes. BARAHIRA referred to the death of President HABYARIMANA and insofar as he was dead, the enemy was the Tutsis responsible for the attack. "Killing even women and children?" insists Mr COURROYE. "Yes, he had said that all those who are Tutsi are enemies. I had no problem with that because it was an obligation made by BARAHIRA, we had to obey him, it was he who had organised the meeting. When we were asked to do it, we did it.* Maître MEILHAC subjected the witness to a series of questions: the *gacaca* [2], the number of participants in the meeting insofar as the witness often varied (NDR: difficult for someone to evaluate a crowd. The witness said that the number of participants in the meeting was "100,000 according to the unions and 10,000 according to the police"), the date and duration of the meeting, etc., all of which contradicts the previous witnesses. The witness has served 10 years in prison and 10 years of community service.

Hearing of Mr Christophe HATEGEKIMANA, witness presented by the defence, heard by video conference.

"I will say what I know and I will not say what I do not know," the witness begins. In 1994, at the beginning of the massacres, he saw people going up to the football field to attend a meeting. But he did not follow. He was told that they had been summoned by BARAHIRA. As he had not participated in this meeting, he was told that he had taken risks. He saw the participants coming down the hill shouting and running. He also saw the three victims of the "project forest"[1] being massacred. The witness, surprisingly, speaks most often as "we" and not "I"!

Regarding the death of the three Tutsis, he admits: *"Yes, it can be said that I participated in the attack because I was present.* He denies having participated in the meeting, contrary to what three other witnesses say. *"Ensuring security"* did mean killing Tutsis, but this could not be said openly. *"At that time, I could see that the Tutsis were being hunted down, that the genocide had already begun!*

The *Interahamwe* [3] ... *"They often passed by in the vehicle of a certain MUKIBI. Using a megaphone, they asked people to participate in the attacks. It was people from the MRND who were raising awareness.* As for the people he met, they were armed with spears, machetes and clubs. He never saw Mr NGENZI. And if he did not participate in the meeting, it was because he did not want to be active. *"Others had zeal. I saw that there were massacres, I did not want to go and see that.*

Maître MEILHAC tried to question him, but he quickly gave up, as the witness continued to say that he was neither at the football field nor at the church.

Hearing of Tito BARAHIRA on the period from 7 to 12 April 1994.

As soon as the death of President HABYARIMANA was announced on 7 April, the period was reserved for mourning. The population was urged to stay at home. *"It was a time of sadness"*. In the morning, he went

to Kabarondo to ask the workers who were working for him to go home to respect the instructions. He also wanted to recover the rent for his houses. As he was only able to meet one of his tenants, he informed the others that he would return the next day. Back home, he devoted himself to "housework"!

On 8 April, he remained at home, still busy with "household chores".

On the 9th, he returned to Kabarondo in search of his tenants. After collecting his rent and buying what was missing from the house, he returned home. He returned to Kabarondo on 13 April when he heard that the church had been attacked. He lived in an isolated house behind a eucalyptus forest, 4 km from Kabarondo. What did he do during those days? He helped his wife and children "to clean up". He had to trim his cypress fence, look after the cows in the cowshed, cut banana bunches in his banana plantation, fetch fodder for his calves and cut firewood. His houses in Kabarondo were not completely finished. In one of them he had opened a pharmacy. He still had to build a latrine.

The chairperson then asked him about the meeting on the football field.

"I don't know this meeting, I didn't participate in it, I didn't lead it. According to the accused, this story of a meeting is an invention. This rumour came from Rugazi 1 and 2. All those who spoke about it confessed during the gacaca. It is "a plot hatched in connection with their arrest because it is in their interest to invent this meeting and to put the responsibility on me. They implicated me in order to obtain a reduction in my sentence. And to hammer home the point that this meeting did not take place and to explain how, in order to organise a meeting, one must first obtain authorisation... ". I did not say the words that are attributed to me. I lived with the Tutsis, I had Tutsi and Hutu friends. I never had any hatred, even when I was their leader. This meeting never existed, the communal authority was never informed of it, nor the population... ". His spontaneous statement ends there.

The hearing was suspended at 12.30 p.m. (due to the defendant's dialysis), without anyone having had time to question the defendant. This is a pity. Given the statements of the defendant, it would have been better to strike while the iron is hot. This will have to be taken up later. When?

1. Not given to this place by the inhabitants of Kabarondo, already cited by other witnesses last Friday.
2. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
3. *Interahamwe*: "Those who work together", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

**Ngenzi/Barahira trial.
Tuesday 31 May 2015. J15.**

- Hearing of Patrice NGIRUMPATSE.
- Hearing of Félicien KAMANA, farmer.
- Hearing of Silas MUTABARUKA, by video conference.
- Interrogation of Tito BARAHIRA.
- Hearing of Abbé Oreste INCIMATATA, survivor, parish priest of Kabarondo in 1994.

Hearing of Patrice NGIRUMPATSE.

The morning therefore began with the hearing of NGIRUMPATSE Patrice, who stated that he was a "*messenger from Kigali*", an expression that gave rise to requests for clarification from the President and that the defence did not fail to note. He then spoke about the meeting on the Cyinzovu football field, a meeting at which he said he had seen MUMVANO incite to "*kill the Tutsis*" because they were responsible for the death of President HABYABIRAMANA. He also says that he saw Tito BARAHIRA at this meeting: the latter allegedly spoke and asked the inhabitants to go and "*ensure security in their sectors*".

The President began by returning to the expression "*messenger from Kigali*" and asked the witness to confirm that these were facts that he had personally seen and that this was not what the Prosecutor's Office in Kigali had asked him to say. The witness confirms that he said this because it was the Kigali prosecutor's office that put him on a plane to testify in France.

Then, on questioning by the President, the witness explained the events that had taken place on the Cyinzovu football field where, according to him, all the inhabitants of the sectors were present, about 200 or 300 people. He said that he arrived just as the meeting had begun and that he only heard MUMVANO speak and say that the Tutsis had to be killed. Tito BARAHIRA would have asked "*to go and ensure security in the sectors*". He added that Tito BARAHIRA had said that women married to Hutus should not be killed because "*they have no ethnicity*". Although the President reminded him that he had told the gendarmes that he had not heard Tito BARAHIRA make a differentiation between mixed couples, he confirmed that he had heard this himself. But he said he did not understand what Tito BARAHIRA meant when he said "*to go and ensure security*". He said that it was MUMVANO's words that caused his group to go and kill Tutsis. On questioning by the President, he nevertheless reported that BARAHIRA had great influence because he had been a bourgmestre and was an educated man. According to the witness, the participants in the meeting were armed because they had been asked "*not to come empty-handed*", but he specified that Tito BARAHIRA was not armed at the meeting and that he would have remained there when the witness left the meeting.

Before giving the floor to the civil parties, the first assessor asked the witness to specify whether BARAHIRA was talking about all women when he said not to kill them or just women married to a Hutu. The witness then replied that he was referring to Tutsi women.

Maitre PARUELLE then took the floor for the civil parties. He returned to the attack on the "Project Forest"

[1] for which the witness was sentenced to 7 years in prison. Then Maitre PADOUNOU took the floor and explained to the witness that some people denied the existence of this meeting and that it was a plot by the inhabitants of Rugazi. The witness replied that they were lying and that the inhabitants of Rugazi had no interest in lying, that they had nothing against BARAHIRA and that even when he was burgomaster, he was a good leader.

The Advocate General also returned to the expression "*messenger from Kigali*" to confirm that the witness was only saying this because he had received the summons from the Kigali Prosecution. The witness confirmed again and specified that he had not spoken about the case with the people from the Prosecutor's Office who were accompanying him. Then the Advocate General asked the witness to repeat what happened at the meeting and what was said there. The witness did not change his version. He then returned to the link between the Tutsis killed, especially the women and children, and the plane crash of

President Habyarimana. The witness said that the Tutsis killed in the forest had nothing to do with this accident, but that at that time it was the Tutsis that had to be killed.

For the defence, only Maitre MEILHAC intervened. He of course returned to the expression "*messenger from Kigali*" used by the witness, but the latter repeated once again that he had said that because it was the Prosecutor's Office in Kigali who had organised his trip to France. Maitre MEILHAC then returned to the meeting at the football field, reminding the witness that he had named a number of people as having also participated in the meeting: the witness confirmed the presence of these people. Maitre MEILHAC then pointed out to him that some people had said that they had not seen Tito BARAHIRA at that meeting. The witness then replied that these people were lying and that he was indeed present. Finally, Maitre MEILHAC ended by asking if the witness had testified against BARAHIRA before the *gacaca* that condemned him: the witness confirmed.

Hearing of Félicien KAMANA, farmer.

The second witness heard was Félicien KAMANA, who also participated in the meeting on the Cynzovu football field and in the attack in the forest called "Project. 1] He related the same facts as the previous witness: during the meeting, MUMVANO was said to have said that the Tutsis should now be killed. BARAHIRA, who was present, was said to have said that the women should not be killed and that they should return home "*to ensure security*".

The President returned to the facts for which he had been convicted, the attack on the Project Forest. The questions are more or less the same as those for the previous witness and the other witnesses at this meeting. In summary, the witness said that there were many people at that meeting, about 300 people, that they were armed even though he had a stick, only to go up the hill because he was injured. He said that BARAHIRA was not armed, and that when he said that they had to go and "*ensure security*" that normally meant protecting themselves, but that in view of what MUMVANO had said, people had killed the Tutsis. Regarding the distinction made by BARAHIRA on women, the first assessor asked the witness if it was all women or just those married to a Hutu. The witness replied that it was all Tutsi women. For the civil parties, Maitre PADONOU asked the witness first of all whether the fact of bringing together such a large number of people was indeed intended to spread a message widely. The witness confirmed this. Then he asked him whether it seemed likely that Tito BARAHIRA, whom he described as a notable, could have been engaged in household chores: the witness said no. Maitre PARUELLE then took the floor to ask the witness if he would have killed Tutsis if there had not been this meeting. The witness then replied that he did not have the choice to attend or not to attend this meeting, that it was an order. Finally, Maitre GISAGARA intervened to make it clear that the witness was not wearing a watch and that therefore, when he gave a time for the beginning of the meeting, it was an estimate and that it did not matter.

The Advocate General asked more or less the same questions as the other witnesses. Mr KAMANA then confirmed that BARAHIRA was one of the leaders of the meeting, and that the attack on the "Project Forest" was indeed the implementation of the instructions given at the meeting.

It is therefore finally time for the defence to intervene. Maitre Meilhac returned to an expression that the witness used at the beginning of his intervention, that he was "called" by the Prosecutor's Office in Kigali.

Is this a sign of ill will on the part of Maitre Meilhac or a real lack of understanding on his part? In any case, he insists strongly on this expression, thinking that the Prosecutor's Office of Kigali called the witness to discuss the case, whereas the latter explains that he is referring to the fact that he was called to testify in France and that it is the Prosecutor's Office of Kigali that took care of the organisation of his trip. Then Maitre MEILHAC reported the contradictions in his testimony and tried to find out whether he had spoken about these facts with other prisoners. The witness states that sometimes it is possible to forget certain details and apologises for this.

Maitre MATHE, on the other hand, focuses on the period after the genocide, when the witness was imprisoned and tried. After a long discussion on how the confession procedure was conducted, Maitre MATHE certainly wishes to demonstrate that the witness was released in advance in exchange for his testimony against Tito BARAHIRA. Finally, the witness confirmed, as he had said during his hearing by the French gendarmes, that he had not testified in the *gacaca* against Tito BARAHIRA.

Hearing of Silas MUTABARUKA, by video conference.

After a very repetitive morning, the afternoon witness's intervention differs only slightly from the two morning witnesses. The difference is that he says that NGENZI was present, but a little away from the meeting and that when BARAHIRA spoke, he did not make a distinction between Tutsi men and women. The Advocate General does not limit himself to repeating the same questions and makes a very short interrogation in order to simply confirm what has been said.

The floor is therefore given to the defence. Maître MEILHAC returned to the testimony of the witness before the *gacaca* against BARAHIRA, then to the sentence he served (prison and TIG). Maitre MATHE then took the floor to return to the meeting at the Cyinzovu football field. She asked the witness to resituate the location of the football field, and then where NGENZI was on that football field.

BARAHIRA.

Finally, after about a week of hearing witnesses about the massacre committed on 12 April in Cyinzovu and the meeting at the football field that was probably organised on 13 April, Tito BARAHIRA was questioned about these facts. Having made his spontaneous statement on Monday afternoon, we begin with questions from the President. When asked about the existence of the massacre and the meeting, Tito BARAHIRA said that they were lies, that they had not taken place and that it was a plot against him by the heads of the *gacaca* courts [2]. He also denied having seen Colonel RWAGAFILITA [3] and having links with him. He repeated that he had no weapons at home, only tools, an axe and a machete, but that he only used them to go to work in the fields. When the President pointed out to him that not only convicted persons were implicating him and that, on the contrary, some of the convicted persons were even exonerating themselves, he continued to assert that it was a conspiracy. This is a question that will be raised again by a juror and Tito BARAHIRA will again answer that these people must have personal interests in plotting against him. A juror asked him if he had seen any disturbances, corpses, conflicts during his travels, he said that he had seen nothing. Finally, when the second assessor asked him if he was aware of the influx of refugees to the church, Tito BARAHIRA replied that he thought they were fleeing the RPF advance.

Maître LAVAL spoke first for the civil parties. He considers it unlikely that BARAHIRA did not see anything during his travels. But the latter remains in his position. Maître LAVAL confronts him with his contradictions, such as that he stayed at home between the 9th and the 13th, whereas his wife says that he was going out to get food. He nods and finally goes back on his words. Maître PADONOU, later, returned to his knowledge of the inter-ethnic conflict. Although he acknowledged hearing this on the radio before 1994, for him it was only a question of unrest due to the war in the country. Finally, Mr. GISAGARA returned to the fact that a person whom Mr. BARAHIRA described as a great friend, was killed because he was a Tutsi. The lawyer asked him if he had inquired about the reasons for his death when he learned of his death, the accused replied that he had not and that he had not gone to see his family to find out what had happened. According to BARAHIRA, it was not possible to travel at the time. However, Maître GISAGARA reminded him that he had previously stated that he was travelling at the time, in particular to go to Kabarondo: but Tito BARAHIRA remained in his position.

On the questions of the Advocate General, he also remains in his position: he has seen nothing, heard nothing and done nothing.

Upon questioning by his lawyer, Tito BARAHIRA repeated that he had done housework at home between the 7th and the 13th, and acknowledged that he had gone to Kabarondo only twice, on the 7th and the 9th, to collect his rent. He said that afterwards, from the 12th, he was obsessed by the members of his wife's family who had taken refuge in his house.

In short, he saw nothing, heard nothing, knew nothing, went to cut wood and bananas, went shopping twice in Kabarondo and looked after his family. It should be added that he contradicted himself many times and that throughout his testimony he displayed a smile that could not be described as snide but which in any case was not really appropriate.

Hearing of Abbé Oreste INCIMATATA, survivor, parish priest of Kabarondo in 1994.

by the important intervention of Abbé INCIMATATA on the whole period before the genocide, but especially on the church massacre of 13 April 1994. In summary, he explained that after the death of the President, many sectors of the Kabarondo commune were inflamed, mainly those where Colonel RWAGAFILITA had a lot of influence (Kigarama commune, Bisenga, Rubira, Rundu and Remera sectors). He therefore recalls the power that the colonel had over the prefecture of Kibungo and the links that he had with the government as a former military officer. The start of the massacres led to an influx of refugees to the church in Kabarondo. They were welcomed by Abbé INCIMATATA. The witness spoke of the discussions he had with the burgomaster about the situation, in particular the problem of supplying the refugees. In view of the number of refugees and the spread of the massacres, a security meeting was organised by the Burgomaster with the various sector leaders and the religious authorities. It was agreed at this meeting on the 11th that Octavien NGENZI would go to Kibungo, the prefecture, the same day to seek military assistance. While waiting for his return, the population gathered in the market place to find out what decisions had been taken. Abbé INCIMATATA began to explain to them what had been decided. The latter then explained that during this gathering, BARAHIRA was present and that he had been designated by the population as the person who had fuelled the conflicts and incited the massacre.

Finally, the Abbé did not see Octavien NGENZI again, who, according to him, had changed his attitude. Until then he had been rather overwhelmed by the situation, not really taking sides. But from the evening of the 11th, he would have applied the instructions given to him in Kibungo. Finally, he describes the attack on the refugees in the church on 13 April.

In the morning, the sector councillor reportedly came by to tell the abbot that there was a security meeting to be held at the market place, but the men going there were attacked by militiamen. The refugees defended themselves well with stones intended for the extension of the church. It was then that the abbot saw NGENZI Octavien's vehicle pass on the road towards Kibungo. A few moments later, he saw the vehicle return, followed by gendarmes. The Abbot therefore thinks that, following the instructions given on the 11th, the Mayor went to get the gendarmes, seeing that the militiamen were not able to overcome the refugees. Thus, thanks to the firearms and grenades, the gendarmes got the upper hand over the refugees.

The abbot then explained that he had taken refuge in his room and had therefore not seen the end of the attack and the sorting out of the survivors: this had been reported to him by Abbé Papias, his curate, that evening. However, he did witness the looting of the parish by the militia. The abbot also gave a good general description of the political situation in the country and in Kabarondo.

"Can you say what image comes to mind? The abbot sighed and said, obviously moved: "The babies who suckled their dead mother! They will all be massacred the next day!"

The questions of the Court or the parties only confirm the essence of his spontaneous statement. Obviously, Maître MATHE will insist on the fact that NGENZI Octavien was powerless, while Maître MEILHAC is once again confronted with the contradictions of his client who says that he did not go to Kabarondo on the 11th, whereas the Abbé affirms that he was at the market place during the rally that followed the meeting with the commune officials

In conclusion, it was a trying day, with a heavy morning, explanations by Mr. BARAHIRA that were absurd in light of the testimony and a major intervention by Father INCIMATATA [4].

The hearing was suspended at 10.15pm.

1. Name given to this place by the inhabitants of Kabarondo. It has already been mentioned several times during the hearings of 27 and 30 May.
2. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
3. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France!
4. See also our press review, and in particular the article in Libération devoted to the testimony of Abbé INCIMATATA.

Ngenzi/Barahira trial.

Morning of Wednesday 1^{er} June 2016. J 16

- Hearing of Mrs. Christine MUTETERI, farmer.
- Hearing of Mr. Justin KANAMUGIRE, by videoconference
(Church survivor, witness called by Maître MEILHAC).

Hearing of Mrs. Christine MUTETERI, farmer.

The witness said she went to the church in Kabarondo on 9 April with her husband and four children. She herself had already been wounded on the front. She had fled in the hope of finding Mr NGENZI, the mayor. He had done everything to make people flee the countryside and gather together. He started by letting them starve, refusing to let people who had money buy doughnuts. When the shooting started, the burgomaster asked Father INCIMATATA to gather the people for a meeting in the market place. The parish priest refused, preferring to go there with only a few people. Father INCIMATATA is said to have said: *'Get down on your knees and pray, the good Lord is coming'*.

We then saw people with red scarves around their heads armed with spears and machetes. They were also carrying stones and were very numerous. *"They started throwing stones at us. The young men who were in the church came out to fight. They threw stones at each other and killed them. Bodies were brought back to the church. Anyone who went out was cut up.* Mr NGENZI then reportedly went to Kibungo for reinforcements and returned with soldiers. *"They set up a large gun on the road and used their feet to fire it. The attackers then launched shells that pierced the roof of the church, killing many refugees. The witness states that Octavien NGENZI was there and that the shooting lasted until around 3 p.m. Madame MUTETERI had been wounded in the attack. It was then announced that Abbé INCIMATATA had been killed: in fact it was a tall seminarian, who had a similar physique to the priest, who had been killed. Around 4pm they said that as the priest had just died they had sent people to 'slaughter'. They had looted the shops and when they saw that someone was still breathing, they 'slaughtered' them. The arrival of nightfall helped the killings to stop and *'the killers were satisfied with their work'*. It was not until the next day that they returned to finish people off. There were four vehicles. The witness then left the church and went to hide at someone's house, *"in the countryside"*, as her house had been destroyed. NGENZI took people to the Health Centre to finish off those who had taken refuge there. *"As he killed my husband and was found guilty, he should give us damages. He has made us widows and orphans. Her husband and eldest son will be killed.**

The President then questioned the witness, first about the episode of the cows and the remarks that NGENZI had allegedly made: *"You killed the cows while their owners are still alive!* In fact, these are remarks that were reported to her. Ms MATHIEU is seeking above all to know whether she witnessed the facts or whether she is reporting statements that she heard. Contrary to the statements of the parish priest, she says that NGENZI came to the parish on the morning of the 13th! She even states that he came in the morning and evening to see if any refugees had left the church. Mr NGENZI was even supervising the killers. She reiterated that the mayor had indeed gone to look for the military. Wounded herself, she

pretended to be dead by putting her head in the disembowelled body of a woman who was next to her. While the attackers were busy looting inside the church, those who still had some strength came out: they were all massacred outside. She survived because a lady she left with had given money to a killer. Her child had been killed too.

As usual, the public prosecutor, Philippe COURROYE, asked him precise questions to ensure that the jurors had understood what he was saying.

Then it will be the turn of the defence to make sure that the witness has seen what she is talking about.

Mrs MUTETERI wishes to appear as a civil party at the end of the morning.

Hearing of Mr Justin KANAMUGIRE, by video conference. Survivor of the church. Witness called by Maître MEILHAC.

The witness referred to meetings that were allegedly held before the genocide at the home of a certain Daniel with members of the *Simba Bataliani* [1], meetings during which Mr. NGENZI "*incited them to kill Tutsi*". It was these people that he blamed for the killings at the church, NGENZI having sent for them. To reward them, the mayor gave them the proceeds of the looting of three shops, as well as the parish vehicles. And to quote the names of certain members of this *Simba Bataliani*.

Maître MATHE, alerted by a lawyer she knows, interrupts the hearing, as the witness is reading a document that he is hiding on his lap. The president ordered him to leave it.

The President asked the witness about these famous *Simba Bataliani*. He confirmed that these meetings had indeed taken place before 7 April in the presence of NGENZI. During these meetings, they slashed clubs. It was to escape from this group that he took refuge in the church. He also heard the mayor say to the members of this group: "*Eliminate them all*". Mr NGENZI did accompany a young Tutsi to the church but it was so that he would be killed there. And he mentions a meeting that was held on 9 April, a fight with assailants on the morning of 13 April and the departure of NGENZI to seek reinforcement from the *Simba Bataliani* and the military. He was asked again whether he was indeed present at the scene: he confirmed. He also saw a young man, Viateur, being killed by the *Simba Bataliani*. He then recounted his flight with a certain Damascene to the Pentecostal church: the pastor chased them away, as he did not want to see blood in his church. The witness's assertions concerning the presence of NGENZI are the opposite of those of the Kabarondo priest. They even differed on the date of the attack on the church. The witness confirmed that he fled by mixing with the *Interahamwe* [2]. 2] By agreeing to testify, he felt he was putting his life in danger because "*it is not well seen for a survivor to give testimony*," even from those close to him.

Questioned by the civil parties, the witness said that NGENZI had resumed his authority at the Benako camp in Tanzania and that he was still calling for the killing of Tutsis. As for Maître MATHE, she strongly doubted that the witness had been present at the church in Kabarondo.

1. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

2. *Interahamwe*: 'Those who work together', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

Ngenzi/Barahira trial Thursday 2 June 2016. Day 17

- Hearing of Radjabu SIBOMANA, municipal police officer in 1994.
- Hearing of Jean-Baptiste GATABAZI, municipal policeman, now a farmer.
- Hearing of Samuel NDOBA, municipal police officer in 1994.

Hearing of Radjabu SIBOMANA, municipal police officer in 1994.

The morning began with the hearing of Radjabu SIBOMANA, a former *Interahamwe* [1] in prison. He was interviewed by videoconference. He recounted the church massacre in a very confused manner, giving elements that no one had mentioned until now; his words were relatively vague. But he is convinced that Octavien NGENZI was involved in the attack. According to him, Octavien NGENZI organised meetings in the days preceding the attack, explaining that it was not necessary to kill each other but rather to help the refugees in the church. But according to the witness, this was a façade and in reality the attack on the 13th was already planned.

He is then questioned about the IGA massacre. He explained that Octavien NGENZI had come to collect him for a meeting at the IGA. Since he did not want to go, the burgomaster threatened him with a weapon he had received from Colonel RWAGAFILITA [2]. He explained that when he arrived at the IGA, there were many other people, as well as CYASA, a large *Interahamwe*. Octavien NGENZI then allegedly carried out a sorting among the population present and designated the Tutsis present. Following this sorting, CYASA allegedly fired on these people. After this meeting, the witness said that Octavien NGENZI asked the population to go and search the houses for Tutsis, which he did.

The Advocate General returned to what the witness knew about Colonel RWAGAFILITA. He then recalled that he was an important person and stated that he had distributed weapons in the commune, in particular to Octavien NGENZI.

The witness was rather confused at the beginning of his testimony, as regards the facts of 13 April at the church, and the defence insisted on this point. Maître MATHE is therefore quite incisive, insisting on details in order to confront the witness with his contradictions. She wants to show that this witness is not credible, that he is lying. Indeed, the witness's statements are quite mixed for the day of the 13th.

However, contrary to what the defence wanted us to believe, the witness does not change his version and is quite clear about the meeting at the IGA. Maître MATHE ended up saying, somewhat irritated: "*This is a witness who, since this morning, has been leading us around! As my grandmother used to say, when you lie you must have a good memory.*"

Hearing of Jean-Baptiste GATABAZI, municipal policeman, now a farmer.

The morning session continued with a spontaneous statement by a local police officer who had been on duty in April 1994, and questions would be asked in the afternoon due to the late hour.

Police officer Jean-Baptiste GATABAZI then explained how the commune was organised, how many police officers were on duty, how many weapons the commune had. He explained that before the genocide Octavien NGENZI was on good terms with the communal police and the population. He explained the procedure applicable in the event of an offence; the police could arrest people and hand them over to the burgomaster who would hand them over to the authorities.

He then spoke about the period of the genocide, and stated that barriers were put up everywhere in order to '*prevent the enemies from passing*', in other words to '*stop the Tutsis*'. He explains that there were *Interahamwe* in the commune of Kabarondo, as well as a dangerous group of former soldiers, the *Simba Bataliani*.

Specifically with regard to the day of 13 April, the witness stated that he had seen Colonel RWAGAFILITA passing in front of the communal office, turning towards Octavien NGENZI's house. He also stated that he was not invited to a security meeting by Councillor Jean-Pierre RWASAMIRERA. He said he heard a grenade explode, a grenade that was allegedly thrown by Toto, a large *Interahamwe* [3]. It was then that he went to the market square to repel the *Interahamwe*, who were attacking the refugees in the church. But since there were too few of them to resist, the communal police officers returned to the commune. He said that afterwards the military arrived and that he saw Octavien NGENZI with them: he incited the population to help the attackers to kill the refugees from the church. The witness said that the soldiers set up a mortar at the courthouse and that others were firing guns at the church from the asphalt road. The witness stated that the next day the soldiers returned and found people hidden at the IGA. They reportedly asked to call Bourgmestre NGENZI to find out whether he was the one who had hidden these people. When the bourgmestre arrived, the witness stated that Octavien NGENZI said: "*If you want to kill them, kill them*". It was at that moment that the soldiers shot the Tutsis hidden at the IGA. According to the witness, they were waiting for some kind of approval or authorisation from the bourgmestre.

Finally, the witness spoke about the searches and the Tutsis taken away by the soldiers on that occasion. He stated that he had seen Octavien NGENZI, in the presence of the soldiers, come to the commune office to retrieve the Tutsis who had hidden there. Octavien NGENZI was said to have negotiated with the soldiers so that the accountant of the commune would not be taken away, and he was therefore able to remain in Kabarondo. The rest of the Tutsis found there were loaded into different vehicles, one of which was driven by Octavien NGENZI, and transported to the Birenga commune office. There they reportedly left the Tutsis with the military. They returned in the vehicle driven by Octavien NGENZI who said nothing on the way back and showed no feelings about what had happened over the last few days.

On questioning by the Advocate General, the witness made it clear that, at the time of the attack on the church, Octavien NGENZI was in a position of leadership, of supervisor.

The defence's questions are essentially centred on the chronology of events, on the chronology of details, the aim being of course to discredit the witness, since it is obviously not possible to ask witnesses for their precise memory of times and dates.

Maître MATHE then asked the witness if he had not lost any family during the genocide. And Mr. GATABAZI enumerated his dead, all killed, even burned, by soldiers who were taking revenge.

Hearing of Samuel NDOBA, municipal police officer in 1994.

The witness began by saying that very soon after the attack, he was sought out to break up a fight that had broken out in a sector from which NGENZI originated. It was in fact a confrontation between the Rubira and Rundu sectors: the Hutus wanted to kill the Tutsis. The witness ended up separating the combatants while telling them not to continue killing each other. NGENZI accompanied him.

He then went to his home area for a similar intervention. Then he went to settle a final dispute: thieves had taken the cows and goats of a certain TITIRI. He recalled the phrase he had heard several times before: *"You eat the cows while the owner is still alive!"* The witness then left to secure his home.

On 13 April, the local police officer returned to the commune to request reinforcements, which were not granted. Then he went to the Health Centre to look for medicines to be distributed to the people he was hosting. It was there that he heard an explosion: a grenade had just been thrown... Bullets whistling... The soldiers continued to shoot at the refugees, in the presence of NGENZI, whom he left there to go home. From that day on, he never saw him again. The *Inkotanyi*, RPF soldiers, arrived a few days later.

The witness will then be questioned about the number of weapons held in the commune, the number of police officers, the presence of barriers and rounds to protect the refugees in the church. He mentions two situations that opposed him to NGENZI during his 5 years in the communal office. The bourgmestre had indeed wanted to replace him on two occasions, but the councillors had opposed it. The second time, the mayor wanted to replace him with Manassé MUZATSINDA, a nephew of RWAGAFILITA. *"NGENZI loved cows, he always wanted corruption"*, said the witness. The latter would not give in.

The police officer was asked to talk about the vehicles used in the commune, NGENZI's involvement in the MRND, the presence of the *Interahamwe* in Kabarondo, the Simba Batalioni, the Abarinda, all in response to questions from the Madam President. Before the genocide, he never saw NGENZI brutalise a Tutsi. But since 1990, he had been working with the intelligence agents, a period from which a *"hunt for Tutsis"* began and the mayor was responsible for denouncing the spies whose names he had on a list. We talk again about the story of the stolen goats, a fight in the bar *"La bonne nouvelle"*. He also mentions RWAGAFILITA's morning visit to NGENZI on 13 April. The start of the massacres will follow this visit. Gendarmes and soldiers came to do the *"work"*. NGENZI would have gone to look for them. NGENZI rubbed shoulders with the soldiers without any particular qualms. As for the refugees in the communal office, the witness had the impression that the burgomaster had handed them over. A lawyer for the civil parties returned to the episode of the goats. The words spoken by NGENZI amounted to sending a clear message: kill the Tutsis. Just like the fact that he set the thieves free. Moreover, if NGENZI had told them not to kill, they would not have done so.

As usual, the public prosecutor asked the detainee clear and rapid questions which led to equally clear answers: NGENZI had Tutsis arrested at the beginning of the war, the Tutsis being considered as *"spies, accomplices"*, he adhered to genocidal ideas, the presence of RWAGAFILITA encouraged the killers. Maître MATHE will ask for details on the organisation of work within the police, the organisation of guard shifts... Having difficulty getting the witness to speak with precision about his schedule, she will say, with a sigh: *"We'll deal with it!"*

But she did not let go of the witness. Her last salvo was to reveal to the witness, brandishing a list: *"In December 1999, even in 1996, you were on the list of the Prosecutor's Office concerning first category killers, under the number 1029 and then 1250"*, which provoked the reaction of his fellow civil parties. The

witness finally said: "*I went before the gacaca and no one testified against me.* The lawyer's response: "*You are on the list of first category killers and you are free!*"

End of the hearing at about 8.15 pm.

1. *Interahamwe*: "*Those who work together*", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become burgomaster... He was among the activists most involved in the massacres around Kibungo, where he was originally from. See the [glossary](#) for more details.
3. During his hearing, [Jean-Baptiste KARUYONGA](#) confirmed that TOTO threw a grenade which caused the death of 6 people.

Ngenzi/Barahira trial. Friday 3 June 2016. Day 18

- Hearing of Manassé MUZATSINDA, farmer, municipal policeman in 1994, nephew of RWAGAFILITA.
- Hearing of Léopold GAHONGAYIRE, who declares that he wishes to act as a civil party.
- Hearing of Eulade RWIGEMA, civil party.
- Hearing of Straton GAKWAVU, civil party, farmer/breeder.
- Hearing of Marie MUKAMUNANA, survivor.

Hearing of Manassé MUZATSINDA, farmer, municipal police officer in 1994, nephew of RWAGAFILITA [1].

"I hope that what I say will not have consequences on my life. The witness is obviously afraid, insofar as people close to NGENZI are his neighbours! The witness will not make a spontaneous statement, we will go straight to the questions.

Before 1990, before the attack of the RPF forces, everything was going well in the commune of Kabarondo. There was good understanding between Hutus and Tutsis. "*We were all the same at the time, we hoped that the military would win the war against the RPF.*" In April 1994, the witness said he only returned to work on the morning of April 11: he had malaria. Married to a Tutsi woman, he then took his wife to the health centre so that she would be protected. "*After the attack, there was a bad climate against the Tutsis.* People had started to take refuge in communal offices and churches: "*The Tutsis were fleeing because they were afraid of the Hutus, because of the RPF*". The barriers showed that there were security problems. The population made rounds, the militia stood at the barriers. On 11 April, the witness went with colleagues to Murama, in Mutara, because people were disrupting security: they were greeted with grenades and stones. The wounded were taken to Kibungo, where they met NGENZI near the military camp. They ask him for reinforcements: nothing is done. On the morning of the 13th, he witnessed the departure of refugees towards the marketplace, where they had been asked to go: they came face to face with *Interahamwe* [2] who attacked them (throwing grenades). The Chairperson, who sought to ascertain the witness's precise schedule, told him that he was now referring to events that he had not mentioned in

his initial testimony. He then spoke of the attack by the soldiers who were going to shoot at the church: "Do not hinder the work of the soldiers", the burgomaster was quoted as saying. NGENZI only returned when the shooting had stopped. The population then entered the church to finish off the survivors. The President rephrased a question: "Was NGENZI there to incite the population to participate in the massacres?" "That is how I see it," the witness replies. The witness was led to shoot someone who "was said to be an evil spirit"! He left the scene, "disturbed" by his action. He will go and pick up his wife at the health centre two or three days later.

The attorney general in turn asked short, precise questions: the presence of roadblocks, the role and power of NGENZI, the presence of the *Interahamwe* and the *Simba Bataliani* [3], the massacres inside the church, RWAGAFILITA "an enemy of the Tutsi, a feared man".

Maître MATHE will ask some questions. She rather tries to get the witness to say that NGENZI no longer really had power, but that he was "under the thumb of the military".

Hearing of Léopold GAHONGAYIRE, who declares that he wishes to act as a civil party.

"What are you still doing with these Tutsis? Why are you sparing the Tutsis when we have already finished the job? These are the words that the witness attributes to a certain HABİYAKARE in a message that he is said to have addressed to BUSHAKO! Clearly unhappy with dates, he places this episode three weeks before the genocide!

The witness then recalled a meeting with BARAHIRA to whom he went to describe his situation. The latter is said to have told them: "Go home, we are not going to do anything to you". But Léopold went to the church anyway when, on arriving at the house, he saw a large number of people heading towards this place of refuge. BARAHIRA having learned of this, sent a car to get them out. Mr GAHONGAYIRE will have the time to witness the departure for the meeting to which some refugees will be summoned on the market place, a meeting "which had the aim of killing them".

The witness and part of his family, Hutu, will eventually leave the church. In the meantime, their house had been looted but their cows had been recovered by BARAHIRA who would return them to them. This escape to the church will lead to them being summoned by the inhabitants armed with spears: they are asked why they fled when they were in no danger. They will have to pay a fine set at 50,000 francs, reduced to 5,000: "BARAHIRA saved us", but "in my paternal uncle's family and in my mother's family, many people were killed. He acted like an *Interahamwe*".

The witness will then be questioned by the president on the functioning of the administration, on his belonging: "Before the genocide, I was suspected of being Tutsi because my mother was considered Tutsi. She had changed her ethnicity.

The Advocate General will question the witness in turn, but the witness will continue to struggle with the dates. The witness' statements will remain confused.

Maître MEILHAC then took the floor to express surprise that the witness had not been summoned to the Cynzovu meeting: "They thought I was a Tutsi, they looted my house". He was also surprised that he was a civil party when BARAHIRA had saved his life. *I blame him for the death of my maternal and paternal families, that of my neighbours... He had the power to save them, he did not do so.*"

Hearing of Mr Eulade RWIGEMA, civil party.

Probably not understanding very well how French justice works, the witness begins by saying that he does not know whether NGENZI has admitted his guilt. He then stated that before the genocide nothing opposed them. He supplied him with cow's milk, they had a good relationship. *"He changed when he was mayor"*. He is surprised that a leader, whom in Rwanda is considered as "a relative", could have abandoned those under his care. He would like the accused to acknowledge his crime: *"Even Prime Minister KAMBANDA did it"*. (NDR: tried and convicted by the ICTR).

Questioned by the president, Ms MATHIEU, he admitted that BARAHIRA was a bad person. He recalled the reason why he was asked to resign as mayor in 1986: he had killed someone and dragged him behind his car. And he was not punished. During the attack on the church where the witness had taken refuge, NGENZI did not live up to his responsibilities, he failed in his duties, he abandoned the population. *"I want him to explain himself, I want to hear him. If he was not in his right mind, I am ready to forgive him. I want him to make amends"*. To Oscar KAJANAGE (civil party) who was supplying the refugees in the church, he is said to have said: *"Instead of giving them food, give them confession instead"*. And to recall the episode of the summons to a meeting in the market place, at the request of Councillor RWASAMIRERA to *"discuss"*! As for BARAHIRA, he had been elected MRND leader in January 1994.

Maître DECHAUMET asked him to recall the list of deaths in his family. *"My wife MUJAWASE, a 10 year old child, IZERUHIRWE, and another 8 year old, BWISHIMWE"*. He added that Abbé INCIMATATA asked them to defend themselves. The witness managed to flee into the hills and a Hutu agreed to hide him. *"This invitation to go to a meeting was therefore a trap"*, asks the public prosecutor. asked the public prosecutor. The witness confirmed.

Hearing of Mr. Straton GAKWAVU, civil party, farmer/breeder.

He came to testify against Mr. NGENZI for the events that took place at the church in Kabarondo on 13 April 1994. Letting people take refuge in the church, *"it was an ambush, so that people would behave like animals"*. In the past, *"people respected the churches"*. The witness then describes the course of events, as others have already done. The *Interahamwe* had taken care to block the church at all four corners: there was no escape. *"I did not see NGENZI with my own eyes because we were only thinking about survival"*. But NGENZI did nothing to prevent the massacres.

When questioned by the President, he stated that NGENZI must have known RWAGAFILITA. If he took refuge in the church it was because his house had been attacked and destroyed. He was led to give his definition of the *Interahamwe*: *"killers"*, whereas according to the etymology, *"those who fight together"*, this word had rather, in the past, a positive connotation. In his turn, he described the situation during the attack on the church but acknowledged that *"if he (I) was able to flee, it was thanks to God"*. Asked about the number of soldiers present, he said: *"When you flee, can you count the soldiers?"* After naming his family's victims, he recounted how he had been injured by a child of about ten years old, to the great astonishment of the president. Three of his children, who were staying with a neighbour, were saved. Questioned by Maître MEILHAC, he declared that *"NGENZI was unlucky. If he had come to Rwanda to plead guilty, he would be living peacefully in his country today"*.

Hearing of Mrs. Marie MUKAMUNANA, survivor.

She began by stating that she wished to file a civil suit.

"I was made a survivor. They killed my husband and my seven children, they destroyed my house, they killed my cattle... The men were called to a meeting where they were attacked by the Interahamwe who entered the

church. The Interahamwe cut up those who were not yet dead. Those who managed to get out were asked for their identity cards. Those who didn't have one were considered Tutsis and were ordered to sit down. They slashed us, shot at us. "Don't waste your bullets", advised a soldier. I was wounded by a grenade. I saw BARAHIRA among the soldiers, NGENZI too.

The church was burnt. The massacres were supervised by NGENZI. Around 5pm, many of us were slashed, my seven children and my husband too. Around 3am, I caught my breath and saw Interahamwe at the commune. I dragged myself to hide in the bush where I spent the night. They had stripped me of my clothes: all I had on was my panties... On the third day, I was thirsty and I saw children going to draw water. I lived near this well. I dragged myself to it, drank and the day dawned. This water cut off all my strength... I sat down. I sat down. "Let them come and kill me"! A woman saw me. "You are a Tutsi?" she asked me. Don't stay here, they will kill you. I asked her to give me at least a skirt and she came back with the garment I had asked her for. I could hear the Interahamwe whistling (**editor's note:** the whistle was used as a rallying sign but also to scare the Tutsis they were chasing). When I arrived in Rukoma, I met many Interahamwe and I hid. They said that the Inkotanyi had arrived in Gahini. I stayed in hiding until I saw that no one was following me. The Interahamwe were running away from the Inkotanyi who took me in and led me to Gahini. They clothed me. In the church, there were many children without parents. On Thursday morning, they finished off those who had not died. The survivors told us this. He added in conclusion: "Many Tutsis were killed by their Hutu employees. All these massacres left us handicapped, alone, without family. NGENZI and BARAHIRA led the Interahamwe in these acts of extermination. They killed many. If they deny it, they will not be able to deny it before God. We will die without children".

There is no need to repeat the series of questions that followed this testimony. The emotion was at its peak, both in the room and on the side of the jurors, particularly when the public prosecutor asked the witness how his children had died. Everyone must have understood the reality of the genocide. It was said that the genocide had entered the courtroom with the hearing of Abbé INCIMATATA. And it was true. With the testimony of Marie MUKAMUNANA, it took on the face of suffering, of daily pain, of what had become of the lives of the survivors struck in their flesh and in their hearts. At the time of the final decision, there is no doubt that magistrates and juries will remember this.

Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France!

1. *Interahamwe: 'Those who work together'*, a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region

Ngenzi/Barahira trial. Morning of Monday 6 June 2016. Day 19

- Hearing of Berthilde MUTEGWAMASO, farmer.
- Hearing of Benoîte MUKAHIGIRO, farmer.

Hearing of Berthilde MUTEGWAMASO, farmer.

The witness states that she is a civil party. She will therefore not take the oath before the Court.

BARAHIRA, who "*was part of the Interahamwe*" [1] according to her husband, a teacher in Cyinzovu, came to the church in Kabarondo, where many people had taken refuge, to massacre people. At around 9 a.m., Abbé INCIMATATA had asked the women and children to enter the church, and the young people, girls and boys, to take stones and sticks to defend themselves. The men who had gone to a meeting in the market place returned: they had been attacked by Interahamwe and the survivors had retreated to the church. Around 4pm, the able-bodied people were taken out of the holy place and started to be massacred. "*BARAHIRA carried a rifle and NGENZI a stick*", said the witness. NGENZI is said to have taken the wounded to Kibungo, including a niece of the witness, and they have not been seen again to this day. "*I would like them to tell us where the bodies of our people are.* With these words she ended her spontaneous statement.

In response to questions from the President, the witness mentions the death of her family, her children and her Tutsi husband, the "*daily*" visits of NGENZI, and the presence of BARAHIRA during the massacres. She also mentions the presence of white people, "*French people*", she explains in response to a question from Maître MEILHAC. The burgomaster is said to have said to the refugees: "*Go home, go home, calm has returned.* Some went home and died. The refugees who had remained in the church were asked to come out with their arms in the air and were made to sit on the floor. They were asked to show their identity cards: BARAHIRA was allegedly involved in sorting the refugees. It was there that they were in turn slashed with machetes, clubs, bullets... until nightfall. "*We slept among the dead bodies. At dawn we got our ideas and hid in the bush.*

When asked about the type of weapon used, the witness confessed to having no knowledge in this area, even "*not knowing the difference between a rifle and a pistol*", she said a little later. she said a little later. Then, at the request of Madame MATHIEU, the president, she listed the deaths in her family, then mentioned her injuries to her thumb and shoulder while one of her children was holding on to her. Maître GOLDMAN, the lawyer for the civil parties, asked the witness whether BARAHIRA was the leader of the attackers, whether he gave orders. She answered in the affirmative. In her turn, Maître PARUELLE reminds her of her words: "*I was saved thanks to God! Was it not rather because you were Hutu?* The witness refutes this argument.

Mr COURROYE, the public prosecutor, asks whether NGENZI had supplied the refugees. "*No, it was only KAJANAGE, a shopkeeper, who brought food*".

It was the turn of the defence, through Maître MEILHAC, to ask questions: weapons carried by the two accused because the witness varied in what she said, the role of BARAHIRA in the church, the number of hearings by different investigators... Did she speak with associations of survivors? The witness to name AVEGA, association of widows of the genocide, and IBUKA, "Remember", association that deals with memory and justice. It is in these associations that the survivors meet. As for compensation, Rwanda does have a Fund for Assistance to Genocide Survivors (FARG), but the decisions taken by the Gacaca regarding reparations have never been followed up. The witness mentioned the auctioning of the property of the accused, but nothing has been done yet.

Hearing of Benoîte MUKAHIGIRO, farmer.

Like the previous witness, she declared herself to be a civil party.

The witness apologises for her hoarse voice, but it is as a result of the genocide that she speaks like this. She wants to testify sitting down because she has a spinal injury, still from the genocide.

His hearing began with a reference to the theft of goats by "*people dressed in grass*" [2]. The commune councillor was said to have gone to find NGENZI, who was said to have settled the problem by returning the meat to its owner, but who also said the words that had already been heard several times: "*You eat the meat of the owner while he is still alive? After the burgomaster's departure, the massacres began and many people decided to leave their homes to go to the church or to Rundu, where the massacres had not yet begun. It was there that the witness went first, and then to the church when the insecurity arrived in the area. Referring to NGENZI's visits, she reported some of his words: "All those who are there are dogs. You have taken refuge in the church, do you think that the church is going to save them?*" She in turn talks about the meeting to which the men were invited on the morning of 13 April. She recalls the same scenes as other witnesses and then recalls the arrival of a bus full of soldiers: "*We thought they were coming to save us! Then came the massacres of the refugees who were made to leave the church by raising their arms: "The first one to leave was killed,"*" the witness explains, so that the others no longer dared to leave the church. Forced to do so, the luckiest ones scattered into the bush.

He then mentioned the burial of the corpses: NGENZI, in his haste, had people buried alive. He also transported people to Kibungo "*to save them*": in fact, they were killed. Among the victims, the wife of KAJANAGE. She talks about the crimes that the burgomaster is said to have committed at the Benako camp in Tanzania, according to certain witnesses. She ended her spontaneous testimony with these words: "*NGENZI did many bad things, he hurt his neighbours, his country where he was born. However, she forgot to mention BARAHIRA: "I saw him push an old woman, Joséphine, who fell to the ground. This person will be killed soon after.*"

The Chairperson's questions gave the witness an opportunity to clarify some of his statements. She knew RWAGAFILITA [3]. The gendarmerie colonel often came to celebrate in his home sector. Anaclet RUHUMULIZA, a member of his family still in prison in Rwanda, was responsible for raising awareness among the commune's inhabitants. The latter's wife would have liked to obtain the position of burgomaster, which would have created small dissensions between the strong man of the region and NGENZI who, in any case, shared his ideas. Joséphine's death, about which he was told, occurred after a check on her identity card. She had two. She showed her card which said "Hutu", but BARAHIRA knew that she was Tutsi! The witness did participate in the Gacaca as president, but not in the Gacaca that tried our two accused.

Still being questioned by the president, who was still trying to find out more, Mrs MUKAHIGIRO listed the deaths of her family: six of her brother's children, aged between 20 and 10 years, her sister-in-law, her husband, her brothers-in-law and sisters-in-law. As for his injuries, they were caused by a rifle shot in the back. As an *Interahamwe* was cutting off the head of a person next to her, she ran away and prayed: "*Lord, give me the strength to run so that I don't get shot and die from a machete!*" She ran, slipped twice on blood and then fell, hitting the parish tank with her head. As she bled to death, a woman gave her a drink and said, "*Wherever you go, you will be killed. Find a hiding place and walk at night.*" She refused to hide her. The witness then found refuge in a coffee field where she heard *Interahamwe* saying that they would

come back to kill the next day. She eventually reached the commercial centre where she heard the trader RUHUMULIZA declare that it was necessary to stop killing Tutsi women and girls. He then gave the order to exterminate everyone. The public prosecutor asked him a little later what the trader meant when he said that Tutsi women should be spared: "*To marry them?*" Silence of the witness. "*To dispose of them?*" She would say no more! But it is to be hoped that everyone understood! (NDR: "*to marry the Tutsi women*"? This expression corresponds to a reality of the genocide. Many Tutsi women were used as sexual slaves, raped during the genocide, and sometimes executed afterwards. Many survivors contracted the AIDS virus and gave birth to children born of rape.)

Maître MEILHAC will ask the witness to describe BARAHIRA physically in 1994. "*An average man, not old, with a lot of hair*", the witness will say. "*He was thin? He put on weight?*" insists the lawyer. Smiles on the jury bench and in the room. Was the question really relevant? It is doubtful.

Maître MATHE questioned the witness in turn. The information that Ms. MUKAHIGIRO gave about NGENZI's role at the Benako camp came from a certain Thérèse NTAKAZI, who had fled with her children [4]. Her close questioning was probably intended to make the jurors understand that the witness was reporting what she had heard, rather than what she had seen with her own eyes.

The hearing ends at around 1.15pm.

1. *Interahamwe*: "*Those who work together*", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. Thieves had seized the cows and goats of a certain TITIRI. According to several witnesses, NGENZI said, "*You eat the goats while their owner is still alive*", thus inciting the massacres that followed. NGENZI asserts that "*these are inventions*", however, the testimonies reporting these remarks multiply throughout the hearings.
3. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
4. Questioned about this during her hearing, Thérèse NTAKAZI declared that it was a lie, to which the lawyer replied: "*I believe you*".

Ngenzi/BARAHIRA trial Tuesday 7 June 2016. Day 20

- Hearing of Samuel MURIHANO, video conference, detainee.
- Hearing of Jean-Damascène RUTAGUNGIRA who declares that he wants to be a civil party.
- Hearing of Béata UWAMWEZI by video conference, farmer, survivor.
- Hearing of Pierre KABASHA, in video conference, detainee.
- Hearing of Francine Uwera, survivor, who declares that she wants to be a civil party with her brother who is in the room.

Hearing of Samuel MURIHANO, video conference, detainee.

The witness stated that on 15 April 1994, Burgomaster NGENZI came to Rubira to look for people to bury the victims of the Kabarondo church. There were four vehicles, one from the commune, another from RUHUMULIZA, the third from David MUNYAKAZI and the last from Pierre KABASHA. On the way, they learned that the people of Kabarondo had refused to participate in the burial of the bodies. After dropping us off, the vehicles left: we then saw that the soldiers and the people had killed many in the church. They buried the bodies in a pit that had been dug for three months at the back of the church. When the work was finished, the gravediggers asked NGENZI to buy them 5,000 francs worth of beer, as is the custom in Rwanda. The tradition specifies that "*the earth must be removed from people's mouths*". They then went to the Health Centre where they found wounded Tutsis. The young men who were with them went to kill them at the back.

CYASA then took them to the IGA. Eight had come out but he had already shot two of them against the wall. Two of them were Hutu and they protested: "*We are going to be victims because our mothers are Tutsi and our fathers Hutu?*" They were then separated and the Tutsis were killed.

The President questions the witness about events that occurred. NGENZI was called on the 8th to intervene between two groups of killers. A certain PILOTE had just been killed by Patrice HABYARIMANA who had hit him on the head with a club. The latter was in turn killed by ZAHANGA. This was followed by the looting of Claver KARANGWA's house. It was a settlement of accounts between two rival groups. The mayor saw that people were shooting at each other: he then asked the communal police to shoot in the air to separate the two groups. NGENZI took Patrice's body to his family. He asked Rundu's group to take care of burying their dead.

This was followed by the episode of the theft of the goats or calves [1]. 1] NGENZI snatched the meat from them and gave it to its owner, TITIRI. The witness did not recall hearing the famous phrase attributed to NGENZI: "*How do you eat goats while the owner is still alive?*" The witness is reminded that he had been heard by the French gendarmes on 9 July 2012. He is said to have stated that the chief was NGENZI: something he disputes today. "*Whoever wrote that lied,*" replies the witness. He again asserts that it was under duress that he went to bury the corpses of Kabarondo. The most recalcitrant were threatened. He was then reminded of a number of facts recorded in the minutes of the hearing that he had signed. He contests the content of his statements, saying once again that '*he was slandered*', that he was lied about. Even the facts about the IGA he disputes; "*It was all made up. They wrote anything!*" The same reaction regarding the money he received after the funeral: people talk about 5,000 francs, others say 15,000. In reality, he did receive 15,000 francs but someone took 10,000 from him! "*Did you bury people who were still alive?*" "*No, I didn't see a living person. The bodies were already in a state of decomposition.*" He asks that his statement be discreet because he fears the reactions of NGENZI's family: "*I have my family outside. I have said many things against rich and strong people. These people outside are stronger than us!*" To Maître PARUELLE who questions him, he invariably replies that he is being slandered.

It was the turn of the public prosecutor to ask questions. "*In the church there were many corpses. Outside too. Men, women, children. You could see that NGENZI was sad, that he had his hand over his mouth.*" "*NGENZI did not tell us to go to the health centre. We had understood that the Tutsis were the enemies of the Hutus.*" "*Even the old men, the women, the children?*" continued Mr COURROYE. It was the devil who had

visited the country!" replied the witness. To many questions he answers "slander". He said he did not understand the word "genocide" because it was a word used by people who had studied (NDR: there is a word in Kinyarwanda for genocide, *Itsembabwoko*, but the word "jenocide" in this script is also frequently used). Finally, Mr COURROYE pointed out to him that his words seemed to be very different from those he had once said to the French gendarmes. *Have you been subjected to pressure?*" ventured the public prosecutor. There was no reply.

Questioned by the defence, he spoke of his exile in Tanzania, his return to Rwanda on 15 December 1996, his imprisonment first for 10 years, then for 30 years on appeal: *"I am waiting for God to get me out of the situation"*. He receives visits from his wife and children in prison.

Hearing of Jean-Damascène RUTAGUNGIRA who declares that he wants to be a civil party.

After mentioning the situation in Remera where GICE's son, a disabled person, and his brother had been killed and cows stolen, they ended up arresting Charles Mutsinzi. NGENZI, called to the scene, had him released and said: *"Anyone who touches this man will be in serious trouble"*. Some of them went to kill in Remera. NGENZI returned twice to make sure that no one had killed. The witness took refuge twice in Kabarondo, on the 11th and 12th. When he returned to the church, NGENZI insulted us.

On the 13th, the men met in the market square at the invitation of Councillor RWASAMIRIRA. The women, children and old people stayed in the church. The men, deceived, were welcomed by people with weapons. NGENZI and BARAHIRA were there, among the Interahamwe [2]. A grenade was thrown, causing the death of a certain Olivier. Panic in the ranks, they returned to the church, where Abbé INCIMATATA asked the refugees to defend themselves with stones and sticks. With the arrival of RWAGAFILITA [3], things got worse. The police were shooting at us, and the Interahamwe were threatening us with their weapons, under the direction of NGENZI and BARAHIRA. The witness assumed that the gendarmerie colonel had given instructions. He then recalled, in a flashback, the situation at the ADPR Protestant church in 1993: a community that was split in two: those who remained faithful to the teaching of the Bible and the others.

The president returned to the episode of the theft of the goats, which had already been discussed at length [1]... The witness took his family to church on the 12th as the situation was deteriorating. He went home with his wife and returned the next day. NGENZI came by and said that *"a real man is one who stays in his home"*. He wanted to taunt us. He mentions the death of several members of his family before returning to the church: problem of food, NGENZI not providing any. He saw NGENZI again in the market place when the refugees who had been invited to go there were attacked, supposedly to talk, but in fact to be attacked. The witness, at the request of the President, will repeat the precise chronology of the day of the 13th. He insisted on the attack on the church by the Interahamwe, with whom he had become involved, mentioned the death of his mother, who had been smashed by a club, and recounted the episode of the old woman Josephine, whom BARAHIRA pushed around: she was then killed by blows from a club, stripped naked. If Tutsi women and young girls were spared, it was to *'marry them'*, said BARAHIRA, but in reality it was to take them from their homes, exploit them and rape them.

The responsibilities of the various parties were then discussed at length to find out who had authority over whom. Then an assessor wanted to know who had died in the witness's family: he listed each one: 3 children, brothers, sisters, first cousins and their husbands: more than 20 people. It is difficult to estimate the number of people in the church. There were *many women and children, little ones who were crying, others who were crawling. Many were crying, my heart was aching.*

To Maître LAVAL who asked him about his family and the feelings he has today in the face of this tragedy, the witness replied: *"I am remarried, I have 7 children. We have forgiven each other. If NGENZI and BARAHIRA returned to Rwanda, they could also ask for forgiveness. I have no desire for revenge.*

The prosecutor, among other questions, asked the witness if this trial is important in France, 22 years later? *"For us, we are aware that you will solve our problems. Contradictions with other witnesses? "In the conditions in which we were, we could not see the same thing. Did the witness hear NGENZI and BARAHIRA say "Machete them! He confirmed.*

Maître MATHE is not at all convinced of the witness' sincerity. *"A witness who contradicts himself on two very important points, should I believe everything else? She then "grilled" the witness about RWAGAFILITA [3] at the end of his statement.*

Hearing of Béata UWAMWEZI by video conference, farmer, survivor.

"When we arrived at the church, there were still few refugees. NGENZI visited us very often, asked about the numbers and reassured us. I then went to the countryside where NGENZI organised many meetings to persuade people to come to the church. Every day he transported people and the number of refugees began to grow. Every day he checked the number of people present. The killers came, surrounded the church. We were trying to defend ourselves. Then they went for the military and the gendarmes. The men stayed outside and continued to fight. We then closed the doors of the church. From the road they were shooting at the roof of the church, which eventually collapsed. Many people died, I was wounded. After shooting at the central door to open it, the Interahamwe [2] came in and hit people with clubs, cutting them up with machetes. People were sorted according to their 'ethnicity'. Personally, I stayed in bed because I had a sore shoulder. The Interahamwe came and cut my throat (she shows a big scar on her neck). I couldn't get up, I spent the night there and didn't come out until the next morning.

I went to the Kabarondo dispensary. The Interahamwe found us and they continued to kill, even healthy people and the wounded. I was lucky. When the time came, we dragged ourselves away to find refuge with the population. I had blood everywhere. I continued to walk. The Inkotanyi [4] arrived and took us to the hospital.

Answers to questions.

"During the stay at the church, NGENZI never brought us food. I had a very bad stomach ache because I hadn't eaten for several days."

"I would take stones to defend myself but they had surrounded the church. I could see the Interahamwe outside through the windows that had been destroyed. When I was already wounded, I received a blow from a club on my head. Some Interahamwe came to touch me and as they saw that I was still alive, they hit me with their clubs. When night fell, we were begging for water; at the health centre, no one wanted to treat us: I had open wounds. They only gave us penicillin. Those who attacked the Centre wanted to kill us. What saved me was that I lost consciousness.

The public prosecutor asks the witness about the conditions in the church at night. *"Many were dead, others with amputated legs who were dying, others like me with neck injuries. Those who survived were those who were under the dead bodies. We slept there, among them.*

The witness reiterates that at the Health Centre, Nurse GATETE did not take care of her.

The hearing ends with questions from Maître MATHE, questions that do not really bring any new elements.

Hearing of Pierre KABASHA, in video conference, detainee.

His spontaneous statement was very short: "*NGENZI requisitioned me to find people who would agree to bury the people of Kabarondo*".

The Chairperson first questioned him about a visit he allegedly had to Nsinda prison on 16 February 2010. He did meet with whites (?) accompanied by a translator. He gave a short testimony written under dictation because the witness cannot read or write. At the bottom of the document, the investigator wrote a postscript: "*This witness probably knows much more than he has agreed to tell us*". Signed: Alain GAUTHIER (NDR. In reality, I was alone with a person that the national head of the Gacaca had asked me to meet in order to accompany me to the field).

The president then recalled the facts for which the witness was convicted: the death of Patrice and Pilote, an episode that was mentioned several times in the trial.

The witness reported that in fact his only involvement in the genocide was to transport people to bury the dead in Kabarondo. He was forced to do so. They did not put a gun to his head, but the policemen who accompanied him were armed. How could he have refused? NGENZI had told him what had happened at the church, but he did not go there to kill. After transporting the gravediggers to Kabarondo, he returned home. If he served 15 years in prison, it was because he was accused of the murder of a woman, which he always denied.

Hearing of Francine Uwera, a survivor who states that she wants to join the civil party with her brother who is in the room and who was 6 years old in 1994. She herself was 14 years old. She is a shopkeeper.

"On 7 April, the day after the attack, we were at home. From that day on we were afraid and we spent the night in our banana plantation where dad made us sleep for our safety. On 9 April, the situation went from bad to worse. A neighbour, GAHUTU, told Papa to make his wife and children run away. It was difficult for us to get to the church: we arrived at night. There were many people and no place to sleep..

The fateful date of the 13th arrived. The number of refugees increased, I saw the commune's vehicle drop off people, wounded or healthy. Dad was in charge of registering the names of the new arrivals. The 13th was an unforgettable day in my history. I was playing outside with other children while my mother was cooking inside the church. On the morning of the 13th, there was a lot of noise: the women and children had to go home, we had just been attacked. It was around 8 o'clock, if my memory serves me right.

I ran into the church with my two older sisters and we went to the sacristy. From that moment on, I never saw my father again. Mum was standing in the choir of the church with my 6 year old brother and a 2 year old sister. When the doors were closed, you could see, through the destroyed windows, the Interahamwe with their red scarves on their heads. They were fighting with the men outside, a fight that did not last very long. A man who remained inside asked us to pray because their objective was to exterminate us! We were frightened when we heard that many men had been killed or had fled. At one point, it seemed as if the fighting had stopped. Looking out of a window, I saw a bus of soldiers coming. They were probably coming to save us! But the same man who had stayed in the church told us again to pray because the Interahamwe had

not been able to do what they wanted to do and the military had been called in to help them. A few moments later, we heard the whistle of bullets. There was a lot of smoke in the church. After about ten minutes, there was another lull.

I don't know how many of us were in the sacristy, but to protect ourselves from the bullets, we used the mattresses we had carried, which were not very effective. I could then see that my elder sister had been shot: her fingers had been cut off and part of her face had been torn off. She could still speak. Francine asked her sister Denise if she was sleeping. Denise said, "Don't worry. In a few moments I will be with God in heaven. Then my mother told me that it was all over for my older sister. At about 4pm there was a lot of noise again, bullets whistling. I had blood everywhere.

At that moment a shell was fired and many people entered the church. A killer reportedly said that they were going to have mercy but that everyone had to come out with their arms in the air and show their ID cards. We could see that the ground outside was littered with corpses.

My other older sister had her knees shattered by bullets. I couldn't scream or feel pain. All this would come back to me later. My older sister said goodbye and that if we made it out, we should come and see her! On the way out, we were made to kneel down and were hit with machetes. I saw my six-year-old brother who didn't know where to go, so I kept him with me. He told me what had happened to my mother. She had been shot, but Aimé, the baby, was still sucking on her breast. Mum was dead but not her child.

We were kneeling and as I saw people coming out of the group, I asked if I could come out too. New blows with machetes, sticks and stones.... While we were running, they kept firing bullets at us, we had to jump and avoid stepping on the bodies. The bullets were whistling. Another girl was running behind me but I thought it was an Interahamwe. Tired, I fell to the ground and the girl joined me. I started living with her again in the forest. We hid under branches to sleep. We saw people passing by carrying the goods they had looted from the houses. We were very hungry and covered in blood. We approached a house where a child of my age lived. He told me how my father had died: he had been mowed down by a bullet on a tank. I had become insensitive. The child's grandmother came and chased us away. We begged her to give us food, but she "had no food to give to Inyenzi" [5]! We spent another night in the forest, my head had swollen. It started to rain. Convinced that we were going to die, and as we heard the Interahamwe continuing their hunt with dogs, we chose to get closer to the main road to be killed there. I felt a lot of sorrow and remorse for having abandoned my little brother. We were lucky to meet a Tutsi woman whose Hutu husband had died. She could move freely, protected by her Hutu children. It was she who told me that my little brother was alive, taken in by neighbours. The Tutsi woman wanted to hide us but did not know where to go. I then went to the house of our GAHUTU neighbour who managed to make the Interahamwe flee by giving them money. I was finally saved by the Inkotanyi who had just taken Kabarondo.

Questioned by the president, she will calmly answer her questions which do not really bring any new information on a poignant testimony. Madame MATHIEU asked her if she wanted to add anything to her story. And to add, in conclusion: "I was called to give my testimony on NGENZI and BARAHIRA. I did not see NGENZI but as mayor he had the possibility to limit the damage. I heard that he was running away from his responsibilities. We were taught to forgive each other, to reconcile. Let him acknowledge his responsibility! I don't know what he feels inside but he could ask for forgiveness: we are ready to forgive. Ask God for forgiveness: we cannot lie to God. What you cannot tell to men, you cannot hide from God, you cannot lie to God. I hope that NGENZI will come out with everything he has on his heart.

As with the testimony on Friday evening, we will not return to the questions that followed. This testimony stands on its own.

End of the hearing at 9.50 pm.

1. Thieves had seized the cows and goats of a certain TITIRI. According to several witnesses, NGENZI said, "*You eat the goats while their owner is still alive*", thus inciting the massacres that followed. NGENZI asserts that "*these are inventions*", however, the testimonies reporting these remarks multiply throughout the hearings.
2. *Interahamwe: 'Those who work together'*, a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
3. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
4. *Inkotanyi*: RPF fighter (term used from 1990). *Inyenzi*: Cockroach in Kinyarwanda, the name by which Tutsis were referred to in racist propaganda.

Ngenzi/Barahira trial Wednesday 8 June 2016. Day 21

- Hearing of Jean MPAMBARA, former mayor of Rukara, acquitted by the ICTR.
- Hearing by videoconference of Jean CHATAIN, former journalist at l'Humanité.

Hearing of Jean MPAMBARA, former mayor of Rukara, acquitted by the ICTR.

MPAMBARA, former mayor of Rukara

The witness, a former colleague of NGENZI, said he had come to testify "*to make a small contribution to the proper understanding of what happened in Rwanda*", which he called "*unfortunate events*".

Mr MPAMBARA wishes to give some key dates which, in his opinion, explain what happened

1) **1 October 1990**: the RPF attack' which divided Rwandan society into two parts, the period 1990-1994 being '*the darkest period in Rwanda's history*'.

2) **1991**: revision of the Constitution that opened up the multiparty system in a society that was not prepared for it. Second cause of the division of Rwandan society.

3) **4 August 1993**: the Arusha Accords which also divided Rwandan society.

4) **6 April 1994**: attack against President HABYARIMANA. The Rwandan people have been abused! It is these four events that, according to him, are the cause of the massacres, "*even of the genocide*".

It was around 10 April that the RPF arrived in Rukura from its headquarters in Mulindi. It was then that displaced persons from Murambi flocked to Kibungo and, because they were poorly supervised, they were to cause many problems. The Rwandan army is in disarray, and numerous massacres are committed by both the FAR and the RPF. "*The situation is chaotic, the authority of the burgomaster is sabotaged by the multi-party system.*"

On 10 April, the witness transports his family to Muhazi, then to NGENZI's house in Kabarondo on 12 April, to keep them safe. On 13 April, the church in Rukara was attacked by former soldiers supported by gendarmes. According to him, this attack caused the death of nine people! In Kayonza, gendarmes told him in confidence: "*Get ready, we're going to Kabarondo because RPF elements are hiding there, Inyenzi* [1]. It was also said that the mayor of Kabarondo was hiding Tutsis. The witness, who did not trust the gendarmes, said he was going to Kabarondo to get his family back. He then confided in NGENZI, once he had arrived at his house at around 10.30 am, that the gendarmes were going to come to the church, and that they would then come to his house. Before returning to Rukara, the witness took his family to the home of other friends.

On 13 April, the commune of Rukara fell into the hands of the RPF. He then went to Kibungo to hide. On the road to exile, he met NGENZI several times: on 20 April while he was with a young Tutsi to whom he had given a Hutu identity card, on 23 April in Rusumo where he discovered his friend covered in blood (he had been beaten up by thugs, under the pretext that he was supporting Tutsis), and finally on 28 April when they crossed the border. They will be together at the Benako camp where each burgomaster will regain the authority they had in their commune, at the request of the Red Cross and other international organisations. The witness was tried in Arusha in 2001 and acquitted by the ICTR in 2006. He then joined his family in Mayotte where he met up with NGENZI. In 2010, the mayor of Kabarondo was arrested: he joined his family in France. He lives in Rouen.

MPAMBARA states that his friend never showed animosity towards the Tutsis, neither in his words nor in his behaviour.

The president then launched into a series of questions: his membership in the MRND, the NGENZI/RWAGAFILITA [2] relationship, the appointment of burgomasters, the drawing up of lists of Tutsi who sent their children to fight with the RPF. The witness confirmed that in Benako NGENZI was called OMAR, then Jean-Marie Vianney NTAGANIRA in Mayotte when he wanted to file his refugee application with OFPRA.

The President will go back over his schedule between 10 and 13 April because there are contradictions between what he said before the ICTR and what he said today before the Court. It was not he who went to pick up his wife from NGENZI's house, it was his wife who came to join him.

Maître LAVAL, in turn, drives the point home: "*You are cited by the defence. You spent very little time with NGENZI at each of your meetings. You do not know what NGENZI did. **You are a non-witness** for these dates of 13/14 April!*

The CPR lawyer continues his charge. "*What connection do you make between the FAR/FPR conflict and the fact of cutting people up, raping and massacring innocent people?* The witness wavers and finds as an explanation only the fact that "*the situation had become uncontrollable*", that the bourgmestre had no more authority.

Now it is the turn of the Advocate General. "*What has just happened is extremely serious. When he defended himself before the ICTR, the witness said that he never went to Kabarondo on 13 April and before the Court he just said the opposite. One of the two statements is untrue. The witness has just given a **testimony of***

convenience. Mr COURROYE asked the President to have this schedule of MPAMBARA recorded in the minutes.

The public prosecutor will ask questions but he strongly doubts the sincerity of the witness: Léon MUGESERA's speech in Kabaya? He heard it on the radio but did not appreciate it. Did he listen to RTLM? Yes, but he acknowledged that this radio station advocated ideas of hatred. RWAGAFILITA [2], a "friendly moderate or hardline pensioner? I knew he was a great personality. When you stand by and watch people being massacred, you condone these killings? The mayor was useless! NGENZI did not seem traumatised, he was giving orders? Yes, but are the witnesses sincere? So many questions that trouble the mayor of Rukara.

The meeting was interrupted because a videoconference with Jean CHATAIN, former journalist at L'Humanité, was scheduled.

At the resumption, it is the turn of the defence to speak. Maître MATHE took the floor. She wanted to know the resources devoted to security in the commune of Rukara. The burgomaster was asked to explain how he managed to maintain security: he travelled around his commune, grouped the refugees from Gahini in the parish of Rukara, but things changed with the arrival of war displaced persons who devastated everything in their path. On the 9th, there were small-scale massacres (less than 10 dead) by former soldiers discharged from the army for indiscipline, accompanied by people armed with traditional weapons. On the 12th, the FAR in disarray massacred in the church, together with the war displaced: hundreds of dead.

And NGENZI, your "friend", who was he? *"He was honest, helpful, honest. I advised him to flee but he was going in circles, obviously disturbed, hesitating about the strategy to adopt. In 1994, I wanted to flee.*

Hearing by videoconference of Jean CHATAIN, former journalist at l'Humanité.

Two RPF soldiers on the Rusumo bridge, Rwanda, May 1994 (source: L'Humanité - Photo: Collection Jean Chatain)

The witness visited Rwanda twice in 1994. In April, in the east of the country, in Mulindi, RPF headquarters, and in July in Kigali. During this second visit, he went to the north, to Ruhengeri and Gisenyi, the stronghold of the *Akazu* [3], those close to the Habyarimana family. *"We had the impression that the earth was vomiting up the bodies, we were walking on corpses. And the smell! One of the killers' tactics was to slice the calf, so they could no longer move.*

Papias, Abbé INCIMATATA's curate in Kabarondo. How he was "redeemed" by his bishop! Did NGENZI get a share of the money paid? One can think so. As for the refugees found in Byumba, they came from Kigali. Maître MATHE will come back to the 'redemption' of Abbé Papias by his bishop, to the situation of the refugees at the Byumba stadium. In her opinion, Jean CHATAIN could only see what the RPF wanted to show him. She doubts the journalist's objectivity. Based on a Spanish report, she states that 2000 Hutus were killed by the RPF at the Byumba stadium, then incinerated in the Akagera park. (Editor's note: these are the same Spaniards who issued international arrest warrants against RPF cadres!)

Madame Odette KAMPIRE, wife of Jean MPAMBARA, will not be able to be interviewed until several days later. This poses a problem: she will be able to adapt her statement according to what her husband has told her! We will have to wait until 20 June to hear her "truth"...

1. *Inyenzi*: Cockroach in Kinyarwanda, the name by which Tutsis were referred to in racist propaganda.
2. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from.
3. The term *Akazu*, which appeared openly in 1991, means 'little house' in Kinyarwanda. The *Akazu* is made up of around thirty people, including close or distant members of the family of Agathe KANZIGA, wife of Juvénal HABYARIMANA. Within the *Akazu*, there are high ranking officials of the FAR (Rwandan Armed Forces) as well as civilians who control the army and public services and monopolise the country's wealth and state-owned companies.

Ngenzi/Barahira trial.

Thursday 9 June 2016. Day 22

- Hearing of Jean-Claude REBERO, by videoconference, quoted by the defence.
- Hearing of François HABIMANA, farmer, quoted by the defence.
- Hearing of François NSABIMANA, President of the Kabarondo Tribunal in 1994.
- Hearing of Vincent SIBOMANA, former FAR soldier, quoted by the defence.
- Hearing of Donatien MUNYANEZA, communal policeman in charge of NGENZI's house.

Hearing of Jean-Claude REBERO, by videoconference. Quoted by the defence.

In view of what the witness said and the obvious contradictions with his previous hearings, I decided not to write a report. Moreover, the public prosecutor gave up questioning him, well aware that this witness had the 'gift of ubiquity'.

Hearing of François HABIMANA, farmer, quoted by the defence.

The witness, who is elderly, did not provide us with any elements capable of shedding light on the case before the Assize Court. He acknowledged that whites had come to question him. He knew BARAHIRA who had been burgomaster and who left his post after 5 years.

In April 1994, the *Interahamwe* [1] came to destroy his brother's house. BARAHIRA came to tell him that his cows had run away: he had to send someone to get them. His brother had taken refuge with a certain MUSONERA. He went to look for him in Kabarondo but they came across Interahamwe who demanded 10,000 francs. "*How do you expect him to give you this amount when you have just destroyed his house?*" They accepted 5,000. The witness can take his brother home. He will continue to live at home. He did not die at that time.

He contradicts what other witnesses have said, does not know much, admits that he was heard by white people who had a television (in fact a computer!). Laughter in the room and on all the benches. The witness is not sure whether he is Hutu or Tutsi. The hearing was short-lived, as no one had any interest in continuing.

Hearing of François NSABIMANA, President of the Kabarondo Tribunal in 1994.

The witness began by saying that he had nothing to say about BARAHIRA. His spontaneous testimony was reduced to the fact that NGENZI did invite him to a security meeting to exchange ideas. Abbé INCIMATATA was there. The burgomaster asked us to do everything we could so that no one would turn against each other. He saw NGENZI for the last time after the massacre of the Tutsis at the church. All he would learn afterwards was what he was told at the Benako camp in Tanzania.

The president asked him to talk about his "career". He only studied up to secondary 4^{ème} and he will end up being president of the Kabarondo Court! He knows little about the political commitments of others. If he is accused of having been an Interahamwe leader, he blames it on the survivors. Ms MATHIEU told him that it was not the survivors who were accusing him. The witness blamed it on jealousy and said that those who accused him had all been sentenced to prison. *"I admitted that I participated in Shyanda, forced by the military. The soldiers killed Hutus who had hidden Tutsis.* The witness acknowledges that he was sentenced to life in solitary confinement. When asked by the defense lawyer what the isolation is, he said he can talk with other prisoners and receive visits from his family.

The witness heard about the attack on the church and blames it on the *Simba Bataliani* [2] and the military. If witnesses saw him, they are lying. Some of them want to take revenge for the fact that he was able to put them in prison in the course of his duties.

The witness would only meet NGENZI on the road to exile. In Rusumo, at the border, where the mayor presented himself with a head wound. Then at the Benako camp.

Maître PARUELLE will try to find out why he received such a heavy sentence. "I recognised that two people had died in my presence. I could not help them. I led soldiers in an attack in Shyanda and I am accused of leading the attack. The lawyer will also try to get him to say that his wife has not been penalised by his behaviour as she is currently a public school teacher.

The questions of the public prosecutor will show that the witness does not know much. Last 'revelation': during his hearing by the French gendarmes, he spoke without an interpreter, he was heard in French Why not today?

Maître MATHE wants the witness to say that in the exercise of his profession he did not make only friends. Hence the accusations that were brought against him after the genocide. Back to the life sentence with solitary confinement: *"It is an extreme injustice... I am keeping quiet because it could turn against me... My property has been dismembered... I am paying damages for evil that I did not do.* He then went on to say that NGENZI had been overtaken, that he had affinities with the Tutsis... *" He was afraid. The one who was not afraid was inhuman".* As for the deaths of his family, he does not want to talk about them. The defence lawyer will do it for him.

Hearing of Vincent SIBOMANA, former FAR soldier. Quoted by the defence.

The witness knew neither NGENZI nor BARAHIRA. A soldier in the 74th battalion, he recounts the first days of April and his fight against the RPF. Defeated by their adversaries, the FAR eventually withdrew and ended up in Kabarondo after a journey that took them through Kayonza, Rwamagana and Kibongo, taking the Mugesera dirt road to avoid the asphalt road where they risked meeting RPF soldiers. Captain Théophile TWAGIRAMUNGU was at their head.

When questioned by the President, he admitted having seen bodies in Kabarondo, whereas one of his colleagues said he had only smelled strong odours. He mentioned the role of CYASA, a known *Interahamwe*, who fought alongside the military.

The remainder of the hearing focused on the dates given by the witness. It was difficult to re-establish the precise chronology of the FAR's movement. The defence lawyer, Maître MATHE, will not stop trying to make the FAR soldiers arrive as late as possible in Kibungo and Kabarondo. What does she have in mind? Obviously, to show that her client, Mr NGENZI, was not able to play the role that they want to attribute to him!

Hearing of Donatien MUNYANEZA, communal policeman in charge of NGENZI's house.

It is already 7.40 p.m. and we have one more witness to hear. He will not say anything about BARAHIRA whom he does not know. The witness will detail his schedule between 7 and 15/16 April 1994. He spent the night of 7 to 8 April outside NGENZI's house. He reported an influx of refugees heading towards the parish, where he went in the company of the burgomaster. He does not resume his work until the 10th. Firewood will be brought to the parish by the car of the commune. On the 13th, he hears many bullets whistling near the church. The burgomaster does not return home until late in the evening, around 10.00 pm. On the 14th, Abbé Papias, the parish vicar, arrived and spoke to NGENZI. The wife of the burgomaster sent him on an errand to feed the people she was sheltering as well as those in the commune. On his way he met the nurse Marie-Goretti, to whom he advised to go to NGENZI's house. She will return home: moreover, the people who were staying with the burgomaster were evacuated to Kibungo by CYASA. The President, in her series of questions, will attempt to reconstruct a more precise chronology of the time spent by the local police officer. She also wants to have clarification of the witness's statement that from 12 April "*NGENZI changed a lot*". Apart from saying that the burgomaster came home wearing dirty clothes, she will find it difficult to know more. How has his behaviour changed? "On the 12th, NGENZI did not attend the funeral of Anysia de Rusera. This was not his habit! Yet the witness had said in his statement that he had found NGENZI sitting on the floor of the communal office... as if he had lost his mind! Another shadow: on the evening of the 15th, NGENZI returned very late in the company of a soldier who accompanied him in the car of the commune! It was difficult to see clearly. Finally, on the 16th, soldiers came to the burgomaster's house, climbed the fence and moved the burgomaster out. The civil parties' lawyer, Mr GISAGARA, began his questions with a "*I have the impression that you are making fun of us*", but little progress was made in understanding the facts. To the public prosecutor, the witness said that the communal police officers had never fired on the refugees. If orders could be given, only the burgomaster could do so. Is the witness afraid to testify? Not really!

Maître MATHE tries to get the witness to say that NGENZI was a good person, which he will confirm.

The hearing is suspended. It is 10.15 p.m.

1. *Interahamwe: "Those who work together"*, youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

2. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

Ngenzi/Barahira trial Friday 10 June 2016. Day 23

In video conference with Kigali :

- Hearing of Jean-Baptiste KARUYONGA. Witness called by the defence.
- Hearing of Pierre NYAMABUMBA, defence witness.
- Hearing of Pierre NDAZIRAMIYE, witness called by the defence.
- Hearing of Jean Bosco GASHIRAMANGA, defence witness.
- Hearing of Moussa BUGINGO, Defence witness

(interrupted by transmission problems with Kigali).

Hearing of Jean-Baptiste KARUYONGA. Witness called by the defence. Videoconference.

The witness began by saying that he had never seen either NGENZI or BARAHIRA during the genocide. As he had nothing else to add in his spontaneous statement, we went directly to the questions of the President.

An employee of the General Economat of Kibungo (diocese), he came to his brother's house in Kabarondo to be treated for malaria. This was on 23 March 1994. On 13 April, on his way to his parents' house, he came across a group of attackers whom he joined to make them believe he was with them. After having cut a branch, still to simulate his support, he evades but comes face to face with another group. Overcome with fear, he decides to join the first group he has just left. They are then attacked by refugees from the church who throw stones at them. A former gendarme named MUNYANEZA, better known as TOTO, then threw a grenade which caused the death of six people. The witness then reportedly heard gunfire from the communal office, which caused the refugees to disperse from the church. KARUYONGA then hid in the bushes from where he heard heavier gunfire, screams... At 5pm, he returned home.

During the day, he did not see NGENZI. It was only in Tanzania that he saw the two cars from the commune again! He was indeed sentenced to 16 years in prison by the Gacaca after refusing to plead guilty.

The public prosecutor wants to know why he spoke of a "plotted *plan*" in response to the president's questions. "*The gendarmes did not react, it looked like they were supporting the assailants. Moreover, they sent for reinforcements. They had a plan to kill the Tutsis, a plan developed at state level.*" He acknowledges that the bourgmestre was the belt of the state.

Maître MATHE then questioned the witness about the Interahamwe [1] and wanted to hear him say that those militiamen were indeed MRND youths, but that during the genocide that term was used to designate all killers. As for NGENZI, he had always behaved well and had good relations with the population.

Hearing of Pierre NYAMABUMBA, defence witness. Videoconference.

Another witness who wonders what he is doing there. He has been summoned but does not know what explanations he will be able to give in this case. *"I know nothing about them. We say what we saw and we leave what we didn't see!*

As announced, the witness knows nothing and barely knows the accused. He said he had been condemned by the Gacaca. *"I was accused of genocide. I denied it. I was sentenced to 19 years in prison. I was accused of having participated in an attack. It was a woman who denounced me, claiming that I had killed in Remera. All this to take away fields and a forest from me, which she still has, by the way.*

Maître MATHE was surprised that he had remained in prison for 13 years without being tried. In response to a question from the lawyer, the witness confided that his wife and three children were killed on 20 August 1994 by RPF soldiers who had come to *"sweep the village"*.

Reading of the statement of Jean-Pierre RWASAMIRERA, municipal councillor, deceased.

The witness made monthly reports to the burgomaster, in accordance with his status. Even though he had problems with NGENZI who wanted to replace him with his own candidate, he always maintained good relations with his mayor. Arrested on 23 December 1996 on his return from Tanzania, he was sentenced to life imprisonment. He had a Tutsi wife. As for the Interahamwe, there were none in Kabarondo. If Abbé INCIMATATA, who was his friend, talks about these militiamen, it is *"because he was Tutsi!* All the Hutus were considered Interahamwe.

Hearing of Pierre NDAZIRAMIYE, witness called by the defence. Videoconference.

The witness begins by saying that he knows nothing. He then takes out a paper and is asked to put it away immediately, as witnesses have to be heard without being able to consult notes.

In 1994, the witness claimed to have been on a list of people considered to be *"accomplices of the Inkotanyi"* [2], just like his two older brothers, who were killed. NGENZI and BARAHIRA had nothing to do with it, as the list was drawn up by neighbours: *"They played no role in the death of my two brothers. One was killed by the Simba Bataliani [3], the other by Emmanuel HABIMANA, alias CYASA.* The witness said that his house was destroyed and his belongings looted, and that the two accused were once again blameless. He took refuge with his family at the church in Kabarondo and said he was able to leave by showing his identity card. The two people who were with him were killed. As for his wife and children, they reportedly managed to leave the church through a small door. When he left the church, he went into hiding: it will be difficult to know where!

He had no particular relationship with the two accused. He only saw NGENZI for work purposes. He heard about the security meeting on 11 April, but he did not want to go there for fear of meeting the people who had destroyed his house! He even claims to have fought against the Interahamwe by throwing stones: *"We wanted to ensure the safety of our women and children!"* And to repeat that if he was sentenced to 19 years in prison, it was as a result of a *"conspiracy"*. By misfortune, we learn that those who conspired against him did not return to the country! It is therefore impossible to verify his claims.

When questioned by the prosecutor, the witness said he followed the attack from his hiding place, about 200 meters from the church. He could hear the sound of the weapons. From where he was, on the churchyard, he could not see the commune because of a double row of trees.

Maître MATHE, when it was his turn to speak, welcomed this new revelation made "*spontaneously*". The witness confessed to having been convicted "*as a co-author in the attack on his house*". To the astonishment of the lawyer, the witness will justify his statement by saying that the Gacaca did not investigate and accepted the explanations of his accusers. This is a complete incoherence!

Maître MEILHAC will try to find out if he was not told what to say, if he was not pressured. The witness replied: "*You cannot put pressure on me to say that I was pressured*". The defense lawyer justified his question by recalling the words of the public prosecutor who had suggested that the witness might have been pressured, but by NGENZI's family back home. We will leave it at that.

Hearing of Jean Bosco GASHIRAMANGA, defence witness. Videoconference.

The witness was 17 years old at the time of the events. He was a "street kid", left to his own devices, who often frequented the area around the communal office. He claims that NGENZI made him walk in front of a group of killers, that the latter was carrying a pistol on 13 April. Later he said that the mayor was not there, that he was travelling to the sectors to pick up people that he was dropping off at the health centre. To add, following a question from Maître GISAGARA, that this pistol was used to scare the Interahamwe! After having told the French gendarmes that the mayor was not at the IGA, he asserted before the Court that he was finally there. The Interahamwe? "*NGENZI's people, his tools*". And he added: "*NGENZI wanted to oppose the killers, to scare them*". Understand who can.

The president finally spoke again: "*I find it difficult to understand this witness*"! A feeling that was well shared in the courtroom. Maître MATHE, who had the witness called: "*Madam President, I will spare you the suffering. I have no hope of understanding what this witness is saying, which contradicts what he has said. She even doubts his balance*"! The public prosecutor will not refrain, maliciously, from reminding her that she is a witness called by the defence! "*This is what happens when you can only call a witness on the basis of his statements to the investigators,*" the lawyer concluded.

Hearing of Moussa BUGINGO, defence witness, by video conference.

This hearing will be interrupted by transmission problems with Kigali. The interview will have to be resumed later. The hearing was suspended at 19:30.

Comment at the end of this day devoted to defence witnesses: *when you hear the testimony of the killers, you are miles away from that of the survivors. You get the feeling that these are not the same events being reported. As usual, the killers minimise their own responsibility: they were not there, they were forced to participate, they hid, they were sentenced to severe prison terms but they don't understand why, they often say "we" and not "I" to mean that they participated but that they are not the ones really responsible, they hit the victim but did not deliver the fatal blow... It must be said that in 22 years they have had time to rewrite their own history. Never mind the contradictions, the lies, the inconsistencies... Justice only has to deal with that!*

1. *Interahamwe: 'Those who work together'*, a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. *Inkotanyi*: RPF fighter (term used from 1990).
3. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

Ngenzi/Barahira trial

Monday 13 June 2016. Day 24

- Hearing of Moussa BUGINGO, quoted by the defence. Videoconference.
- Spontaneous statement by Tito BARAHIRA on the day of 13 April 1994.

Hearing of Moussa BUGINGO, quoted by the defence. Videoconference.

The witness' unsolicited testimony took place on Friday evening. The hearing was suspended following a breakdown in communications with Kigali. It resumed today with questions to the witness.

The witness begins by saying that NGENZI behaved well throughout the period in question. He recalls a meeting in the market place on 12 April, "to help the refugees from the church in Kabarondo. He adds:

"Until the 12th, we brought them food".

On 13 April, the people of Rundu, Rubira and Cyinzovu joined forces to attack the people who had fled to the church. Meeting at the Kabarondo Centre, they decided to divide themselves into three groups. The sector councillor went to Abbé INCIMATATA to warn him that an attack was being prepared.

The witness claims that he was tending his cows when a group of assailants passed by his house and he was forced to follow them. *"I refused at first. But if I didn't go, they would kill me and eat my cows!"*

They then arrived at the Health Centre. Meanwhile, the other two groups of killers had attacked the church. A full-scale fight ensued. Then the gendarmes, who were standing at a fence, arrived and fired a lot of bullets. A vehicle of soldiers from Camp Huye (Kibungo) arrived and was heading towards Mutara. The gendarmes asked them to fight because they had no more bullets. The soldiers did not hesitate to do so, while bringing in reinforcements: three buses were reported to have arrived. They fired from 9 am to 4 pm. When they ran out of ammunition, they fired a shell at the church door and ordered those inside to come out. They told the *Simba Bataliani* [1] to continue the 'work'. As for the people in his group, they transported the wounded to the IGA and the Health Centre!

On 14 May, the killers returned. CYASA, the leader of the *Interahamwe*, was then called in as reinforcements by MUKIBI [2]. *"CYASA went in search of NGENZI in order to kill him, who was considered an accomplice.* They then went to find the guards of the IGA to obtain the keys in order to dislodge the refugees and kill them. The survivors from the Health Centre were allegedly killed by members of the *Simba Bataliani* [1] who were also hunting down NGENZI. On the 16th, the witness and his colleagues reportedly fled to Tanzania.

In response to questions from the Chairperson, the witness said he knew NGENZI and BARAHIRA well. He did not have a friendly relationship with NGENZI, but they got along well. They were even said to have brought food to the refugees in the church. Moussa BUGINGO claims to have brought *"three bunches of bananas, fresh and dry cassava and 20 kilos of beans"*. The president pointed out to him that this statement was contrary to what Abbé INCIMATATA had said. The witness is surprised since he claims to have given this food to the priest himself! He was led to repeat that he had been trained by Cyprien RUGAMBA and KIMONYO. *"I don't know if these people were haunted by the devil"*, he continues. NGENZI, he would have seen him only in the evening at the IGA and at the Health Centre. While the witness was there, he was warned that cows had been stolen: he then went home! He only learned about the massacres the next day from CYASA and MUCILI. On the other hand, he did not see BARAHIRA again after 5 April.

The rest of the hearing is very confusing, with the witness constantly contradicting what he had told the French gendarmes. NGENZI's behaviour that day? *"He had grief, was distressed, felt compassion!"* He was

completely overwhelmed by the events. He was facing much stronger people. And when the president pointed out that many witnesses presented him as a leader of the Interahamwe: *"I was not the one who recruited HAVUGIMANA as an Interahamwe, it was the opposite. And then, I was tending my cows! So why was he sentenced to life? It was because of the people I had problems with, people like KAJANAGE and GASHABIZI. They had a grudge against me. They accused me of not returning a scale to weigh meat (he was also a butcher), of having sold meat from a sick cow and of having let my cows graze on their land. I also allegedly looted the shop of GASHABIZI's brother. They were asking for damages.*

Barriers? Only one on the day of the attack, the same evening, to prevent the survivors from fleeing. The barrier that had been installed by the gendarmes in 1990 had only one purpose: to prevent the *Inkotanyi* [3] from infiltrating. On the day of the attack, the refugees saw that the gendarmes had not come to protect them. On the other hand, he did not see the communal police officers firing. If the witness stayed until 6 p.m., it was because RUGAMBA and KIMONYO had told them: *"Stay there until all these people are killed"*. He added, without fear of ridicule: *"As I was bored, I went to the Station, I needed to change places. But whether you're at the Station, the church, the commune or the IGA, it's all the same. All these places are close to each other!*

Maître PARUELLE tried to get the witness to give the list of people he had hidden, but things got complicated. He ends up giving the name of a person he had never mentioned before!

The public prosecutor, Mr COURROYE, will give up questioning the witness: *"There are too many contradictions with what other witnesses have said. I would have too many questions to ask"*. He preferred not to ask any questions.

Maître MATHE will be satisfied with knowing whether the witness saw the gendarmes arrive, and if so, how many arrived and how many left? The answer will remain evasive.

The position of the public prosecutor would a little later provoke the astonishment of Maître MEILHAC, who had had the witness called: *"I am surprised that the public prosecutor would give up questioning the witness because of his contradictions. We have already had similar situations!* When questioned about his schedule, the witness contradicted himself again, this time claiming to have left the premises at 4pm and not 6pm, according to the watch he was wearing, because he had to go and look after MUNYANDEKWE's cows!!! Does he have any hope of release despite his life sentence? *Only God who created us knows... God willing. I could die in freedom, like others, or in prison!"* And to praise BARAHIRA, a calm man, never violent, a good person. As to why he was replaced as mayor, he does not know.

Tito BARAHIRA on the day of 13 April 1994.

*"On 13 April, I stayed at home until 3pm. I took a wheelbarrow to fetch fresh grass for my calves. On the asphalt road, I met a group of refugees from Byumba. They were talking about the smoke coming out of the church in Kabarondo. I did not stay with them, I hurried to cut the grass for my calves and left for Kabarondo. When I arrived near the church, I asked people what had happened. They told me that the military had attacked the church. I could see that the metal sheets had burned, that they had blown away. I didn't think it was like that. I was told that there were dead, injured and survivors. We continued to talk: everyone was sad and worried about what had happened! Some witnesses had even fled, thinking that it was an *Inkotanyi* attack [3].*

We were standing on the road between the commune and the church. I saw NGENZI talking to people sitting on the steps of the commune. He was asking for the wounded to be taken to hospital.

I then saw an Electrogaz vehicle near the presbytery, brought by the company director. I went to greet him: he wanted to meet an electrician who lived nearby. A general breakdown was disrupting the network. I got into his car and we went to the Kabarondo transformer. The fault was indeed there. In fact, the employee who worked there had committed suicide by touching the electric wires to a branch of cassava! I helped the chief to repair the machine: I gave him the tools; he changed the oil and greased it! We did not find the body of the deceased, his family had already taken it away. The chief then put a padlock on the transformer and we left. As it was a curfew period and we had to be home by 6pm, I went home."

Mr. BARAHIRA then went back to the fact that he had left his home without anything, not even his bicycle. *"I am surprised that I am accused of having been armed with a gun or a lance. I am sad for what happened, for the death of the Tutsis, even if Hutus died too. It was sad to see people being attacked.*

"Those who came to testify against me are liars. The two women who came to accuse me, I did not even know them. One of them even presented herself as the widow of a teacher, Mr. BAYINGANA. I knew this man and the one who came is not his wife. I have never felt any hatred towards the Tutsis. The one who pretended to be his wife lied. The same is true for the young woman who came to testify, Francine UWERA. I knew her father, PAPIAS, well because it was he who welcomed me in the school where I had just been appointed headmaster. I was the one who made the reports to the inspector. I was very sad to hear the witness announce that his father had died in the church: I did not know! As for Joséphine, whom I am accused of having pushed, she lived in Cyinzovu and had helped me a lot during my wedding in 1978. How could I have asked the Interahamwe to kill her? How could they have undressed her? This is a slander. He then went on to enumerate the many services that this woman had rendered him. The President asked Mr. BARAHIRA to come back to the day of 13 April. The witness concluded that their death caused him a lot of pain. The hearing was suspended at around 12.30 pm. Questions will be asked later. I leave it to everyone to make a judgement on what the accused said. Even his lawyer seemed embarrassed by what he was hearing! While the church yard was littered with corpses, while inside mothers, babies and old people were dying, while refugees were being cut up with machetes, BARAHIRA was playing the electrician! You think you are dreaming! It's more like crying.

1. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.
2. According to another witness, the *Interahamwe* "often passed by in the vehicle of a certain MUKIBI. Using a megaphone, they asked people to take part in the attacks. It was people from the MRND who were sensitising the population" (cf. hearing of Christophe HATEGEKIMANA).
3. *Inkotanyi*: RPF fighter (term used from 1990).

Ngenzi/Barahira trial Tuesday 14 June 2016. Day 25

- Hearing of Anaclet RUHUMULIZA, sentenced to life imprisonment, by video conference.
- Hearing of Paul NGIRIBANZI.
- Hearing of François NZIGIYIMANA.

- Hearing of Oscar KAJANAGE, civil party, survivor.
- Hearing of Etienne GAKWAYA.

Hearing of Anaclet RUHUMULIZA, sentenced to life imprisonment, by video conference.

The witness spoke about the day of 16 April, the day on which NGENZI went to look for reinforcements to bury the victims of the church and the Kabarondo Health Centre.

As the people of Kabarondo had refused to bury the bodies of the victims from the church, NGENZI went to his area to bring back gravediggers. The witness, who was a trader in 1994, had a vehicle. The mayor therefore came to requisition it, as well as those of KABASHA and Daniel MUNYAKAZI. On the way, they stopped at the CERAI in Cyinzovu to pick up tools: hoes, shovels, etc. When they arrived at the Kabarondo market, the burgomaster asked them to drop off the people they had brought with them and to leave. When the spontaneous statement was finished, the Chairperson questioned the witness. RUHUMULIZA had a bar opposite KAJANAGE's, which was very popular, both with the population and with the authorities, who met there fairly regularly, from all political parties. Ms. MATHIEU especially wanted to know the links between RWAGAFILITA [1] and the witness. It was said that the colonel had helped the latter to acquire the plot of land on which the bar had been built. RUHUMULIZA also owned five vehicles! He added that the colonel's older brother, MUHIRE, had married his sister. BARAHIRA was one of the clients of the bar. Allusion was then made to an incident that had pitted the militants of the political parties against each other: a brawl, stone-throwing... As to whether RWAGAFILITA was an extremist, a supporter of Hutu Power [2]? *"If they say so, it is because he is dead!"*

The witness was also asked to explain the identity of the *Abarinda* [3] with whom he allegedly participated in the genocide. He defended himself, claiming that he could neither read nor write. Once again, the episode of the theft of the goats [4] and NGENZI's intervention to calm the combatants was discussed. He knew the story only from what the burgomaster had told him. The witness then mentioned the fight that occurred between the people of Rubira and those of Rundu, during which PILOTE, his employee, and Patrice MURIHANO died. The witness denied being present at the church on 13 April. He only came on the 16th to lead those who were to bury the bodies of the victims. He also knows nothing about the meeting of the 11th, nor about the distribution of weapons. If people started to kill, it was *"because their father, HABYARIMANA, had been killed"*. The witness also replied to those who accused him of having said that the massacre of Tutsi girls had to be stopped, and then having said that it should be resumed: *"People lie and slander. Let this witness give proof! Barriers in Kabarondo? Not at all. In response to Madam President who asked him what sentence he had been sentenced to: "I was sentenced to a "special" life sentence for having lent my car to people who killed". !!!*

Mr. COURROYE, the attorney general, asked the witness whether there were *Interahamwe* [5] in Kabarondo. Not to his knowledge. Toto and Bienfaiteurs, two brothers, were rather thugs. He added, with regard to the distribution of grenades, that it was his nephew who had given them to the Rubira councillor, Cyprien, who in turn gave them to the burgomaster, who....

A question immediately taken up by Maître MATHE, NGENZI's lawyer: *"This story of grenades is incomprehensible!* The defense lawyer then does not fail to question the witness as to whether he has lost members of his family. *"Nine people, my three children, their wives and my grandchildren. They were shot after the arrival of the RPF. It is RYAKA who is responsible for these executions!"* (NDR: Jovithe RYAKA, civil party, will testify the following day). Maître MATHE made a habit of asking this question to each witness,

to show that the RPF committed numerous summary executions. (NDR: this ideological stance earned him a scathing reaction the following day from Maître LAVAL, lawyer for the CPR. We will come back to this later).

Hearing of Paul NGIRIBANZI.

The witness was one of the people from Gasharu who had been requisitioned by the burgomaster to bury the bodies of the victims. He therefore carried out the sad task with those who accompanied him. He did not forget to mention that the wounded had been finished off and thrown into a pit dug behind the church. While one group was cleaning the churchyard, another group was doing the same work at the Health Centre, on NGENZI's orders.

The president asked whether the gravediggers had been forced to come. "Yes", the witness simply admits. There were about 15 of them per vehicle. The witness again mentioned the attack of 8 April at TITIRI's house, the famous episode involving the goats [4]. The witness said that he heard NGENZI say that the goats should not be killed while their owners were still alive, which was interpreted as an authorization to kill. NDILISHAMANI, RUHUMULIZA's delinquent son, was indeed present. Even if NGENZI did not necessarily give the order to kill, everything in his behaviour incited him to do so. Moreover, "NGENZI was very respected. He could stop the genocide just by forbidding us to kill. According to the witness, while people were killing at the Health Centre, NGENZI was standing very close to the tank, a few metres away. But the orders came from him.

"Were people buried alive?" asked an assessor. "Some, yes, but those who were still breathing were finished off. "Even children?" insisted the FIDH lawyer. "Yes"! And to continue: "NGENZI had the competence to save his constituents. He did not try to save anyone. The witness was sentenced to 9 years in prison by the *Gacaca*.

The public prosecutor will have the witness clarify a certain number of points: NGENZI's remarks considered as incitement to kill, the wounded finished off with machetes or clubs, including women and children... The bodies had to be hidden before the arrival of the RPF... NGENZI's passivity, he did nothing to save anyone... Can the witness swear that he was not asked to "charge" the mayor? Affirmative.

It was the turn of Maître MATHE to question the witness. And to conclude: "*Where did you see NGENZI attend massacres without saying anything? Did he pass by a dead body without saying anything?*"

Embarrassed response from the witness...

Hearing of François NZIGIYIMANA.

The witness said that NGENZI came to the Rubira sector, his home sector, with four vehicles, to pick up men to bury the bodies of the victims of the church attack. According to him, NGENZI wanted to bury the bodies so that the *Inkotanyi* [6] would not find them when they arrived. On the way to Kabarondo, the vehicles stopped to collect shovels and hoes from a CERAI office.

When they arrived in Kabarondo, the burgomaster was said to have separated the people into two groups, one group being responsible for burying the bodies from the church, the other for those from the health centre. The witness was part of the second group and added that a communal policeman accompanied them. He said that when they arrived at the health centre they found bodies, as well as

people injured in the attack on the church. The witness states that among the group, some buried the bodies, while others killed the survivors. The public prosecutor insisted that the survivors must have been screaming when the *Interahamwe* were finishing them off at the health centre and that consequently the communal policeman Manassé, who had remained in the inner courtyard, could hear these screams without interfering. The witness confirmed that despite the screams that he was bound to hear, the policier communal did not oppose the executions.

Generally speaking, regarding the broadcasting of the hate message by the radio at that time, the witness stated that the radio was taking up the position of the national authorities and that in Kabarondo, he did not perceive any opposition from the authorities to this message.

The questions of the defence focused first on the members of the *Interahamwe* group who had gone to the health centre and their involvement in the executions. Finally, Mr MATHE asked the witness if he had lost any family. The latter answered in the affirmative, in the commune of Kayonza: he explained that they had been killed and beaten to death during attacks by members of the RPF.

Hearing of Oscar KAJANAGE, civil party, survivor.

He is a particularly important witness as he is a childhood friend of NGENZI. He explains that in the late 1950s, which was a period of strong segregationism, NGENZI's father killed his father, but that this did not prevent him from having very good contacts with NGENZI. However, he states that NGENZI inherited these segregationist ideas from his father. He also mentioned his good relations with Colonel RWAGAFILITA [1] and gave as proof the fact that when he was appointed burgomaster, they went to celebrate at the Colonel's house to thank him for having helped in his appointment. However, their relations deteriorated in 1990 during the RPF attack. Indeed, NGENZI is said to have come to ask him not to go to his house and to go only to the commune if he needed to talk to him. The witness also stated that from that moment on his wife, who was secretary at the commune, no longer had access to confidential documents. If such a case arose, NGENZI's wife, who worked as a court clerk, was called in.

With regard to the period of the genocide, the witness stated that after 7 April, he saw NGENZI coming and going in the sectors of the commune bringing back people who were fleeing to the church in Kabarondo. However, he stated that he had never seen NGENZI arrest the attackers. He even accused him of having formed and led the *Interahamwe* group called *Abarinda* [3], which came from his home sector. On April 10, the witness learned that his family had died. He then asked NGENZI to go and bury them; he then provided him with mats and money to pay for beer for the people who would bury the bodies, as was the custom. When NGENZI returned, he told the witness that his relatives were already buried when he arrived, but NGENZI said that the witness should not ask him how they had been buried. The implication is that the witness's family members had not been buried decently.

The witness then recounted the day of April 13 and the various attacks on the church, first by the *Interahamwe* and then by the soldiers. He explained that it was NGENZI who brought back some of the *Interahamwe*, particularly the *Simba Bataliani* group [7], and who stopped the soldiers' bus to ask them to massacre the refugees in the church. The witness said that this attack lasted until 4 p.m., when they finally managed to open the doors of the church and bring out the survivors to finish them off. He said that all these attacks were supervised by NGENZI who was standing on the asphalt road. The witness then managed to hide in one of the rooms of the church. When the *Interahamwe* found him there with other

people, he managed to escape by giving them money. He then left for Cyinzovu and remained hidden in a bush until 16 April.

The witness also recounted the massacre of the health centre and the searches carried out in the commune of Kabarondo. In general, on the behaviour of NGENZI the witness states: "*He was not characterised by compassion, by a sense of friendship, but by the will to exterminate the Tutsis*".

When the defence questions arrived, M^e MATHE began with a comment stating that she had not intended to ask this witness any questions as she considered that he was not telling the truth. In the end, she asked him many questions, firstly about the different political parties in Kabarondo and their activities, then about his participation in the *Gacaca* and finally about the contradictions that may have appeared in his various hearings during the proceedings. However, the witness is able to remember relatively well what he saw personally and what he heard during the *Gacaca*.

Hearing of Etienne GAKWAYA

He is the former sector councillor of Rundu. He states that before the genocide he observed a change in NGENZI's behaviour.

During the genocide, he explained that he had managed to keep the RUNDU sector out of the massacres, but that on the 9th an attack arrived from Rubira and that NGENZI intervened to stop it. The next day, people from RUBIRA came to get him and accused him of being in favour of the Tutsis. He said that it was the *Abarinda* group [3], led by RUHUMULIZA Anaclet, that attacked him and that following that, he was replaced as sector counsellor. He stated that he had told these facts to NGENZI, who had done nothing. According to the witness, NGENZI could have at least tried to oppose the massacres or run away like others, but he stayed.

Mr^e MATHE, for the defence, will address the day of the attack between the two sectors, Rubira and Rundu, insisting on the fact that on that day NGENZI separated the attackers and calmed the population. The defence will also ask him about his flight and the reasons why he was imprisoned by the RPF after the genocide when he had protected Tutsis. He then explained that he had indeed been imprisoned for four years, without knowing why, and that he had finally been released because there was no case against him. The hearing was suspended at ... 23:15.

1. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
2. A term that reflects the ethnic radicalisation of some activists in political movements.
3. In NGENZI's sector, this group had taken up the traditional name of "*people who know how to hunt*" and applied it to the hunt for Tutsis.
4. Thieves had seized the cows and goats of a certain TITIRI. According to several witnesses, NGENZI said, "*You eat the goats while their owner is still alive*", thus inciting the massacres that followed. NGENZI asserts that "*these are inventions*", however, the testimonies reporting these remarks multiply throughout the hearings.

5. *Interahamwe: 'Those who work together'*, youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA. *Inkotanyi*: RPF fighter (term used from 1990).
6. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

Ngenzi/Barahira trial Wednesday 15 June 2016. Day 26

- Hearing of Constance MUKABABAZAYIRE, civil party survivor, by video conference from Kigali.
- Hearing of Jovithe RYAKA, survivor and civil party.

Hearing of Constance MUKABABAZAYIRE, civil party survivor, by video conference from Kigali.

The witness is the sister of François NTIRUSHWAMABOKO and she accuses BARAHIRA of having led the attack that killed members of her family. Taking refuge in the church, she claims to have seen the former burgomaster standing in the courtyard while the soldiers were firing. After the door was opened, he reportedly told the soldiers not to waste the bullets but to cut up the refugees. The survivors were then sitting on the ground, as ordered. It was then that a woman by the name of Joséphine MUKAHIGIRO allegedly begged for mercy and that he pushed her, saying that she was Tutsi. He did the same thing with his nephew Christian. She also speaks of the death of Olivier killed by a grenade and points out that NGENZI was standing on the side of the road in conversation with the military while the refugees were sitting in the church yard.

The witness then asked a certain GATABAZI to help her get to the road. She met a man called MIVUMBI who gave up trying to kill her: she just had to die of grief. She then hid in the bush with her daughter who had been shot in the stomach. This child will die at a certain Spéciose's house where she stops. She left the house and went to Moussa BUGINGO, an *Interahamwe* [1]. 1] She was to specify a little later, as this surprised many people, that she had hoped to be killed there. After spending the night at BUGINGO's, she resumed her wandering until she met the *Inkotanyi* [2]. Having forgotten to give details of the hours that preceded her flight to the church, she recalled the death of her brother François, that of MWEREVU, that of two of her nieces... She then reported the words that NGENZI was said to have said the next day in the marketplace: *"Go and kill the Tutsis. No Hutu child should ever ask what a Tutsi looked like"*.

The President questioned the witness fairly quickly about her statement, asking her to clarify certain points: NGENZI's presence during the attack on Kigarama, the names of the police officers who accompanied the burgomaster to the market place, the names of other people present whom she had mentioned during her questioning, the presence of the military.

One of the assessors asks about the current situation in Rwanda. *"People are living in harmony, they have reconciled,"* she says.

Maître GISAGARA, the lawyer for the civil parties, wanted to talk about the death of her children, but she asked him not to question her about it any more: *"Continuing to ask me these questions makes my heart*

heavy. Put in the presence of the two defendants, she bursts into tears and ends up saying that she has lost 65 members of her family.

The hearing ended with two or three questions from the defence, Maître MEILHAC being particularly surprised that the witness had never said that it was BARAHIRA who was responsible for the death of his family. *"I had not mentioned it. I forgot. BARAHIRA was the leader!"* And he added in the direction of the lawyer who was surprised by the numerous discrepancies between what she had told the investigators and what she said in court: *"You want to clear BARAHIRA and NGENZI. Why don't you send them back to Rwanda?"* Maître MEILHAC told her that the French courts had settled the matter. And the witness added, before the president decided to end the hearing: *"I am not the good God who sees all sides. These people live in peace in France, and I have lost my family, whom I will never see again. I don't understand why people can ask me such questions. I am tired."*

Hearing of Jovithe RYAKA, survivor and civil party.

"Testifying today is like reliving the genocide. Put yourself in our shoes. That woman who just spoke is my father's cousin. I am still confused." So begins the witness' testimony.

Mr RYAKA explained the ties that could unite him with NGENZI: his older brother was the burgomaster's godfather and they studied together at primary school. In 1990, during the *Inkotanyi* attack [2], NGENZI pretended to show that he loved the Tutsis. *"As we were returning from Zaza, where we had made a pilgrimage, NGENZI took us into custody for a whole day under the sun. Between 1990 and 1992, the bourgmestre allegedly sent intelligence agents to search the homes of Tutsis. The witness affirms that his own home was searched: he was suspected of holding grenades!"*

The witness, in turn, referred to the episode involving the TITIRI goats [3] and gave his version, which was not very different from that of the other witnesses, particularly with regard to what NGENZI allegedly said. Hiding in the home of an old Hutu with three of his children, he eventually returned home. Then he went to the church where he found his wife and other children. My old father, who was beaten up at the end of the 1950s and remained disabled, took two days to come and join us.

On the evening of 12 April, NGENZI reportedly came to the church and reproached the Tutsis for taking refuge there: *"Why, you Tutsis, have you come here. The cowards are in the church while the brave men are at home. Do you think that Abbé INCIMATATA will be able to help you?"*

On the morning of the 13th, a councillor came to see the parish priest to ask him to ask the men to go to the market place to discuss: in fact, it was to kill them. This is what happened because they were attacked with arrows by the *Interahamwe*. A grenade killed someone and the refugees rushed to the church where the priest asked them to defend themselves. They managed to make the attackers flee. Then the military took over. People jostled each other to get into the church. Many bodies were lying on the ground. Some refugees were screaming, others were praying. The witness was injured in the thigh. Hiding under the pews, they were asked to come out with their hands in the air at about 3 or 4 pm. The witness then managed to flee under fire, crawled into ditches, met other people hiding. They then headed toward Kayonza in the hope of meeting the *Inkotanyi*[2] and escaping a horrible death. The witness testified that he stayed with them until the end of September. Upon his return to Kabarondo, he was elected councillor. Mr RYAKA then spoke about BARAHIRA whom he presented as a fundamentally evil man. And he recounts the episode of the young man whom he had beaten to death by hitting him on the sex and whom he had tied to his car. This is the reason why he was removed from his position as mayor. The witness

also told of another adventure when he was on his way to Kibungo for work in the company of BARAHIRA. He reported the harassment he suffered and the blows he received when crossing the barriers because he had to show his identity card which said "Tutsi". He also recounts another episode: a young girl who accompanied them was stripped naked and the people at the roadblock asked her to walk naked. BARAHIRA is said to have left mocking her. The witness also spoke about the loss of his identity papers. When the assistant burgomaster provided him with a new card marked "Hutu", NGENZI allegedly tore up the document and threw it in the assistant's face. All of this was to show that the hatred of the Tutsis "they had sucked it from their mother's milk". Finally, Mr. RYAKA ended his hearing by referring to the death of his father, which he attributed to the *Abarinda* [4]. "They finished off the people who were still breathing, including my father, whose legs had been cut off and who was saying his rosary... My older brother also died, as did my sister who, discouraged, gave herself up to the executioners. Sitting on the stairs of the Health Centre, a certain NZIGIYIMANA would have thrust a sword between her breasts... We lived a long way of the cross. When I heard the previous testimony, I cried..."

In response to questions from the President, the witness revealed that NGENZI's father, at the end of the 1950s, allegedly killed KAJANAGE's father. He also participated in the genocide and died of illness while in Nsinda prison. The witness acknowledged that he was an RPF sympathiser, that if there had been no *Interahamwe* in Kabarondo, there would have been no genocide, that RWAGAFILITA [5] was very mean ... He mentioned the death of his sister Georgette, whose eyes were allegedly gouged out after she had been undressed ... During the confrontation with NGENZI, NGENZI allegedly did not recognise him. *He thought I was dead*", he confided. If INCIMATATA did not speak of anti-Tutsi behaviour, it is because he was the priest of the Hutus and Tutsis... To say that NGENZI had lost his authority would be a lie. The series of questions ends with the mention of the victims of his family.

Maître MATHE's questions were to cause an incident with the civil parties. The lawyer ironically referred to the "inventions of the French gendarmes", expressed her doubts about the validity of the confrontations, and above all asked the same question of the witness several times. *Excuse me*," said Maître AKORRI, "but it seems to me that we are not in the context of the facts of the OMA. The President agreed, saying that this was becoming excessive and that the same question could not be asked a thousand times. Maître Michel LAVAL then gets out of his skin: "You are in another trial. You are asking untimely questions. You are transforming the executioners into victims. Your approach is not even legal, it is ideological. You are deflecting the debates on the RPF trial. Maître MATHE claims the right to choose the questions she wants: "I intend to ask useful questions. I want to know the degree of credibility of the witnesses. This incident could have occurred much earlier in the trial. Will it be enough to make Maître MATHE change the way he conducts his defence? It is doubtful.

The hearing was suspended at about 2 p.m.

1. *Interahamwe*: 'Those who work together', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. *Inkotanyi*: RPF fighter (term used from 1990).
3. Thieves had seized the cows and goats of a certain TITIRI. According to several witnesses, NGENZI said, "You eat the goats while their owner is still alive", thus inciting the massacres that followed. NGENZI asserts that "these are inventions", however, the testimonies reporting these remarks multiply throughout the hearings.

4. In NGENZI's sector, this group had taken up the traditional name of "*people who know how to hunt*" and applied it to the hunt for Tutsis.
5. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from.

Ngenzi/Barahira trial Thursday 16 June 2016. Day 27

- Interrogation of Tito BARAHIRA.
- Hearing of Marie-Goretti MUKAYIRERA, nurse at the Health Centre (reading - absent).
- Hearing of Jean-Damascène MATABARO, by videoconference.
- Hearing of Jean RWIZIBURIRA, by video conference.
- Hearing of Félicien KAYINGA, 21 years old in 1994. Trader. Appears as a civil party.
- Hearing of Donatille KANGONWA, survivor who is a civil party.

Interrogation of Tito BARAHIRA.

For the accused, things are simple: all the people who implicate him, in any place, are liars. Abbé INCIMATATA, RUTAGUNGIRA and MUVUNYI are lying. He does not know the *Simba Bataliani* [1], has never organised the slightest meeting. Lies... Lies...

Concerning the day of 13 April 1994, the day of the massacres at the church, the same statements: they are lying. The accused said that he had arrived at the church at around 5 p.m. when all the attacks were over. All these lies, in fact, came from the *Gacaca* [2], "*created to pursue the authorities and those who are no longer in the country*". When he arrived at the church site, he tried to find out what had happened by talking to people. He saw NGENZI but had no contact with him. This contradicts what he said before? "That's *why I asked for an interpreter*". What prevented him from doing humanitarian work was the presence of the director of Electrogaz who came to see why there was no electricity. He acknowledges that this episode is "*a terrifying, distressing act*". He was afraid, this fear that "*could be read on people's faces and they had their hands over their mouths, they were crying*".

Several jurors will ask questions but always the same answer: these are lies, he did not see any bodies. However, he added: "*I see that the church is burnt, I see corpses inside*". Maître DECHAUMET, lawyer for the CPR, insists: "*There were many people, I could not see the bodies*". "NGENZI says he did not meet you on the 13th: is he lying? "I saw him, he did not see me. Maître LAVAL tries to remind him that one must help any person in danger, even if he no longer has any authority: "*There were no more wounded, they had all been taken to the Health Centre because the mayor had certainly taken his responsibilities. I accompanied the chief to restore the electricity in order to treat the injured!*"

It was the turn of Maître PADONOU, for the FIDH, to question the accused, in particular as to why BARAHIRA had not yet taken up his post as President of the MRND, although he had been elected in January. It was administrative problems! And the accused again denounced a plot against him and stated that on the church site, nobody was shouting. Maître PADONOU then suggested that the accused had prepared his interrogation well: Maître MEILHAC became angry: "*Are you accusing the lawyer? We will leave it at that.*"

The public prosecutor, as usual, asks a few short questions. "*You are at home: you hear nothing*"? Nothing, no sound of grenades or mortars... If they did not see any bodies when they arrived, it must have happened before or after... There were people crying, but not those who had been hit... " No sound, no image, no electricity " ironically says Mr COURROYE. *No sound, no image, no electricity*", ironizes Mr COURROYE. And to conclude: "*All liars! Don't you think that the biggest liar in this trial is you?*" The accused protests: "*I am not lying, I am not a liar by nature. These people are accusing me because I administered them well.*" The public prosecutor added, however, consulting his watch: "*At 11:30, you have missed an appointment with the truth*"! The accused persists: "*And I tell you that I am not a liar*"! Understand who can!

The floor is given to the defence. Maître MEILHAC returned to what had been said to justify his removal from office as mayor in 1986 (he had allegedly killed someone by attacking his genitals...), the lawyer referring to "*crunchy terms*" used by a civil party: "*These are slanderous statements, to show that I am bad... Just like the episode of the naked woman during a visit to Kibungo [3].*" The lawyer returns to the fear the accused spoke of: "*Are you thinking of your family at that time?*" "*These are hard, frightening things... the people who were hiding for fear of the RPF... sound of bombs towards the park (of Akagera)... Fear gripped me. Back home, I mentioned the question of fleeing. On the 17th we closed the property and left*". Maître MEILHAC did not fail to get his client to say that the electrical repair was indeed a way of helping the injured: "*It was a pleasure to have the electricity back, the injured could be treated*"... Only they could believe it! Especially as other witnesses questioned afterwards will all say that there was never any electricity at the Health Centre during this entire period, neither before nor after the transformer was "*repaired*"! The lawyer then exchanged a few words about his client's exile, justified by this supposed plot initiated primarily by the *Gacaca* [2]. We will leave it at that.

Hearing of Marie-Goretti MUKAYIRERA, nurse at the Health Centre.

As the witness was absent, it was decided to ignore him. The hearings of the Rwandan OPJ and the French gendarmes were read out. NGENZI, their closest neighbour, came to tell her that her husband had died on 14 April. The burgomaster sent for her by soldiers on 17 April. On 18 April, a trainee from the Centre tells her that those who were hiding at UMUTESI's house had died: her daughter had escaped and told her how the burgomaster had trampled on her stomach and how she had been beaten with an electric wire. Her daughter dies afterwards: was she raped? She does not know. Having taken refuge in UMUTESI's house, she preferred to leave, feeling that she was putting her host in danger. She does not know if NGENZI was at the Health Centre on the day of the attack but the police had told her to hide from NGENZI.

Hearing of Jean-Damascène MATABARO, by videoconference.

The witness spoke about the requisition of people from Gasharu to go and bury the bodies of the Kabarondo church. He spoke of the burial of the corpses and then of those who went to finish off the wounded at the health centre, claiming that "*behind all this there was NGENZI*" because it was he who indicated where the survivors were hiding. In the end, they received 5,000 francs as a reward for their work.

Ms. MATHIEU, the Chairperson, questioned the witness about the *Abarinda* [4] and their links with the accused, about the *Simba Bataliani* [1], and about the conditions under which the gravediggers were recruited. For the witness, there were no survivors in the church, all were dead, contrary to what other witnesses had been able to affirm. He saved three people himself. As for the burgomaster, he gave orders. Without these orders, no low-level citizen would have taken the initiative to kill. Concerning the

massacres at the IGA, the witness was not there but he accused CYASA of having killed: moreover, he killed everywhere!

As for BARAHIRA (NDR: who seems to be dozing in his armchair), he was in charge of raising awareness among the people, of propaganda for the MRND. The witness confessed that he had been incarcerated for more than eleven years: convicted by the *Gacaca*, he was eventually cleared. He had pleaded guilty only to be released. A high price to pay, however, if he is telling the truth.

To the public prosecutor, the witness stated that it had been decided to bury the bodies of the victims so that the RPF, which was nearby, would not see them. On 16 April, NGENZI's authority was intact.

Maître MATHE questioned the witness on the nature of the weapons. She regrets, in view of the witness's indecision, that there are no photos in the file. A dialogue of the deaf then followed with questions that did not allow for a better understanding of the situation. On the contrary, all this blurs the clarity of the information. The defence lawyer ended her intervention by asking the witness how many family members he had lost. This has become a means of defence: it allows the witness to emphasise that the RPF, after taking control of the region, carried out massacres. However, the witness will only say that his family members died "*during the war*". To the question of whether there were investigations, the witness answers with another question, a very Rwandan way of speaking: "*Are there investigations during the war?*"

Hearing of Jean RWIZIBURIRA, by video conference.

The witness recalled the attack on the church on 13 April and said that the killers passed by his house, that he heard the sound of weapons. After the church, they said they would come to the houses where there were Tutsis. He decided to make his wife flee. He also mentions the attack on the IGA. NGENZI was there with people from Kibungo. He had invited people to come to a security meeting. He then recounts what happened at the IGA. People were made to sit against a wall. When CYASA took a grenade out of his pocket, people shouted. NGENZI was there with a gun in his right hand. He was wearing a grey suit. Regarding the death of the assistant mayor, CYASA took a gun and shot him: "*The bullet lifted him up and he fell*". The witness then said that he fled as six other people were shot.

Men then came to search his house and found nobody. They then went to RUZINDANA's house, then to Osée KAREKEZI's house and to MUNYANEZA's house. NGENZI and BARAHIRA were involved in this search. "*We followed them to see what they were going to do. My children were not there. I thought they were at their uncle Osée's house.*" The witness hopes that justice will be done and that an impartial judgment will be rendered.

The President questioned the witness who confirmed the presence of the two accused during the searches and specified that these searches had indeed taken place after the attack on the church and not before as he had said to the French gendarmes. The witness did follow the people who were searching the houses. If there were discrepancies about the times of these events, it was because the witness had made an assessment: he had no watch. But he was at his brother-in-law Osée KAREKEZI's house. As to who was in charge, NGENZI or CYASA, the witness replied that if CYASA was there, it was because the Burgomaster had invited him. He did serve six years in prison, but was later cleared. On 13 April, he was at home. He heard the bangs. He added that if BARAHIRA was at home, he must have heard the same sounds of shells or guns.

Maître MEILHAC will inform the Court that his client is not being prosecuted for his participation in the searches, but he is still seeking to know whether the witness testified against BARAHIRA. "Yes, in the CYASA trial". And the lawyer concludes, with a small smile on his face: "When we showed him BARAHIRA during the confrontation, he replied that it was Octavien NGENZI!"

Hearing of Félicien KAYINGA, 21 years old in 1994. Trader. Appears as a civil party.

"The attack took place on 6 April 1994, we heard it on the radio. My whole family was at our grandfather's house. Four members of the Simba Bataliani came. We ran and came face to face with other Interhamawe armed with machetes and clubs. They took us back to the plot. They then took us away, except for our grandparents, while trying to pick up other people as they passed. When they arrived in a wood, the Interhamwe hit my father and said they were going to kill us there. I was very scared. They continued to look for other neighbours and led us to a trading centre. There they sorted us out: the Tutsis had to stay away and people were appointed to watch us. They discussed how they were going to kill us. A former gendarme told us: 'Courage, we will kill you'. They made us sit on the road near a ravine. They started hitting us with machetes and sticks. When they blew a whistle, they stopped. They had to check if we were dead: they hit us on the knees with clubs. Some of them wanted to shoot each of us in the head, but someone said we shouldn't waste bullets. They then left us for dead, locked in a building. I found that I was still alive, but I couldn't get up. I ended up going to the health centre on a man named John's bike. I was the first injured person to arrive at the Centre. The nurses treated me, without anaesthetic: one, out of compassion, gave me a shirt, mine being covered in blood. NGENZI and Abbé INCIMATATA came to the Centre and asked me what had happened. On the 13th, while I was in bed with others, we heard the sound of guns and explosions: it must have been around 9/10 am. We thought that the Centre was also under attack. Around 6pm, some wounded from the church arrived at the Health Centre but none of them could be treated: nothing to eat or drink. Around 17/18 April, we heard people digging behind the Health Centre. Interhamwe from Rundu and Rubira then arrived. They sorted people out and went to kill some of them where they had been digging. When they came back, I saw NGENZI near a tank: he was wearing a grey suit. He asked the killers to go back and kill the Tutsis at the Health Centre: it was necessary to "clean" because of the bad smells. As they grabbed the wounded who were lying on stretchers to kill them, I told them that I was not a Tutsi, that they were going to commit a fratricidal murder if they killed me. I told them that I had already been slashed at Apollinaire. They then left me. When I returned to the Centre, I ended up leaving it to go back home to Bisenga where someone hid me until the RPF arrived.

The Chairperson questioned the witness about his membership in the PL [5], his Tutsi identity, the *Simba Bataliani* [1] and their leader, NGENZI and his membership in the MRND, the tensions arising from the multiparty system and the songs calling for the killing of Tutsis. Ms MATHIEU pointed out to him that there was no electricity at the Health Centre (NDR: even after the "repair" carried out by BARAHIRA!). He heard what NGENZI said, who was about fifteen metres away from him. For him, RUHUMULIZA was indeed a leader. He lost many members of his family. As for his wounds, both physical and emotional, they are gone.

Several jurors will ask him to clarify a few points: the return of electricity, how to live with all these memories? Can we talk about planning? Maître PADONOU asked him to say what after-effects he had from these events: he could no longer see out of his left eye and had to undergo lifelong treatment which was costly. The scar on his neck? He doesn't know if it's a machete or a club.

The public prosecutor makes him say that if he heard the digging before the killings, it means that the genocide was planned. He also wanted to know if the victims were shouting. "*Only the children were screaming*". The victims were pushed into the pit after being hit with a club or a machete by the killers dressed in banana leaves.

Maître MATHE wants to know if the witness was well aware of the time. He then counts on his fingers to mention the date of 17/18 April. For half an hour afterwards, the defence lawyer, faithful to her strategy of prolonging the debates, asked the witness to give details of the places at the time of the genocide.... (Editor's note: this strategy seems to have paid off, since the president announced, the following evening, at the end of the hearings, that the trial would be extended by three days!)

Hearing of Donatille KANGONWA, survivor who is a civil party.

From 7 April, the witness hid in the "*bush*". On 8 April, his house was looted and NGENZI asked all those in hiding to go to the house of a certain Joseph HAVUGIMANA. The next day, the *Simba Bataliani* came and killed her father. She was beaten. The burgomaster reportedly came back and asked that those who were still alive be taken to the health centre. From there, the witness went to the church where NGENZI returned to see them.

She then tells what happened in the church on 13 April. Her testimony is like all the others we have heard before. She spent the night among the dead bodies, having herself been injured in the right leg, left arm and back. The next day she managed to drag herself to the health centre where she received treatment for two days. On the 18th, the killers from Rubira and Rundu returned to execute the survivors. If she was saved, it was because someone said he knew her and that she was not Tutsi. The policeman HABYAKARE spoke to the husband of her little sister and they took her home.

Under questioning by the President, the witness stated that NGENZI did not like the Tutsis. He had had words with his father whom the burgomaster found "*boastful*", arrogant, when he was tending his cows. arrogant", when he was tending his cows. She also spoke about the youth of the MRND and *Simba Bataliani*, whom she had seen in the bourgmestre's car. She also emphasised the role of RWAGAFILITA [6], whose reputation she knew. As to whether NGENZI had asked them to gather at Joseph HAVUGIMANA's house to protect them, she noted that the next day it was the *Simba Bataliani* who arrived! Returning to the situation at the church, the witness recalled that she had been wounded there, that those who had been seriously injured were begging to be killed, that the killers were pricking the wounded to see if they were dead and stealing their clothes. She herself was speared in the back. At the health centre, NGENZI is said to have recovered the stock of medicines and to have forbidden the wounded to be treated. She ended up talking about her life as a survivor and the difficulties she has in surviving.

Further questioning did not provide any additional information that could enlighten the Court. The hearing is suspended: it is almost 11pm. Everyone is exhausted.

1. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

2. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
3. Read the testimony of Jovithe RYAKA, survivor and civil party.
4. In NGENZI's sector, this group had taken up the traditional name of "*people who know how to hunt*" and applied it to the hunt for Tutsis.
5. Liberal Party. The Liberal Party splits in two at the end of 1993: the tendency of its president, Justin MUGENZI, joins *Hutu Power*, the other tendency will be wiped out on 7 April 1994.
6. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from.

Ngenzi/Barahira trial Friday 17 June 2016. Day 28

- Hearing of Emmanuel HABIMANA, alias CYASA, by video conference.
- Hearing of Eugénie MUKABUTERA, by video conference.
- Hearing of Osée KAREKEZI, retired, victim of excavations.
- Hearing of Jacqueline KANSORO, wife of Osée KAREKEZI.

Hearing of Emmanuel HABIMANA, alias CYASA, by video conference.

HABIMANA, alias CYASA had refused to be photographed with other genocide defendants, but admitted to being a leader of the *Interahamwe* (source: [BBC News](#))

According to the witness, NGENZI came to Camp Huye, in Kibungo, to look for soldiers who would have gone to kill in Kabarondo. These soldiers left on board three buses. They returned to the camp after committing their crimes. CYASA also reported that he had the mission to go and look for MURENZI Edouard's dump truck. The witness therefore left with soldiers, including a chief warrant officer appointed by RWAGAFILITA [1]. The truck was to be used to supply soldiers at the front. Since the owner was not at home, the witness went to the IGA, where he met NGENZI. At that time, Tutsis were being taken out of the IGA to be executed against a wall. HABIMANA stated that he had asked for clemency for a person who was being dragged with a rope. NGENZI then allegedly asked for the refugees to be shot: they were shot. They then went to get the truck that RWAGAFILITA had given them.

The Chairperson recalled the witness's personal history: military officer from 1976 to 1990, radio operator, truck driver to help his family, brick and construction material manufacturer, etc. But he was also president of the *Interahamwe* [2] in the Kibungo sector. He claimed that he was forcibly expelled from the MDR [3] by RWAGAFILITA and Emmanuel MUGIRANEZA (burgomaster of Kigarama), who ordered him to leave the MDR or risk being killed, along with his family, by the *Interahamwe* and the death squads. The witness also recalls that he coordinated the youth of two other parties: the PL and the PSD. In exchange for this membership, he had received new tyres for his truck. Although he had not trained any *Interahamwe* himself, he acknowledged that these young people had military equipment (a statement that contradicted what he had said in the context of the trial of two traders from Kibungo, in Belgium). He then spoke at length about a meeting that was said to have taken place on 1^{er} April (the date

has changed!) and in which many authorities, including NGENZI, participated. It was a certain RWAGATORE who initiated the meeting. He said: "*We have a war imposed by the Inkotanyi. We are going to be killed by the Tutsis. Tell the people that they must defend themselves... From now on, when a Hutu dies, know that he was killed by a Tutsi. Before you bury him, kill all the neighbouring Tutsis.*" All the personalities present knew the purpose of this meeting: to prepare the genocide. From that day on, the Tutsis were forbidden to talk to each other in pairs or groups of three, an instruction issued by the Burgomaster of Birenga and the Commissariat General. Another meeting on 19 April aimed to dismiss the prefect RUZINDANA, who was considered an accomplice of the RPF: he was killed during the genocide. If he knew that NGENZI had come to collect soldiers on 13 April, it was because he himself had received instructions to report to Camp Huye every day. So he was there when NGENZI came. Three buses left with soldiers on board: their number had been chosen according to the needs assessed by NGENZI. Referring to his presence at the IGA, he stated that he had arrived when the massacres had already begun, under the direction of NGENZI. He reported the course of events as other witnesses had done, with the difference that he said he had not been involved in the massacres.

The witness is then questioned about the searches carried out at the home of Mediatrice UMUTESI, a neighbour of the mayor. He was not aware of this. Another meeting was reportedly held on 20 April in Kibungo. All the people, including the burgomasters, were fleeing the RPF advance. NGENZI was there, armed. The witness acknowledged that he had been sentenced to life imprisonment for having led the *Interahamwe*. The President asked him if he was aware of his testimony that day: he was formal in his statements.

When questioned by several jurors, the witness said that he did not share the ideas of RWAGAFILITA and that he did not accept the hatred that the MRND had towards the Tutsis, a hatred that had existed since the end of the 1960s.

Regarding the meeting, if witnesses changed the date, it was to '*derail the testimonies*', so that the genocide would not be discussed. To be a bourgmestre, one had to be 100% in favour of the MRND party's directives. The bourgmestre was responsible for the security of all the people in his commune. "*Ask NGENZI if he saved 5 Tutsis*". For the witness, the meeting of 1^{er} April is crucial. During this meeting, the following words were heard: "*From now on, let's separate the Tutsis*", said a deputy, Sylvain MUTABARUMA. *He was in hiding. NGENZI was therefore working directly with the military.* NGENZI wanted to exterminate the Tutsis in his commune, with the help of the military and the *Interahamwe*. He was never overwhelmed or dispossessed of his powers. If he went to look for the military it was because, alone with his policemen, he could not kill the Tutsis: "*The genocide was planned, committed by the military and civilians, with the help of the authorities*".

To the question of Maître MATHE who summarised his trip from Kabarondo to look for a truck and to ask for a pardon for a Tutsi, the witness took offence: "*I saved more than three hundred Tutsis*". She was surprised that the witness had been sentenced to death when he had pleaded guilty! She was equally surprised that he had been chosen, in prison, as coordinator of the *Gacaca*. Finally, she returned at length to the date of the meeting, to which the witness returned several times. The witness insisted that the meeting had indeed taken place on 1 April 1994. Considering him a liar, the lawyer understood that his testimony was not retained in the GATETE trial, the mayor of Murambi, in Arusha. If he changed the date,

it was undoubtedly to charge Prosper MUGIRANEZA (NDR: sentenced to thirty years in prison in first instance and acquitted on appeal).

Hearing of Eugénie MUKABUTERA, by video conference.

The witness has nothing special to say about the accused. The chairperson decided to ask her questions. Ms. MUKABUTERA worked as a training officer in the field of nutrition in Kabarondo. She is a cousin of BARAHIRA. On 13 April, she saw people dancing and they arrived around 8 a.m. Around midday, soldiers arrived from Kibungo. Other soldiers came by bus around 2 p.m. The witness heard the sound of explosions from his house, below the road. In 1994, the *Interahamwe* had become stronger than NGENZI. The president asked the witness about the wound the burgomaster had received: "*After the attack on the IGA, he had a fresh wound that was bleeding.* People said that it was the *Interahamwe* who had inflicted it on him.

The public prosecutor pointed out to the witness that a DHL slip in her name had been found at the home of the accused BARAHIRA! "*BARAHIRA asked me for news of the family, of his property, of his houses,*" she said, even though she was not the one managing his affairs.

It was Maître MATHE's turn to question him. NGENZI, as an employer, was gentle, he listened to everyone, made no difference between Hutu and Tutsi, did not change his behaviour since 1990. The witness met the bourgmestre on the road to exile, at the border with Tanzania, where they all entered at the same time.

Hearing of Osée KAREKEZI, retired, victim of excavations.

The witness stated that, in April 1994, NGENZI and BARAHIRA came to his home with *Interahamwe* [2]. They were accompanied by soldiers. The *Interahamwe* entered the house to see whether the owner was hiding Tutsi. NGENZI, pistol at his side, had remained outside in the backyard. Having found no one, the *Interahamwes* came out with a case of Primus: everyone had a drink. Two soldiers called KAREKEZI to the back of the house and asked him for money. The witness gave them 20,000 francs to avoid being killed. NGENZI was indeed the leader of this attack, BARAHIRA being the leader of the *Interahamwe*.

The Chair questions him. The witness has known NGENZI for a very long time. He recalled the bourgmestre's background. In 1973, when the latter had been expelled from school for having been mistaken for a Tutsi, it was he who had found a place for him. This exclusion only lasted two or three days. He had obtained free school fees for him. He knew NGENZI's family well and it is very likely that RWAGAFILITA [1] intervened in his appointment as mayor. The burgomaster's behaviour had changed since the attack of 6 April. When he came to his house, he was red-eyed, angry and reproached him for his absence at the church and at the IGA. The witness considered the burgomaster to be the "*supreme leader*", and it was he who gave the order to leave. He also confirmed that he was carrying a handgun on his hip. As for BARAHIRA, he was not armed.

The public prosecutor wants to know if NGENZI was threatened that day! "*Not at all,*" the witness replied. The witness replied the witness. The burgomaster was in complete agreement with what was happening. He was not under the orders of the military. NGENZI was looking for our daughter Claire who liked to sing the songs of Cécile KAYIREBWA, an exile. This was enough to make her be taken for an accomplice. Mr KAREKEZI confirms that he felt a great disappointment that day, a feeling of betrayal to see NGENZI arrive with the military and the *Interahamwe*, who considered him to be his "*father*". The witness was doubly suspicious:

an opponent of the MRND and married to a Tutsi. "Was NGENZI an opportunist?" asked Mr COURROYE. "Yes, he had no more human feeling, he was very intelligent, played a double game" said the witness. It was Maître MATHE's turn to ask questions and to ask the witness for details of his home surrounded by cypress and euphorbia. When the people arrived, he was in his room. It was their daughter Géraldine who cried out: "We are under attack". NGENZI went to the back, on the kitchen side, while BARAHIRA remained in the courtyard, in front. And Maître MATHE pointed out to the witness that what he was saying was very important, that the Court was going to judge him and, appealing to emotional blackmail, that his client "had the impression of having lost a father". The witness replies that he is talking about what he saw: "The way he behaved, it was not a way of defending my family... I had all the characteristics of those they were looking for". I had all the characteristics of those they were looking for". "His fate depends on you, I am looking at all the ambiguities in your statements", the lawyer added. And to read her statement to the examining magistrate. Maître AKORRI, Survie's lawyer, asked that the statement be reread in its entirety so that there would be no confusion. "I try to avoid reading the whole statement, I try to see the positive side of the human being". "But the devil exists", intervenes Maître LAVAL. And Maître MATHE asks a question already put by the president who is getting impatient: "If we ask the questions that I have already asked, we will not get out of this".

Maître MEILHAC, while recalling that his client was not concerned by these facts, quickly questioned the witness who said he had not been able to observe BARAHIRA properly.

Hearing of Jacqueline KANSORO, wife of Osée KAREKEZI.

Octavien NGENZI came well in the "hunt" of his family. They turned the house upside down. The burgomaster came and sat next to him at the back of the house. Two *Interahamwe* [2] accompanied him, one armed with a bow, the other with a hammer. They drank the beer found in the house and demanded our daughter Claire, whom they accused of having "joined the Inkotanyi" [4]. She told them that she was in Kigali, at her maternal uncle's house. She had in fact been wounded on 8 April. Having found nothing, they left. They told her that Tito BARAHIRA was there, but he did not enter the courtyard.

To the Chair, the witness said that NGENZI was 'like their child', her husband having helped him with his schooling. She was surprised to see the burgomaster at their home. He had red eyes and messy hair: "I was afraid, I didn't dare look at him", Mrs KANSORO admitted. It was indeed him who was the leader of the group, even if she did not hear him give any orders.

To the public prosecutor, the witness confessed: "If they had found our daughter Claire, they would have killed her". Mr COURROYE added: "It was your 'son' who led the assailants! You were very disappointed"? She was surprised, indeed, she was afraid.

Maître MATHE: "NGENZI says he followed the group to protect you"! The witness contests. She and her husband did not leave Rwanda when the RPF arrived. They lived in a camp before returning home in September. Her husband was detained for five years before being found innocent! She, who stayed at home, could only suffer. And when her husband was released, it was a relief. And Maître MATHE concluded: "For your sake, I will stop asking questions".

The hearing of NGENZI's wife was scheduled, but no explanation was given for her absence.

The Chairperson then proposed to dispense with the hearing of Penina KAREKEZI. Her statement is read out. NGENZI came to search her house, threatening her with a gun. She did not see him again until Benako, where he was in charge of food distribution in the camp.

The day ended with the reading of short extracts from a document authenticated by Jean KAMBANDA and dating from before 1994: "Organisation of Civil Self-Defence".

Ms MATHIEU announces that the trial will be extended by three days, with deliberation scheduled for Wednesday 6 July. This postponement obviously does not please anyone.

1. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from.
2. *Interahamwe*: 'Those who work together', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
3. Mouvement Démocratique Républicain, it was created in July 1991 and is the heir of the Parmehutu of former president KAYIBANDA. Following the signing of the Arusha Accords, it split into two tendencies, one of which was 'Hutu Power'. Jean KAMBANDA, a member of the party, became Prime Minister of the interim government on 8 April 1994.
4. *Inkotanyi*: RPF fighter (term used from 1990).

Ngenzi/Barahira trial Monday 20 June 2016. Day 29

- Hearing of Géraldine UWAMAHORO, daughter of Osée KAREKEZI and Jacqueline KANSORO.
- Hearing of Odette KAMPIRE, wife of Mayor MPAMBARA.

Hearing of Géraldine UWAMAHORO, daughter of Osée KAREKEZI and Jacqueline KANSORO.

After saying that NGENZI was an authority who "*had the power to put an end to the genocide*", the witness recounts that she saw the burgomaster "*eye to eye*", on a date she cannot name, participating in a search of her parents' house. on a date that she cannot specify, participate in a search of her parents' house.

NGENZI was said to have brought *Interahamwe* [1] in his car, a pick-up truck. Alerted by the noise, the witness went to look out the window to see what was going on: she was very afraid. As she went to make sure that the back gate was closed, she came face to face with a man carrying a gun. He asked her for her identity card. Many people arrived and surrounded the house. They went in to see if anyone was hiding there. The *Interahamwe* asked him many questions and NGENZI wanted to know where their older sister (Claire) was. The witness replied that she had gone to their grandmother's house. "*It is nothing, she will die there*", the burgomaster reportedly replied. Someone else asked why they did not see MACUMU, a friend of his sister. The people who had come to search continued to walk around and then left, saying they would come back later.

The President then moved on to the questioning. The witness had indeed been made aware of the massacres at the church, although she lived a little way away. But she could not specify the date of NGENZI's visit. She recognised the *Interahamwe* by the weapons they carried, NGENZI himself being in

possession of a pistol. NGENZI asked where his older sister was: "*If we had found her, we would have killed her. It's not serious, she will die there*". The witness confirms what the mayor said.

As to why Claire was wanted, it was probably because they were also looking for her good friend MACUMU and because she liked the songs of Cécile KAYIREBWA and Annunciata KAMALISA, both of whom were considered to be RPF accomplices. The witness (NDR: who was 14 years old at the time of the events) vaguely knew the mayor. But while he was used to being well dressed, on that day he had messy hair and was not very neatly dressed. Whether NGENZI was at ease, whether he was a leader or a submissive, it was difficult to say, as the witness recalled that she was very afraid and did not look around.

Maître MATHE returned to the configuration of the witness's house, wanted to know if the witness was with his parents, if there were any soldiers. So many questions that did not provide very enlightening answers. BARAHIRA, she knew him but did not see him.

Hearing of Odette KAMPIRE, wife of Mayor MPAMBARA.

Mrs. KAMPIRE begins by rejoicing at being able to tell a truth that she could not tell in her country 15 years ago, when she was incarcerated. The witness quickly recounts how, when the fighting had resumed in April 1994, she was forced to flee Rwanda: her husband took her to his sister's house, then to NGENZI's, before leaving for Kibungo, without spending the night there. She spent two weeks in Mbare, Rusumo, before entering Tanzania on 28 April. After a long stay in Benako camp (300,000 people) she was forced to return to Rwanda where she was thrown into prison. Released after 4 years of incarceration, she will flee and end up in Mayotte where NGENZI will join her. It is in 2008 that she will be able to join the metropolis. She knew the mayor of Kabarondo well: "*He was a good man, a peacemaker, a mediator, who loved everyone, a loving family man*". In detention, she learned from her fellow prisoners that NGENZI was appreciated, that he behaved well but that he was overwhelmed. He was "*impotent*", they reportedly told her.

Ms MATHIEU, the President, will proceed to questions that will enable the witness to be more precise in a timetable that is not very clear. She reiterated that she had gone to NGENZI's house on the evening of the 12th and that her husband had come to look for her on the 13th in the late morning. They would have gone to the home of friends who lived between Kabarondo and Kayonza, to take the road back to Kibungo the following day. At the bourgmestre's house, there was no one there but her and her children.

The president then read her husband's statements to the ICTR, recounting that on 14 April, it was his wife who came to join him in Rukara after having borrowed a vehicle from NGENZI! This version of the facts does not correspond at all to the witness' statements. Mrs. KAMPIRE said: "*I give you my personal testimony. The testimony of my husband at the ICTR, I do not know. I am telling you **my** truth*". She went on to say that she heard a bang around 9am and that her husband came to pick her up around 11am. As for her, she saw NGENZI on the evening of the 12th, but she went to bed around 7pm. She did not see the mayor again until they had fled to Tanzania after the border. He had a head wound: he had been hit after being accused of being an accomplice of the RPF! He added that at Benako camp the two former burgomasters had no authority or responsibility, except when the UNHCR (High Commission for Refugees) or the Tanzanian authorities asked them to distribute food. In Mayotte, when the witness

wanted to "joke", she called the mayor of Kabarondo OMAR! Jean-Marie Vianney NTAGANIRA [2]? She heard that name but did not know more. Returning to her imprisonment on her return to Rwanda, she justified it by the fact that she had to "pay what her husband should have paid", since he had not wanted to follow her but had preferred to flee: "He was lucky! She was exonerated in 2001, but when she learned that she was to be arrested again, she left.

Maître GISAGARA will try to find out more about the circumstances of her flight. After having said that she had crossed the border clandestinely, she went back on her words, saying that it was her children who had crossed in this way but that she was in possession of a pass. When questioned about her escape in 1994, she admitted having passed through a barrier manned by civilians. As for the massacres at the church on 13 April, it is her husband who will tell her about them when they are in Tanzania!

It was the Advocate General's turn to bully the witness. Heard on 3 February 2014 by the judge, Ms. KAMPIRE had said that she stayed at NGENZI's house from 10 to 13 April, while giving very precise details of her stay: she saw the mayor "regularly". Lies? Mr COURROYE insisted: "On 13 April there were nearly 3,000 dead in the church; when you left at around 11 a.m., there were already many victims, and you had heard nothing? The witness confirmed and added that her husband had come to fetch her to leave for Kayonza. The public prosecutor reminded her of what her husband had said about being warned by soldiers at the petrol station that they were about to attack the church. "Is this credible? Continuing her questioning: "Your husband, who is being prosecuted by the ICTR, gives a precise timetable, without saying that he came to look for you on the 12th!" The witness cannot answer. *I am going to help you,*" continued the public prosecutor. *Is it not because in 2006 NGENZI was not prosecuted? Which is the right truth, the one of 3 February 2014 before the judge or the one of 20 June 2016 before the Court? And to conclude: "The truth of the family is variable geometry", referring to the lies of Mr MPAMBARA before the Court of Assize.* To give more weight to the witness's statements concerning her departure from NGENZI's house on 13 April with her husband, Maître MATHE took the floor in turn: "In the context of Rwanda, is it possible that you borrowed a vehicle from the burgomaster and that you drove away? Ms. KAMPIRE's response, which is to take advantage of the opportunity offered to her by the defence: "I did not even have a driving licence. And then, it was impossible for me to borrow a vehicle from NGENZI.

The hearing will end with two final questions: "Did your husband tell you that he was put in trouble before this Court? They barely mentioned it! "Do you have family in Rwanda? She only has one sister left who had taken refuge in Zaire, the others are dead including her mother, killed by the RPF. Maître MATHE, once again, got the answer she was waiting for about the RPF massacres!

The hearing was suspended shortly after midday.

1. *Interahamwe: "Those who work together", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.*
2. This was the pseudonym under which Octavien NGENZI hid his true identity in Mayotte. He had first called himself OMAR at the Benako camp, on the occasion of a conversion to Islam (see the testimonies of Madame ROSSINES, personality investigator and Jean MPAMBARA who confirms, as well as the presentation of Octavien Ngenzi in the section "*The persons prosecuted*")

Ngenzi/Barahira trial Tuesday 21 June 2016. Day 30

- Hearing of the first anonymous witness X by video conference.
- Hearing of the second witness X, husband of the previous witness.
- Hearing of Gérard NSHIRIZUNGU, neighbour of the couple. By videoconference.
- Hearing of Moïse DUSENGIMANA, cowherd, cousin of BARAHIRA.
- Hearing of Mediator UMUTESI, civil party.

The day began with the announcement that Madame MATHIEU, President of the Court of Assizes, had withdrawn from the case. She had to go to the bedside of her husband, who was seriously ill. The first assessor, Mr DUCHEMIN, made the announcement and was called upon, by right, to replace the president. On behalf of all the lawyers, Mr LAVAL said he was "*deeply saddened*" by this news and offered his best thoughts to Mrs MATHIEU. There is no objection from a legal point of view. The trial will therefore continue.

Hearing of the first anonymous witness X by video conference.

However, the chairperson ensures that the identity of the witness has been verified.

The witness began by saying that Mr NGENZI had come to her house in the evening and had found her taking a shower. He was carrying a pistol and the person accompanying him had a grenade. She was to say a little later that the Burgomaster was outside and spoke to her through her bedroom window. The "visitors" asked her for the keys to the house but she did not find them immediately. After entering, they searched the house and found one of her sisters. Everyone then went outside and they went to the top of the house. The one with the grenade said they should be shot. One of the assailants argued that they should not be killed because they had a soldier in the family and that they could take revenge. NGENZI allegedly made him swear that he would never again give birth to anything but Hutu children. The witness then walked away and saw her sister being killed before hiding in the bush.

The president recalled what the witness had said during his hearing and asked questions to this Tutsi woman married to a Hutu. The killers were mixed with people who were fleeing the RPF advance. It was NGENZI who led the group, even though she recognised two *Interahamwe* [1], BIENFAITEUR and TURATSINZE. At home, there was only her sister who had returned from the church after the attack. She requested anonymity because she fears the consequences of her statements. When interviewed on 15 November 2012, she acknowledged that she had spoken about NGENZI in the *Gacaca* [2], but "*he was not yet arrested and no one thought he would be*". The bourgmestre did carry "*a small rifle that we call a pistol*". When asked if her husband was involved in the murder, she replies that she does not know. "*My sister left two children. I would like to know if the court could determine reparation for these children and for myself.*" she says.

As usual, the public prosecutor asked a series of questions that forced the witness to give details: the attack took place at around 3 or 4 pm, there were many *Interahamwe* who had come to look for Tutsis and who knew that she was a Tutsi, the visit lasted about forty minutes, NGENZI did not save his relatives,

his sister's husband and their children were also killed. Some questions will also undermine the anonymity she claimed...

Ms MATHE, revealing that during the confrontation Mr NGENZI had called her husband by his name, "*only the jurors and the public do not know your husband! 'Everyone knows that she is heard from Paris'*".

Hearing of the second witness X, husband of the previous witness.

The witness began by saying that NGENZI came to his house during a major attack. There were many people from Byumba and Kayonza who were fleeing the war and who had set up camp in a small wood that the witness owned. When the attackers arrived, the witness was not there: he had gone to buy sugar. He declared that he had left *'someone'* at home and refused to acknowledge that it was his sister-in-law until the end. When WELCOME said "*Execute*", the person who had taken refuge in his house had said "*I'll do it*". The person who had taken refuge in his house had been killed. He had been ordered to kill her himself, but he could not bring himself to do it. The sword was ripped out of his hand, which caused a wound in his finger. It was TURATSINZE who was said to have finished the "*work*". After which NGENZI was said to have given the signal to leave.

The witness was subjected to a series of questions that did not remove all the ambiguities in his statement. The attack by the *Interahamwe* [1] was indeed directed by NGENZI and BIENFAITEUR. However, the President pointed out to him, NGENZI accused you of having killed your sister-in-law yourself? "*He is lying. NGENZI was himself present. He was the leader of this homicide. He wants to get rid of his own responsibility*". He added that he was arrested on his return from a trip: the gendarmes showed him a list of genocidaires: the name of his sister-in-law's killer was on this list. His own?... The president ended up making him say that the trip he was talking about was the stay he made in Tanzania after his escape... He was cleared by the *Gacaca* [2]. Why did he request anonymity? "*As the years go by, tensions rise with the NGENZI family!*" The witness's words are always cryptic!

The public prosecutor seeks to know whether NGENZI had not been involved in a case of embezzlement. "*It was said but there was no investigation*". NGENZI was indeed at the head of the killers who had come to kill the Tutsis? The witness confirms: the mayor was indeed the supervisor. He even ordered him to bury the victim using "*words that designate things of little value*". This is what he told the gendarmes on 10 October 2012!

Maître MATHE in turn wishes to have clarification on the role of the witness who is somewhat dodging the questions. "*You don't like to answer questions that deviate from the pre-established pattern*" said the lawyer! And when faced with the witness's answer, she ironically said: "*As for the riddles, we'll see later*". And she tried to find out if her sister-in-law had been tied up before she was killed. She did not get an answer. She ends with: "*Did you hit your sister-in-law?*" The witness answers in the negative. We will leave it at that.

Hearing of Gérard NSHIRIZUNGU, neighbour of the couple. By videoconference.

NGENZI arrived in a car with people, some of whom were armed. It was the red Stout communal car. They entered the house, shook the doors and found the person hiding there. NGENZI gave the order to kill her. One of the attackers did not succeed in killing her, he even injured himself. The burgomaster ordered that the knife that had been stuck in her throat be taken away. "*They laid her on the ground, dead, and then left to carry out the 'work' elsewhere, as you know,*" the witness added. The deceased was buried immediately: "*We stood there, saddened*".

Mr DUCHEMIN recalled that the witness was 15 years old at the time of the events. The witness was in the living room that day. He used to come to his neighbours' house every day. From where he was, he could see the road and said that NGENZI was carrying a pistol and BIENFAITEUR a grenade. He said that he had taken one of the couple's children to safety but was lost in his explanations. When he returned, the sister-in-law was not completely dead, she was dying. It was TURATSINZE who finished her off. "*Was she buried alive?*" the president asks. "*Still a little alive, if you look closely!*"

The public prosecutor was surprised that the witness had been able to leave for 30 minutes to take the couple's child nearby. He did not get a satisfactory answer.

As for Maître MATHE, no matter how hard she tried to ask the same questions several times, she did not get a credible answer either. She asked the witness why there was so much difference between his previous statements and his testimony today: no explanation. When the witness admitted to the lawyer that the gendarmes had written things that he had not said, she reassured him, ironically: "*Don't worry, they do that all the time.*"

Hearing of Moïse DUSENGIMANA, cowherd, cousin of BARAHIRA.

The witness was at a neighbour's house on the day of the attack. And he gave the names of the most famous killers. They arrived and found the owner, took her out of the house. NGENZI pointed a gun at the woman's nose and made her swear an oath: "*From today, you agree to abandon the name of Tutsi and become a Hutu, and to collaborate with the Hutus.*" They then took his sister out: "*What are we going to do with this person?*" asked BARALINGWA. NGENZI wanted to make her take the same oath, but the *Interahamwe* [1] objected: "*The Inkotanyi [3] who are coming and are going to take Rusumo will not spare anyone. Kill her!*" It was TURATSINZE who shot an arrow in his neck. Moussa BUGINGO will ask to be buried immediately.

He reminded the President that NGENZI was carrying a pistol. If the owner had not taken an oath, they would have killed her. Her husband was indeed asked to kill his sister-in-law but he was injured. NGENZI did not seem particularly disturbed but he could not really oppose the *Interahamwe*! In any case, he did nothing in favour of the victim, even though he is the burgomaster and therefore in charge.

During the questions he put to the witness, the public prosecutor insisted that NGENZI was guilty, at least for having been present!

Maître MATHE will seize the opportunity: "*I am not going to try to make the witness say what I think. The witness is not made for that!*" All the work of the defence lawyer will consist of putting the witness in contradiction with the other witnesses, even in contradiction with his own previous statements. As for the witness who accused him in *Gacaca* [2] of having participated in the murder of his sister-in-law, he is lying! "*I was cleared. This witness told lies.*"

Hearing of Mediator UMUTESI, civil party.

The witness began his testimony with a historical review, describing the situation from October 1990, the date of the RPF attack. It was from this moment that "*some Hutus, especially those in authority, began to attack the Tutsis*". This was manifested by the arrest of all those who were considered to be accomplices

of the *Inkotanyi* [3]. *"The Tutsis never knew peace in their country again, just like the Hutus who opposed the massacres.*

Turning to her personal case, the witness referred to searches that had been carried out at her home, which was considered an accomplice. NGENZI had come to her house in the company of soldiers who had searched the house. All they had to do was find a letter from her brother who was in Kenya to make her suspicious. She was then kicked in the back. NGENZI pretended to defend her, but *"it was underhandedness"*, adds the witness. And yet they were friends! But this friendship was not sincere. Before, their children played with those of the burgomaster, they went to see the television at his house... but then things changed: *"Your children must not come back, these relations must stop"*, NGENZI is said to have told Mrs UMUTESI's husband.

With the multiparty system, my husband found himself in an opposition party and opposed the MRND. *"He did not support this dictatorship.* The authorities sent the youth of their party against them. Even if NGENZI attended her husband's funeral in 1993, this did not mean that he appreciated him: *"In Rwanda, even when your enemy dies, you go to the funeral"*.

In April 1994, we arrive at the *"heart of the genocide"*. The witness lives in a communal house next to NGENZI's house. As soon as the attack on President HABYARIMANA was launched, the young people of the MRND and the CDR began to kill Tutsis. After the attack on the church, the survivors came to take refuge at her house because she lived nearby. If the witness has forgotten certain dates, it is because the Tutsis considered themselves dead. And then, *"we didn't know that justice was going to question us, we didn't know that someone was going to plead our case."*

The evening of 17 April arrived. NGENZI and soldiers surrounded the witness's house. The burgomaster entered with Captain Théophile TWAGIRAMUNGU, who would be tried for the people they had taken from the witness's house. A soldier asked her if she was hiding *Inyenzi* [4] in her house. She was very afraid. NGENZI was there, dressed in jeans, with a gun in one hand and a cigarette in the other. She begged the burgomaster, who spat at her, telling her that she would not be killed, that he himself was hiding Tutsis. The soldiers turned the house upside down, stabbed everywhere, broke open the cupboard and the television that they had finally bought. Mrs UMUTESI had learned from her driver Vianney MUNYANGAJU that an attack was being prepared against her home: he had learned about it at RUHUMULIZA's bar. The latter had already killed his little sister. He is said to have said: *"If I do not kill this woman of David, she will avenge her sister"*.

And they did come the next day, as planned. NGENZI had just told her that he had handed over the children of MURENZI that he was hiding at his home. She was scolded: *"You, woman, you are hiding Inyenzi when you are one!* On 6 April, the witness had withdrawn 1 million francs from the bank to pay his workers. BIENFAITEUR had come earlier to offer to have identity cards made for him with the mention Hutu, but he had not returned. He then realised that there were many Tutsis in the house.

Returning to 17 April, a soldier threatened her with a gun and asked her for money. Having given it to her without counting it, she remained hidden behind a door while the other refugees were loaded into the commune's red van. MURENZI's children were there too. She had taken care to leave her children with the maid who usually looked after them. She did not want to die at the same time as them. The soldiers were in a white MINAGRI Hilux (editor's note: Ministry of Agriculture). They were all transported to the Birenga commune office where they were executed. She would learn this the next morning when Gorette, a nurse, returned from the scene of the massacre with two soldiers, including the one she had given

money to. She also learned, again from this soldier, that the burgomaster had been taken home during the night. The soldier interceded on her behalf, saying that she '*would be killed by others*'. Madame UMUTESI left alone until the arrival of the *Inkotanyi* [3] who took Kibungo.

The President simply asked a question as to whether the witness had seen BARAHIRA. She answered in the negative, while specifying that he was the President of the MRND. Further questions were postponed until the following day.

1. *Interahamwe*: "*Those who work together*", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
3. *Inkotanyi*: RPF fighter (term used from 1990).
4. *Inyenzi*: Cockroach in Kinyarwanda, the name by which Tutsis were referred to in racist propaganda.

Ngenzi/Barahira trial Wednesday 22 June 2016. Day 31

Hearing of Mediator UMUTESI, civil party (continued).

The morning will be entirely devoted to questions to be put to the witness who gave his spontaneous testimony the day before.

The President recalled that the witness had been heard many times. She only arrived in Kabarondo in November 1985 and therefore did not really know BARAHIRA as burgomaster, although her husband had been her friend. She also knew NGENZI, although not intimately: "*We saw each other but there was the respect due to his rank. From 1990 onwards, he showed us that he no longer trusted us.*"

The witness was then asked to talk about the various searches she had been subjected to. Her husband being the president of the PL (Liberal Party) for the commune, they were particularly targeted, especially with the multi-party system. Other families were also victims of these searches, including MURENZI, a friend of KAJEGUHAKWA, the owner of the service station, who was accused of financing the *Inkotanyi* [1] and recruiting people for the RPF. The family of KAJANAGE, a friend of the family, was subjected to the same abuse. As for RWAGAFILITA, he was a powerful man, "*the government spokesperson in Kibungo*" [2]. BARAHIRA, despite his reputation as a violent man, was the godfather of two of the witness's children. This surprised Maître MEILHAC when the latter was called upon to speak. This is due to the fact that the ex-bourgmestre had been seeing a lot of David, the husband of Médiatrice. Rwandan politics and culture require.

On 13 April 1994, after the massacre in the church, a number of survivors took refuge in the witness's house, which was nearby. People rushed into her house and closed the door. From her house she had heard screams and cries, sounds of explosions. It was mostly women and children who were there. The noises will stop as night falls.

It was on the 17th that the searches took place at the home of Médiatrice UMUTESI. It was their worker, a Hutu from the north, who was supplying them. The day before, BIENFAITEUR had come to see her and to ask her for money in exchange for which he promised to provide her with identity cards marked "Hutu". He will not come back. Probably he also came to make sure that there were Tutsis in the house!

The next day, Jean-Marie Vianney MUNYANGAJU, their driver and her husband's employee, warned her that a meeting had been held at the home of a certain Vedaste: they were going to come and take people from David's house (Mediatrice's husband) and kill them. NSABIMANA, who had already killed his little sister and stolen her car, was to kill the witness as well for fear that she would want to take revenge. MUNYANGAJU asked them to get organised and told him that he was ready to help them. We would learn later, when it was Master de MATHE's turn to question the witness, that this MUNYANGAJU, her husband's cousin, would be elected as a member of parliament for PL Pawa [3].

Mediatrice UMUTESI will be asked to recount the evening of 17 April. NGENZI did come to her house in the company of Captain Théophile TWAGIRAMUNGU who pointed his gun at her. The witness rushed to the mayor to ask him to save her. The latter told her with contempt that she had nothing to fear because he too had hidden Tutsis, the children of MURENZI, and that he had been allowed to live.

The soldiers brought out the people who were hiding, but one of them kept the witness in his room: he promised to save her if she agreed to give him money. She gave him the money she had withdrawn from the bank on 6 April to pay her workers. This is how she will be saved. When asked how many soldiers there were, she replied: "*Do you count before death?* Not sure if the translation was this one by the way! NGENZI was not afraid, the witness said. It was he who had brought the soldiers to his home. He was not under their authority. Nobody would have died if he had intervened. The president then asked her about the victims of her family: while listing their names, she began to cry. Maître MATHE, with delicacy, made her specify, insofar as she was not from the region, that only two or three members of her family would be killed in Kabarondo! Was this a way of minimising the testimony and reducing the responsibility of his client? This is how it sounds.

Before the other parties asked her questions, Mediator UMUTESI said: "*I thank the justice system because what happened to us was very distressing. We wanted someone to hear us as people who should be restored to their rights.* She hopes that compensation will be paid to the widows and orphans and that justice will see where the truth lies.

As for the life of Rwandans since the genocide, the witness said that the authorities teach people to be all Rwandans: neither Hutu nor Tutsi. At school, for example, it was out of the question to be deprived of continuing one's studies for ethnic reasons.

Maître DECHAUMET pointed out to the witness that RTLM could be heard in Kabarondo. If Abbé INCIMATATA did not indicate to the Court that NGENZI had changed, it was because he himself was highly respected and he could not have known what the burgomaster's attitude was towards ordinary citizens. NGENZI was well armed, as she said before. As to how she felt when the refugees were taken from her house she said: "*I felt very bad. I died standing up. Even today I still relive that feeling!* Finally, she

described the character of each of the accused: NGENZI had great malice, he was a great liar: "*He could kill you with a smile*" she added. She was under no pressure to testify.

It was the turn of the public prosecutor to question the witness. "*The authorities were naturally wicked but they had not found the opportunity to exercise this wickedness*. NGENZI was following the sectarian line of the MRND and it was he who pointed out their house to the soldiers. The witness heard noises at the nearby Health Centre. It was Goretti who later informed her of what had happened. And the witness added, at the insistence of Mr COURROYE: "*They did indeed proceed to round up people, to finish the job*". As for claiming that NGENZI sought to interfere, "*it is distressing to say so*. He was not at all forced by the military. It is said that BARAHIRA hit people, which was not uncommon at the time for an authority. It was even a way of showing that one was respected. You have to put this in the context of the time in Rwanda.

Maître MATHE tries to reconstruct a chronology of the facts, but she has difficulty in obtaining what she wants. She reproached the witness for "*his variable geometry statements*". She would like him to repeat that she had heard SINDIKUBWABO's speech on 19 April in Butare when she had returned to Tanzania. No, she was still in Shyanda. When asked whether David, her husband, had any links with the Hutu Pawa, she pointed out that her husband had died at the birth of this extremist branch.

Maître MEILHAC will be surprised that Médiatrice asked BARAHIRA to be the godfather of her children when he was known for his wickedness! "*He was a childhood friend of my husband. At that time, in Rwanda, it was like that*"! The president, Mr DUCHEMIN, reminded the lawyer that questions of morality do not concern the Court. The defence lawyer, after an intervention by Mr COURROYE, did not fail to point out: "*The Advocate General is trying to come to your rescue. That is not necessarily his role!* He especially wants to discredit the witness by proving that she could not have heard BARAHIRA animating a meeting in the market place while she claims not to have participated in any MRND meeting. The witness said that her shop was nearby, but he did not want to hear anything. "*She says that it was in front of her house and that BARAHIRA had a megaphone*", interrupts Maître PADONOU. And Maître DECHAUMET adds: "*There is a difference between participating and assisting!* It was then pointed out to Mr BARAHIRA's lawyer that he only read in the witness statements what interested him, omitting to quote key passages. "*I'll stop here because it's becoming grotesque*". He has just lost his temper. *What we see above all is that this puts your client in difficulty because he is supposed to have had no political activity since 1986 when he was no longer mayor. Your client is the biggest liar of them all!*

The Advocate General will have the last word: "*I think we have understood well and that we will close the debate here*". Maître MEILHAC will not take the floor again.

The next witness for the civil party, Jacqueline MUGUYENEZA, who was to be heard by the Court, was not heard until the following morning at 9.30 am. She was one of the people who had taken refuge in the home of Médiatrice UMUTESI and who were taken to Kibungo to be killed there.

1. *Inkotanyi*: RPF fighter (term used from 1990).
2. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
3. The Liberal Party had split in two at the end of 1993: the "Pawa" tendency of its president, Justin MUGENZI, joined the Hutu Power, the other tendency was wiped out on 7 April 1994.

Ngenzi/Barahira trial. Thursday 23 June 2016. Day 32

- Hearing of Jacqueline MUGUYENEZA, survivor and civil party.
- Hearing of Augustin NSENGIYUMVA, cousin of Mediator UMUTESI.
- Hearing of David TANAZIRABA, assistant mayor in 1994.
- Hearing of Marie MUKABARANGA, by video conference.
- Hearing of Marie-Thérèse NAKAZI, wife of David TANAZIRABA.

Hearing of Jacqueline MUGUYENEZA, survivor and civil party.

Mrs. MUGUYENEZA undertakes to recount in great detail the days following the attack on President HABYARIMANA on 6 April 1994 and the 17th, the date on which she escaped death after being transferred to Kibungo to be killed with the survivors who had taken refuge at the home of Médiatrice UMUTESI. She will endeavour to describe in as much detail as possible the events that marked her life during those days of the genocide in Kabarondo. So much so that on two occasions the president asked her to summarise further so that she could be asked to provide more details during the questioning. What she recounted was quite similar to what Mediator UMUTESI had said the day before in court, even if the two accounts were not identical. Indeed, given the circumstances, everyone understands reality in their own way. Many of the survivors of the church had taken refuge in the house of Mrs UMUTESI, close to the place of worship. Like her friend, she points out the presence of NGENZI, armed, and of numerous soldiers who surrounded the house on that famous 17 April 1994. She also mentioned her 'trip' to Kibungo, in the car of the soldiers, where most of the survivors were executed. NGENZI was part of the convoy. How could she escape death? It is practically a miracle, she who had given up on life. Amidst the cries and screams of the children, she managed to escape. She would be definitively saved with the arrival of the *Inkotanyi* [1].

There followed a series of questions from the president, who sought more details on certain points that were still unclear: her own relations with NGENZI, relations between NGENZI and RWAGAFILITA [2], visits by the mediator's cousin, Jean-Marie Vianney MUNYANGAJU, etc. Maître DECHAUMET asked her whether she listened to RTLM (Radio Télévision Mille Collines): it was through that radio station that she was able to follow the situation throughout the country. As for the public prosecutor, he will not stop trying to get the witness to say that NGENZI was "*in a bad state, that he was angry*" and that he was the "*supervisor*" of the raid.

Maître MATHE, on behalf of the defence, practically gives up questioning the witness: "*You testify so often that you don't know where you have testified!*"

Hearing of Laurent BUCYIBARUTA, former Prefect of Kibungo, Prefect of Gikongoro in 1994, the epicentre of the Turquoise Zone, himself the subject of a complaint for genocide since 2000.

Mr BUCYIBARUTA attended the hearing but due to the delay in the schedule, he agreed to return on Tuesday 28 June 2016.

Hearing of Augustin NSENGIYUMVA, cousin of Mediator UMUTESI.

The witness had been visiting his cousin Mediatrix since 6 April. For several days, he remained locked up in his host's house, admitting that he had gone out to heat water to give tea to drink to the children and old women who were in the house. It was then that the house was surrounded by soldiers. They were

asked to raise their arms in the air. One of the soldiers ironically said: "That's how *the Inyenzi raise their arms, that's how you used to dance?* [3] NGENZI, with his gun in his hand, was said to have ordered Médiatrice to remove from the house all the people who had taken refuge there, acknowledging that he himself had handed over MURENZI's children, whom he had sheltered for several days. The survivors were then taken away in the two cars that were nearby. The witness was given a short break at the commune so that he would not be part of the journey to Kibungo. KAJANAGE's wife, Dative, was also taken away. As for him, a soldier made him get out of the car: "*Nobody dies with money. Raise your arms and don't look back!* He was expecting to be shot in the back! He was the only one not to make the 'trip' to Kibungo!

The next day, the witness will be visited again by soldiers: one of them will ask him for money. He found it under his cousin's bed, in a bottle that the soldier broke. He left after stealing some valuables.

The president will try to see a little more clearly in the witness's testimony. There was obviously a problem with the date, but not only that. The witness had reported the presence of *Interahamwe* [4] during that visit to his cousin's house! He was the only one. NGENZI did have a pistol, but he had another weapon, an SMG rifle that he carried on his shoulder [5]. 5] Having difficulty defining the exact type of weapon, the witness replied, pointing to NGENZI: "*I think that the person carrying that weapon is here; he could enlighten us!*

To the Attorney General, he specified that during the visit to UMUTESI's house, it seems that NGENZI was the leader, even if Captain TWAGIRAMUNGU played a prominent role. In any case, the purpose of the raid was nothing other than to kill Tutsis.

The witness, questioned by Maître MATHE, lost himself in rather convoluted explanations concerning the captain: he would have been "*masked*" and would not have recognised him until the following day!

Hearing of David TANAZIRABA, assistant mayor in 1994.

His testimony will essentially revolve around a meeting on 9 April, a security meeting in which the witness participated. On the same day, NGENZI was also said to have participated in an important meeting at the Kibungo Prefecture, a meeting that brought together all the authorities of the region. At the Kabarondo meeting, it had been difficult to reach a consensus on the organisation of the rounds. On his return, the burgomaster reportedly asked that everyone organise their own security. The witness gave a quick chronology of events and reported that the Health Centre and the IGA had been attacked on 17 April. During the whole period of the massacres, the witness said that he stayed at home: he was hiding about fifteen Tutsis. He criticised NGENZI for not using his authority to protect the population.

The chairman asked whether the identity cards had to be signed by the mayor. "*Usually yes, unless he was absent. In that case, it was the senior councillor who could sign.* Regarding the IGA [6], he specifies that it was his wife, Marie-Thérèse NAKAZI, of Ugandan origin, and a social worker, who gave the keys to the guards to open the doors for the refugees. This was vigorously contested by the latter during her hearing. So by hiding Tutsis, he risked his life? Yes, he took risks and could well be considered as a "Just". He was threatened with death.

The witness's examination will resume after a break in the hearing because a video conference with Kigali was scheduled.

The prosecutor questions the witness about whether weapons were distributed in the commune. The witness confirmed. He also knew the *Simba Bataliani* [7], the *Abalinda* [8] and the *Interahamwe* [4] in the sector. The burgomaster also knew them.

Delicate question: *"If you had been mayor, what would you have done?"* The witness does not hesitate, he would have given orders to stop the massacres: *"Killing is a sin, don't do it"*, he would have given the message. He would have given orders to stop the massacres: *"Killing is a sin, don't do it"*, he would have sent the message. For him, all the authorities had the power to stop the killings. By being present during the massacres, he made it known that he was not opposed to them. The same goes for the roundups. What happened was *"horrible and terrible"*.

The witness, questioned by Maître MATHE, admitted that he had left for Tanzania when the RPF arrived, with the children who had taken refuge in his home. He crossed the border at the same time as NGENZI. The lawyer will point out to him that, as a soldier, the judicial authorities had difficulty in obtaining authorisation for him to be heard!

It was at this point that the President, Mr DUCHEMIN, interrupted the questioning to ask NGENZI why he had been laughing for a while! The accused wants to explain himself but is told that he will have the opportunity to do so later. However, at the end of the day, he is allowed to apologise. But the president does not give up on the incident.

Hearing of Marie MUKABARANGA, by video conference.

After the attack on HABYARIMANA's plane, *"people started to set fire to the houses of others. The Tutsis fled, the Hutus killed"*. She reportedly learned that soldiers from Kibungo had fired on the church and its occupants. Three days after the massacres, people took refuge in her house. NGENZI then came to their house and spoke to her husband: *"If tomorrow we find Tutsis in your house, you will only have yourself to blame"*. He had come across the brother of the witness, a certain RUTAYISIRE, on his way home. This was the only time she saw NGENZI at home!

The next day the attackers arrived but her husband had asked his brother-in-law to leave the house. So they found no one, three young children having been thrown over the neighbour's fence. NGENZI was not involved in the attack. The attackers left after trying to steal her husband's vehicle: they went to continue their raids elsewhere. As for them, they fled to Tanzania.

Her husband, Jean-Baptiste RUZINDANA, was imprisoned on their return from Tanzania, but as he did not plead guilty, he was released after serving more than six years in prison. It remains to be seen whether NGENZI, as he claims, came to warn his former classmate that he would be attacked, and therefore to save him, or whether he came to ensure that the witness was hiding Tutsis! Word against word! For her, there was no doubt: the burgomaster had indeed come to denounce the presence of Tutsis and not to protect the witness's family. He was obviously aware of the attack.

Maître LAVAL merely remarked: *"This witness was called by the defence? He fully satisfies the civil parties"*. Questioned by the public prosecutor, the witness confirmed that insofar as NGENZI came to their home for the first time, it was not to help them. He was aware that her husband was a Hutu and that Tutsis could be accommodated, being a Tutsi herself.

Still on questioning by Mr COURROYE, the witness reported that the burgomaster had never provided them with a false identity card; on the other hand, a young man who worked as a census taker had offered it to them in exchange for money. These cards with the word 'Hutu' were of no use to them in their flight. They were torn up.

Maître MATHE obviously did not share the witness's analysis: "*Warning is bad! Not to warn is bad!*" However, the witness accepted the lawyer's proposal: "*If NGENZI had not passed, you would have been killed?*" As to whether the signature of the burgomaster appeared on the identity cards, the witness could not answer!

Hearing of Marie-Thérèse NAKAZI, wife of David TANAZIRABA.

One wonders why this witness was summoned to testify! She never saw either NGENZI or BARAHIRA during the entire period of the genocide. She worked at the IGA [6] and therefore had NGENZI as her employer. She contradicted her husband, who had claimed that it was she who had given the keys to the permanent training centre to the watchmen so that they could open the doors.

Upon questioning by the public prosecutor, we learned that she had advised KAJANAGE to flee. Moreover, she had heard from the *Interahamwe* [4] that the church would be attacked!

The witness then responded to Maître MATHE. NGENZI was a sociable man, who made no difference between Hutu and Tutsi. Didn't the mayor resent you for being from the country from which the RPF had attacked? Not at all! He was the one who had married them: "*NGENZI was like a relative*". She reiterates that the attack on the Health Centre and the IGA took place on the same day. She defends NGENZI by stating that "*he was very shocked after the genocide: he had taken the wounded to hospital, had the dead buried in the church, had taken Tutsis into his home...*". In Benako, the mayor was a refugee like the others. However, she points out that he has taken up his responsibility as mayor! That he became humble and that he never mistreated any Tutsi. To say that a certain Benoîte got it from her is a lie.

"I believe you. concluded the lawyer.

1. *Inkotanyi*: RPF fighter (term used from 1990).
2. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
3. *Inyenzi*: Cockroach in Kinyarwanda, the name by which Tutsis were referred to in racist propaganda.
4. *Interahamwe*: "*Those who work together*", youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
5. Abbreviation for "*Submachine Gun*" in French (see [Wikipedia](#)). The president cites the Uzi, an Israeli machine gun.
6. Municipal Centre for Continuing Education.
7. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.
8. *Abarinda*: in NGENZI's sector, this group had taken the traditional name "*people who know how to hunt*" and applied it to the hunt for Tutsis.

9. During his hearing, Jean-Baptiste KARUYONGA confirmed that TOTO threw a grenade which caused the death of 6 people.

Ngzenzi/Barahira trial Friday 24 June 2016. Day 33

- Hearing of Bishop Philippe RUKAMBA, Bishop of Butare, Rwanda.
- Hearing of Bellancila UWAMBAYIMPUMBYA, wife of Octavien NGENZI.
- Hearing of Felicia KANTARAMA, by videoconference.
- Hearing of Alice UWIMPHURA, 10 years old in 1994, refugee at NGENZI's home.
- Reading of some elements of the statement of CLaire MUTETERI
- Reading of the medical certificate dated 20 June 2016 concerning Father Innocent RUKAMBA.

Hearing with Bishop Philippe RUKAMBA, Bishop of Butare, Rwanda.

The witness began his testimony by pointing out that when NGENZI brought Abbé Papias to Kibungo the burgomaster was in a very drunken state. He had come to ask for money in exchange for the priest. At the time of the events, Father Philippe RUKAMBA was the parish priest in Kibungo. He knew Abbé Oreste INCIMATATA well, with whom he participated in many meetings. He also knew his family. As for NGENZI, he was a member of the MRND, "*like everyone else*", "*was a normal person*". He was not one of his close friends.

While he himself was taking refuge in the Centre Saint-Joseph, within the bishop's residence, NGENZI arrived and spoke to the priests who were there, including Innocent RUKAMBA (who should also have been heard but who is unable to do so for health reasons) and Dominique HABYAKARE. The witness was standing a few metres away from them.

The witness had been astonished that a 'ransom' could be demanded for Abbé Papias because he was Hutu. NGENZI is said to have said to the priests present: "*If you do not give me money, I will give it to the killers*". And the witness added that he would certainly have driven him back to the commune of Birenga, where many survivors were executed. It was a real haggle: "*We discussed to lower the price of this ransom*" NGENZI would have accepted for 75,000 Rwandan francs out of the 100,000 demanded. He took the money, got into his white van and left Abbé Papias with us. According to the witness, NGENZI was armed, with a gun pointed in their direction. He was holding the gun in his left hand. The president then reported the statements of Abbé Innocent RUKAMBA, heard in May 2011 by the investigating judge: "*This priest must be redeemed or I will kill him as I have killed others*."

To Maître DECHAUMET who asked for details of the date, the witness affirmed that this visit took place a few days before the arrival of the RPF, but not during the major massacres in Kibungo on 17/18 April.

The public prosecutor asked the witness to mention the other massacres perpetrated in Kibungo. A first attack took place on 12 April at the presbytery, which is why they were evacuated to the Saint-Joseph Centre. It was during this first attack that the episode of the weapons that were allegedly discovered by the soldiers took place. The witness himself wondered whether the weapons had not been brought by the

soldiers themselves, since the presbytery housed only old women. However, the priest had had to sign a document acknowledging the existence of the cache.

Another attack took place on the 15th or 16th, at Saint-Joseph, where almost 1,200 people were gathered. The witness was led to specify that this attack on places of worship was not unique to Kibungo. Throughout the country, churches have become places of massacre. Were people gathered there with the aim of killing them? "Mr COURROYE asked, "*Funnel policy?*" The witness cannot say, "*it was a possible strategy however*". But the communes were also gathering places. This phenomenon was not new, because during the pogroms of previous years, the churches had always served as a refuge. And the witness listed a number of places of worship where Tutsis were executed. In any case, in 1994, it was indeed a '*hunt for Tutsis*'. And for Abbé Papias, it was indeed a ransom that had to be paid. And the public prosecutor said to the priest: "*You have references in the Gospel!*" The bishop replied: "*It makes you think of Judas!*"

According to the public prosecutor, Abbé Papias, who is no longer here to confirm this since he died some time later, confided in Abbé Innocent RUKAMBA: "*NGENZI told him, on the way to work, that he would kill him if he did not get the money. As for the girl Edith, NGENZI killed her!*" The witness cannot certify that these words are true, but they are "*plausible*" because he recognises that Innocent had the confidences of everyone.

Maître PARUELLE questioned the witness about the existence of lists. "*It was not the first time. They were drawn up for each pogrom. But they remained in the hands of the authorities.*"

Maître MATHE will focus her intervention on the ransom paid. She returned to the article by Jean CHATAIN to whom Abbé Papias had confided [1]. According to the latter, the money was intended to be given to the military. It is true, but the Humanité journalist had suggested that some of it might have gone to NGENZI himself!

The President decides at this point to confront NGENZI with the witness. The floor is given to the accused. And the latter launches into rather unconvincing explanations. He had only received 40,000 francs! And even then, he was not the one who entered the bishopric! The rest of the sum he needed, 50,000 francs, he would have asked his wife who, a little later, spontaneously, would in turn mention these 50,000 francs which she would give to her husband, at the risk of not having any money to provide for her own family. She could not refuse him this sum, as Mr NGENZI had always been generous!

To return to the witness, he added that this sum paid from his pocket was to be used to "*save the priests inside*", that he had to hand over this money to save his life and that of the other priests! That he had to hand over this money to save his life and that of the other priests! This is not at all the version of Monsignor RUKAMBA who attests to having handed over 50,000 francs himself.

To the public prosecutor, NGENZI repeated that he had never had a weapon, that on that day he had not had time to drink and that he could not see himself in the mirror to see what he looked like: "*After the 13th, I no longer had time to think about myself*". And Mr COURROYE addresses the bishop again: "*In your opinion, without taking into account what NGENZI says, is he alone or accompanied? Was the money handed over to NGENZI?*" "*Yes!*" And the public prosecutor concludes: "*Because if you follow NGENZI's statements, he will tell you that he saw the Virgin!*" Laughter in the room.

Hearing of Bellancila UWAMBAYIMPUMBYA, wife of Octavien NGENZI.

The witness therefore introduced herself as Mr NGENZI's wife and regretted not having been heard earlier.

"Happy wife, I had a good husband who was a good father, gentle, conciliatory, who never hated. So begins the testimony of the wife of the accused. After working in Kigali at MINIJUST (Ministry of Justice), she was transferred to Byumba and when her husband was appointed burgomaster, she obtained a position at the Kabarondo district court.

Her husband was a good person, he could not hurt anyone. She stayed with him *"for better or for worse"*. On the morning of 7 April, it was she who woke up her husband to announce the death of President HABYARIMANA. *"I would like to pay tribute to my compatriots in Kabarondo, I am saddened like everyone else, they were my friends, my relatives. During the genocide, I was a mother, a simple woman who lived simply. My husband too.*

She continued: *"I have lost eleven members of my family. I admired my husband for his courage since 13 April. He worked with the priest to inform about what was happening, asking people to stay at home. Her husband intervened to provide security when the mother of KAJANAGE, a friend, died. "Before the 12th, she adds, NGENZI had firewood delivered. Abbé INCIMATATA took a lot of vegetables from my garden and my husband brought wounded people to the hospital every day. That day, the mayor of Rukara, MPAMBARA, came to take his wife. They thought that things would calm down.*

On 13 April, the witness said she heard an explosion in the late morning. Her husband was helping her fold clothes and prepare luggage for an imminent departure. From a policeman, they learned that a grenade had been thrown at a convoy of soldiers leaving for the front. The burgomaster of Rukara then arrived to take back his wife. Although the soldiers had clearly stated at a petrol station that NGENZI was an accomplice of the RPF, the latter decided to go to the communal house.

Three months pregnant, the witness was left alone with her children, *"petrified"*. At nightfall, her husband returned. He had chosen to stay in front of the town hall *"to be killed there and to preserve his family. I saw him petrified, disappointed by the soldiers who had just shot at people"*. On the evening of the 13th, Edouard Murenzi's children arrived, on the advice of the parish priest.

On 14 April, they left for Kibungo, but without a certain Edith who wanted to stay with her child. Father Papias had come to take refuge in their house at around 9.30 am. She left the house with her own children, heading for a school in Kibungo, the car being driven by a driver. But for lack of space, she had to go to the house of the burgomaster of Kigarama where they were given a small room. Her husband joined her on the evening of the 16th with her mother-in-law who wanted to return home. NGENZI then asks his wife for 50,000 francs to pay Papias' ransom! (NDR: astonishing, the president will point out to her, that she should allude to this episode during a spontaneous deposition! Maître MATHE will even ask her, maliciously, if she had not heard this from her husband that very morning while she was waiting for her turn in the witness room).

They stayed in Kigarama until the 19th when they headed for Rusumo to cross into Tanzania. While her husband was out shopping, he was allegedly molested by soldiers who considered him an accomplice of

the RPF... A mystery! And to repeat that her husband did everything to dissuade people from doing harm, her husband *"always saved, always saved..."*.

She concluded: *"Today I say that my husband was one of the few mayors who saved the damage. My husband is too good a person. He had the misfortune to be there. He did humanely what he could do. And he added: "I want to say to the Court and to the jurors... I thank France for having welcomed me with my children, for having put in place this court system to tell the truth that I have been waiting for a long time... I expect this trial to be fair because I also feel like a victim... I ask the Court ... (long silence) to discern everything that has been said and not ... (another long silence) I wonder if you understand NGENZI ... He is an innocent man ... You are justice ..."*

The president said he understood her emotion and reassured her: *"We have been very attentive to everything that was said. As for the rest, I can't say anything about it. I can't say what the decision will be... The best, you have known... The worst also from the moment your husband was arrested"*.

And to come back to the money that her husband would have given her. He is surprised that she never mentioned it in her statement: *"My husband forgets himself for others. Money is an important thing for a mother. But it was money so that he could clear Father Papias. With my husband, we lived in symbiosis for the family. He could give everything he had to save people. This is a proof of generosity on his part."*

The question time was postponed until the afternoon.

Methodically, the President, Mr DUCHEMIN, took up the facts in their chronology: NGENZI 'travelling' around the country to ask people to stay at home and set up security, deliveries for the benefit of the refugees in the church, the grenades on 13... The witness reiterated that her husband had not gone to church that day, that he had stayed at the town hall: *"He was petrified, tetanised... If my husband did not die, it was Providence. They wanted him dead. He was threatened by a soldier who knew all the good he had done. Edith and her daughter came to their home, with a young girl called Alice who was 10 years old (she will be heard a little later). RWAGAFILITA [2]? She never saw him at her house. To think that he was the one who helped her to become mayor? "It was not he who chose the burgomasters. And the role of her husband in the searches? "Those who testified against him should have testified for him. They were pressured to testify against him. I can't understand the parish priest... It's the people you loved who are hurting you... UMUTESI... KAREKEZI, who I considered my father-in-law... I have total confidence in French justice. I encourage you to continue. I will wait as long as it takes to know the truth."*

Several jurors will in turn ask the witness questions. *"Did you have the temptation to flee like MPAMBARA? I fled on the 14th and my husband came to join me on the 15th in the evening"*. Why did her husband change his name? *"It was dangerous for my husband to live under his real name. Seth SENDASHONGA was murdered in Nairobi! Why were so many lies told against her husband? It is because of the notoriety... All the former authorities must be judged... The ICTR has understood, since it has acquitted people despite the accusation of the witnesses."*

Maître DECHAUMET asked him to specify the number of victims in the church. The witness spoke of 200 to 300 dead. Her husband mentioned 150 to 200! The lawyer insisted: *"In 2016, you are still talking about 300 dead? And the witness, without breaking down: "If there were 300 deaths in 1994, there are no more today! The lawyer reminded him that she had forgotten a zero! When asked about the dates, the witness took offence: "They are trying to extend the dates. My husband stayed with me from the 15th in Kigarama."*

The soldiers came to get people from our house on the 14th. And on the 16th NGENZI came back to get my mother.

It was Mr. GISAGARA's turn to question the witness: Odette's departure, MPAMBARA's wife, her husband's courage to bury the victims of the church... and to finish off the wounded... The Abalindas [3]? Why does she let her husband lie for his refugee application to OFPRA? *"My husband was in danger. And then Mayotte is Africa. If he hadn't changed his name, maybe he would have died.* Do they still have property in Rwanda? Yes, a house, a shop, a forest.

The public prosecutor begins by telling him that the prosecution is sensitive to his suffering but that he must ask him questions. Their relationship with KAJANAGE? Was the grenade thrown by refugees? Is INCIMATATA lying when he says that the commune never provided any help? *I think he is lying. The people at the church were never hungry or thirsty!* The public prosecutor gets angry: *"Madame, this is bordering on indecency!"* *All the witnesses are liars?* She confirmed.

The defence has the floor. Maître MATHE pointed out to Mr COURROYE that it was not necessary to speak vehemently to the witness. The lawyer asked some questions: did you go to see what had happened in the church? *"I was vulnerable. Did you have a good dinner in the evening?"* *My husband was worse off than I was.* The burial of the bodies: did you talk about it? *"It was a sign of respect.* And he added: *"Time will tell that my husband is innocent. My husband was in danger of death. He could have been ambushed before the 13th!* Always the question of timing. The witness confirms what she has already said. And the lawyer suggests that the regime in place is fabricating false witnesses! She can only agree.

The lawyer was incensed: *"Many people envy your husband for having a wife like you".* A few questions about life in exile concluded the hearing: two years in Benako, then alone in the Nkole camp because of pressure on Tanzania to arrest her husband... NGENZI left for Kenya... Gave birth in Mombasa... left for the Comoros to join her husband, where she worked for Caritas (Catholic Relief Services), and finally left for Mayotte by *kwassa-kwassa*. There, she trained to become a life assistant and a care assistant while waiting for the OFPRA's decision. Since her arrival in metropolitan France, she has visited her husband twice in Mayotte. Since her arrest, they have never lived together since her husband has gone to prison.

Hearing of Felicia KANTARAMA, by videoconference.

This is an example of a witness who one wonders why she was quoted. She just says that during the genocide it was not easy for ordinary citizens. She fled and doesn't know anything about what happened. She was in hiding and has no information about the two accused. The witness returned home after a stay in the camps. She does not even know where the accused are now.

However, the President questioned the witness because she allegedly told Jacqueline MUGUYENEZA that she had seen BARAHIRA kill François NTIRUSHWAMABOKO. She reiterated that she had no information on this case. She was hiding with Jacqueline's mother: she never said that.

Maître GISAGARA asked her about the *Interahamwe* [4], whom she had said she did not know. *The Interahamwe? Given the limited intelligence of an old woman, I'm surprised that you would ask me that question!* And she ended up saying: *"They are people who band together"*, thus giving the original meaning of the term.

We will leave it at that with this witness.

Hearing of Alice UWIMPHURA, 10 years old in 1994, refugee at NGENZI's home.

Very moved, the witness began by thanking Octavien NGENZI for having saved her life. She had arrived in Kabarondo on 4 April, after her baptism. Taking refuge in a cellar of the presbytery with her godmother Edith and the latter's child, she heard what was happening in the church, screams, explosions, deaths... Threatened with death, they were asked to join the others outside. Abbé INCIMATATA advised them to go to the NGENZI house. The witness therefore left with her godmother's daughter who joined them at night. She did not meet the burgomaster until the following day. When Edith threw herself into his arms, NGENZI reassured her. But she refuses to leave with the burgomaster's wife: only Alice accompanies her. On the 15th, she sees NGENZI again with her mother-in-law. She will stay two years in Benako, considering herself as the daughter of the family. Today, she wonders: *"If NGENZI is a killer, why did the priest tell us to go to his house? At what point could he have committed what he is accused of?"* The public prosecutor was surprised that she could, given her age in 1994, reconstruct all these memories. It was probably necessary to talk about it with people from the community! A juror pointed out to her that she was Hutu. Maître DECHAUMET pointed out to her that what she said did not correspond to what many witnesses said: *"What I am telling you is my truth"*. Was she a Hutu? What was she risking? *"I risked death because my godmother was Tutsi"*.

Maître AKORRI reminds her of the existence of so-called *"killers/rescuers"*. She did not witness this. Maître GISAGARA is surprised that he saved the witness and that he could not save his godmother. Maître MATHE asked him about his new life in Europe. The witness lived in Germany and then came to France. She never returned to Rwanda, for the moment, a country where she still has family. The lawyer finally asked her to mention material memories that she would keep in her mind. And the witness listed everything she had already said.

Reading of some elements of the statement of Claire MUTETERI who was afraid to testify because she still has family in Rwanda. NGENZI is said to have given them Hutu identity cards in Rusumo, for her mother and for her.

Reading of the medical certificate dated 20 June 2016 concerning Father Innocent RUKAMBA. Father Innocent RUKAMBA could not be heard for health reasons. His statement dated 20 May 2011 does not provide any elements of real interest.

"Mgr Rubwejango: 800 refugees executed in my bishopric" - article by Jean Chatain published in "L'Humanité" on 30 April 1994 - Source: <http://francegenocidetutsi.org/> - Jacques Morel, *La France au cœur du génocide des Tutsi*, Paris, Izuba/L'Esprit Frappeur, 2010

1. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from.
2. *Abarinda*: in NGENZI's sector, this group had taken the traditional name *"people who know how to hunt"* and applied it to the hunt for Tutsis.
3. *Interahamwe*: *"Those who work together"*, youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.

Ngenzi/Barahira trial
Monday 27 June. Day 34

Interrogation of Octavien NGENZI on the day of 13 April 1994, massacres at the church in Kabarondo.

The President begins by recalling that the notion of genocide was indeed discussed and retained by the Court. Moreover, NGENZI does not dispute that there was genocide. On the other hand, the accused has so far limited himself to mentioning 150 to 200 victims at the Kabarondo church, which is in sharp contrast to the statements of many witnesses, including Abbé INCIMATATA. *When you see 10 people, he sees 200!* astonished Mr DUCHEMIN. The accused apologised for the number of victims he had given: *"It was an estimate. There were many people, thousands who died... I did not know the number of Tutsis, Hutus and Twas in my commune... It's possible but it's not possible!* Understand who can.

The President then wishes to return to the precise chronology of the day of 13 April. He mentions six key moments in NGENZI's agenda:

1. His departure for Kibungo very early in the morning.
2. He returns home and helps his wife pack.
3. MPAMBARA arrives and tells him that the military will turn against him as an "accomplice".
4. He left for the community house after hearing the first shots, *"to protect his family and to show that he is present"*. He stands *"in front of" the commune*.
5. NGENZI goes to Kibungo for a second time, according to his statement!
6. His return home, *"petrified"* in the words of his wife.

This is followed by a series of specific questions. What does the mayor of the commune see that day? He sees soldiers passing by who continue to shoot the population. At what time does he leave his home after the departure of MPAMBARA? Between 9 and 11 o'clock... around midday and 1 o'clock. He added: *"To make my task easier, I chose the morning... I left for Kibungo after 3 p.m."* (He had said 5 p.m. to 5.15 p.m. during a hearing).

The president asked for photos of the place to be projected, mainly of the church and the commune. The accused intervened without breaking stride: *"There, that's what I was going to ask you!"* NGENZI stated that from his vantage point he could not see the church: a cypress hedge hid it from him! *"I could hear but I could see the movements of the soldiers who came to stock up on weapons... I couldn't see but I understood!* Why did the accused not go to the church after the military had left? *"I considered that everyone was dead. I did not have the presence of mind to go and count the dead... On my return from Kibungo, I went to the garage to see how far along I was in repairing my car in preparation for my escape!* To the president, who was surprised that the accused was able to stay at his post for several hours: *"Some witnesses have revived my memory!"* This has little to do with the question, but NGENZI has made a habit of giving us answers that are not answers!

The president pointed out that many witnesses contradicted his account. Slander? Conspiracy? *"I was informed that I was an accomplice of the RPF... I snatched Tutsis from the hands of the killers on the 8th and 9th..."*. The president interrupted him: *"We don't have time to go over your good deeds. Is this a settlement of accounts by the RPF? You should be given medals!* And NGENZI retorts: *"But who is accusing me? Killers who have confessed their crimes to obtain remissions. If they did not accuse me, they would go back to prison!* The president denied this view of reality, saying that the killers who testified got nothing in return,

but the accused did not give up. And the president ironised: "*As for the victims, they are too traumatised to tell the truth! Which category should I put INCIMATATA in?*" The accused defends himself by saying that he could not do anything in front of the national army. He admits that he did not have the courage to go to the church to stop the massacres.

The President pointed out to the accused that he had spoken of "*spontaneous massacres*" in a previous hearing! NGENZI replied that he had not participated in any organisation and tried to justify this expression by the fact that he was a technician, that the reports he made were on a chart with a sentence of commentary, implying that he had not received the same training as the President. As for the meeting organised by the Prefect, which the assistant mayor said he had attended: "*My deputy was mistaken. He imagines what he saw...*". He blames his deputy for organising a meeting without informing him: "*It was a mistake to organise a meeting between the Tutsis and their assailants without informing me*".

"*On the 13th, you met RWAGAFILITA [1]?*" asked Mr DUCHEMIN. "*He did not come to the house. He would have seen my wife too. If he came to Kabarondo, I did not see him!*" Lists of Tutsis? He has no knowledge of them, contradicting his previous statements: "*I made reports on people favourable to the RPF. Accomplices were arrested by the Prosecutor's Office in Kibungo...*".

When asked by an assessor who wanted to know who had gone to Kibungo to fetch the soldiers, NGENZI gave a semblance of a chronology: "*The population of Kabarondo attacked the church, the refugees defended themselves, Toto threw a grenade [2], the van came back with the soldiers. I was afraid but I had no choice.*" He recalled his meeting with the Prefect who, on hearing of the massacres in the church, leaned back to rest his forehead on his desk. The accused did meet with soldiers at the commune, "army superiors" who asked him: "*Why didn't you kill those people before they threw the grenade at us?*" [3] Before he left for Kibungo, he saw the soldiers take their equipment and the people continue the massacres. What should have been done, with hindsight? "*The only way to minimise the number of deaths was to avoid the arrival of the soldiers.*" His state of mind? As he once again answered the question incorrectly, Maître MATHE got angry and asked him again: "*I was afraid*", he replied.

A juror asks whether he is left or right handed. This seems to be a harmless question, but we remember that Monsignor RUKAMBA had pointed out that he held a weapon with his left hand!

It is the turn of the civil parties to question the accused. Maître DECHAUMET:

- *Your wife said that you did not leave the house on the morning of 13 April.*

- *My wife was not an actor in the events. I was an actor. She doesn't remember that I left the house early in the morning.*

- *On the morning of the 13th, are the police still under your authority?*

- *No, they are no longer under my authority.*

- *Is your vehicle coming back with gendarmes? Did you lend your red vehicle?*

The defendant answers the lawyer's two questions in the negative.

Maître PARUELLE questions the accused in his turn to know what he did in front of the commune for several hours. It is impossible to get a clear answer. NGENZI evokes his powerlessness in front of the national army, the departure of the government in Kigali... "*The population was massacred in my sight! The population has been massacred in front of my eyes! A national army that eliminates its people!*" The lawyer reminds him that according to Abbé INCIMATATA it was he who went to look for the soldiers in

Kibungo. The accused replied: *"But he also said that he did not see who was in the van! Comments that made Maître DECHAUMET react: "You did not lend the vehicle, the red vehicle of the town hall!*

Maître LAVAL gives up questioning the accused: *"I have more than enough to plead!*

The floor is given to the public prosecutor who emphasises the *"inanity of the statements"* made by the accused. Returning to NGENZI's two trips to Kibungo, Mr COURROYE ends up having the accused say that during his first visit to the Prefect he did indeed request the intervention of the armed forces because of the dangerous situation due to the presence of refugees from Byumba. Although he did not go to the church before returning to the prefect's house, in the afternoon he admitted having seen the dead and the killers. And he admits that if he had handed in his resignation to the prefect he would have signed *"his death warrant"*: *"Those who would have learned about it would have killed me. If I had gone to the RPF side, I would not have been well received!*

"What did they say to you?" asked the public prosecutor. *"You are an accomplice of the RPF because you hid Tutsis!* And he continued: *"I am in the dock. I am here because I was the mayor. If Manassé claims that I said not to oppose the military, he is saying it to accuse me. In Rwanda, all the people who did not plead guilty remained in prison. All those who did not add names to their statements (Editor's note: all those who did not denounce others) remained in prison.*

The public prosecutor did not miss the opportunity to point out to him that his argument did not hold up, that what he said was *"incoherent"*. And then, this church, was it important to him? It was the church of his marriage? The accused stammered: *"I am a Christian! A church full of innocent bodies!*

"In the evening you come home, you have dinner, you sleep?" continues Mr COURROYE. A laconic reply: *"I have started mourning!* And the public prosecutor goes on the offensive: *"There is only one person who can tell the truth: it is BARAHIRA. He saw you, spoke to you, saw you come back from the Health Centre!*

NGENZI's response: *"BARAHIRA is lying, he is mistaken... Everyone points to the Burgomaster... All those who took part in the massacres are murderers... I realised a few days ago that it was organised... Those who committed this must be judged..."* *"And severely punished"?* insists the public prosecutor. *"It depends on the wisdom of the Court"*, concludes NGENZI. Doesn't this suggest that the Burgomaster is in the camp of those who must be punished?

As it should be, it is up to the defence to finish the interrogation. Maître MATHE still wanted more details about her client's movements, his agenda, what he could see of the church, the capacity of the church, its surface area... She had to ask her client several times where power was exercised in the prefecture... The accused once again evaded the question, answered in the wrong place, and ended up quoting Commandant Anselme, RWAGAFILITA [1], the *Simba Bataliani* [4]... Maître MATHE became impatient: *"In the prefecture, sir. I am not talking about the little killers"*. (NDR: she seems to regret this last expression). *"In reality?"* insists the lawyer. And the accused once again named RWAGAFILITA. *"The prefect was afraid of a force above him!*

"As soon as the first killings took place, you understood that it was a genocide? You were astonished"? asks Maître MATHE, *"I was shocked, more than astonished!* And he continues: *"I never imagined that it would take this magnitude... Killing above the altar... there, in front of Jesus... The killers had rosaries around their necks... I had the hope that no one would attack the church... Who cannot fear God... It's inexplicable, it's too hard... I didn't know that the policemen would kill... I didn't have any other alternative... There was no place to hide a Tutsi..."* And NGENZI burst into tears! Quoting a proverb in Kinyarwanda: *"He who kills the Tutsi kills the Hutu!"* *"It is a people who must live together... It is the passage of the refugees from Byumba that*

attracted the hatred of the Tutsi... It is the councillor who took the refugees out of the church, without warning me, he is the one who is responsible..."

One last question concerns Bienfaiteur: "He was one of the murderers. He had gone to the school for veterinary assistants. He was a failure in life. He had been dismissed from the state agents. The commune hired him as a census taker and then fired him for embezzlement. After a period of unemployment, he was recruited by the Central Intelligence Service (SCR). He was an informer, a member of the CDR [5] of which he was president..."

The questioning stopped there. It would resume the next morning at other places of massacre, the Health Centre, the IGA [6]... They would also discuss the new topographical measurements provided by Maître MATHE from Google Earth... The civil parties were not happy with this request, as there were already documents in the case file mentioning the distances between the various places of massacre.

1. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo, where he was originally from. Belgium decorated him with the Order of Leopold II and France with the Legion of Honour, raising him to the rank of Officer!
2. During their hearings, Jean-Baptiste KARUYONGA and Jean-Baptiste KARUYONGA reported that this grenade (mentioned several times by other witnesses) caused six victims. TOTO was the nickname of MUNYANEZA, a former gendarme who had become a major *Interahamwe* according to the communal policeman GATABAZI, "a thug" according to Anaclet RUHUMULIZA, himself sentenced to life imprisonment.
3. This grenade would have been thrown from the church at the soldiers before the TOTO grenade mentioned above.
4. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.
5. Coalition pour la défense de la République, an extremist Hutu party, created in March 1992, at the time of the massacres of Tutsis in Bugesera. The CDR also has a militia, the *Impuzamugambi*.
6. Municipal Centre for Continuing Education.

Ngenzi/Barahira trial. Tuesday 28 June 2016. Day 35

- Interrogation of Mr NGENZI, continued.
- Hearing of Laurent BUCYIBARUTA, himself the subject of a complaint dating from 2000.
- Hearing of Daniel ZAGURY, psychiatric expert in the BARAHIRA case.

Interrogation of Mr NGENZI,

The President began by pointing out that there were two chronologies, that of the Civil Parties and that of the Defence. It will be up to the Court to decide, each chronology having its own coherence. Mr NGENZI is asked to give precise answers.

The accused began by thanking the President: *"I am satisfied that I gave you satisfaction yesterday, Mr President.* However, when asked about his schedule for 14 April, the accused stammers and becomes incomprehensible. The accused said that on that day he had a very full agenda: his departure to the shopping centre to see the looting of shops, his visit to the church where the dead were stripped of their personal belongings, to the presbytery, the departure of Father PAPIAS to his home, reference to the death of a certain SIMEONI at the petrol station shot by CYASA, other murders by CYASA... He then returned home, certain that these abuses were the work of the RPF. From his home, he saw people gathered at the IGA [2] and decided to go there. When he arrived, he could only see the summary executions. Frightened, he returned to the commune office. Why was he afraid? Because he was considered *"an accomplice of the RPF"* and the armed men had not given up pursuing him! He is still considered an authority! And to specify that *"those who charge him (me) are the very ones he (I) should have prosecuted"*. The president contests this.

The accused then recalled a visit to the office by a man who warned him that a certain RWANTARINDWA had formed a team of thugs to visit the homes of mixed couples. NGENZI will give an account of each of the raids, giving his version of the facts which does not correspond to that of the other witnesses. This was pointed out to him by the President when he took the floor again. And the accused repeated that if he went to the families where the raids took place, it was to protect them. This was disputed by many witnesses. And he always recalls the fear that inhabits him to justify his attitude. *"I did what I could!* The president pointed out that his attitude was *"suicidal"*: *"You're putting your head on the block!* He does not give up, once again giving confused explanations.

The president now wanted to question him about the day of 15 April. And the accused mentions the visit he paid to the prefect of Kibungo to inform him of his intention to leave the commune and to obtain authorisation to bury the victims of the church *"in dignity"*. And with teary eyes, NGENZI speaks of the dead: *"Two days in the wind and rain, it was unbearable!* And as no one from Kabarondo wants to do the dirty work, he goes to his sector to recruit "volunteers". *"They accepted easily, as they would have done for my father!* This is not what the witnesses say, who, according to him, *"add to it"*: but this is not a contradiction. The President sought to know whether the burial of the bodies at the church, the massacres at the Health Centre and at the IGA [2] were carried out on the same day. NGENZI stated that he returned home after the burial. According to previous statements, he had seen nothing at the health centre. Again, this is not what the witnesses say. *"If they say that, it is because they do not want to say that they returned to Kabarondo.* It is true that it is in the interest of the accused to condense the events into a minimum of time in order to prove that he could not have been where he is seen on 16, 17... April. A witness, Donatille KANGONWA, however, speaks of 18 April when referring to the killings at the Health Centre! NGENZI's response: *"She is talking nonsense!* The president had already pointed out to him that he was *"alone against all"*. This is confirmed. And to repeat that after the funeral, he went home, he had refugees to supply! He then said he was threatened by soldiers who arrived at his house and threatened him with their weapons. He had to hand over the survivors he was protecting, went to the commune office himself, but had to stop at UMUTESI's house: he recounted the episode in his own way, in total contradiction with the account of the other witnesses. He finally arrives at the commune, gives money to a lieutenant (NDR: he wrings his hands in his box) to save Abbé Papias, but he has no more money for Dative, KAJANAGE's wife. The president is astonished that, being considered an *"enemy"*, he can be allowed to leave with Papias to go and negotiate... *To die or not to die! I had to die or not die"*, NGENZI said.

Here again, understand who can. He presents himself as a hostage of the military: by leaving with Papias, he also saves himself.

The president again points out to the accused that his chronology is much "tighter" than that of the witnesses and that those who speak of 17/18 are therefore mistaken? *"Even for the burial?"* insists the President. NGENZI confirms the date of 15 April and blames these errors on the illiteracy of the witnesses! He blamed these differences on CYASA, who, from prison, was responsible for collecting information for the *Gacaca* [3]: *"All of this was set up in prison,"* the accused said. He denies that people were buried alive in the church. And once again in tears: *"I wanted to give them a dignified burial. There was a health problem and the RPF, announced by Radio Muhabura, should not have seen this spectacle.* Asked whether he had prayed, he added that *"you can pray in your heart!* A series of questions from the jurors followed. If he did not go home, it was because he did not want to panic his family. And he was *"counting on God to make sure everything went well"*. His wife fled... but the others stayed at home. He makes it clear that he stayed at the church while the bodies were being buried. He adds: *"I did something that was not common. I wanted everyone to have a corner in the hole!* And the accused began to cry again while asking to be excused for the number of deaths he had given.

The civil parties are given the floor. Maître Loïc PADONOU points out that, having wanted to act as a "just man", how is it that no witness came to the bar to say that you had not advised them to flee? *If I had known,"* the accused admits, *"I would have advised everyone to flee, but on what date, chief?* Recovers: *"Excuse me, Counsellor"*.

Maître LAVAL intervened. How is it that the accused did not go to the church on 14 April when terrible massacres had been committed? *"But you are a mayor, you present yourself as a Christian?"* insists the CPR lawyer. And the accused replied: *"At the church, there was only death. Those who were not afraid went to pick the pockets of the dead. I was unable to do anything that day!* The lawyer continued: *"But on the 15th, you organised the funeral, you went to see the prefect?"* The accused replied: *"Master, I was alone. If I had had someone like you to support me..."*. Again asked about the number of victims, but even more so about the way in which the bodies had been thrown headlong into the pit: *"I beg you, Counsel, do not take into account the number I have given you. I did not count the people alive... I was ashamed to see the people in distress without being able to help them. According to RYAKA, 607 bodies were removed from the pit. I cannot confirm any number.* And Maître LAVAL raised his voice: *"By throwing the victims into the pit, you have made them anonymous. Your behaviour is not that of a righteous person, it is that of an executioner!* NGENZI then spoke again: *"On every hill in Kabarondo, there are criminals who know. We can count the Tutsis who were killed. It is still possible to do so. Go ahead and do it"* (NDR: in her testimony, Mrs Dafroza GAUTHIER gave the list of more than 200 victims of Kabarondo the following day, calling them by name and thus giving an identity to all those who had been wiped out). NGENZI then asked the lawyer for forgiveness and the lawyer thundered: *"The survivors have no reason to boast about being alive. It is not me you have to ask for forgiveness, it is the victims you have to ask for forgiveness.*

Maître ARZALIER then questioned the accused about his trip to Kibungo on 17 April (14/15 according to the accused). He contradicted the version of the facts given by Mrs MUGUYENEZA, adding that he was not a witness to what she said, that she claimed to be a survivor from many places: *"She has a grudge against me!* To think that she was a girlfriend of his in the past! When asked about INCIMATATA and KAJANAGE, he still seems attached to the two witnesses: *"The abbot was the first person to greet me when he entered*

the room". As for the second, he does not really understand why he would have lost his friendship, while acknowledging that he did not lie: *"I also pray for him.*

Maître LINDON wanted to know whether the accused had participated in the distribution of machetes on 9 April. The accused denies it. Did he deliver false identity cards marked "Hutu"? He confirms: he had the card and the stamp. It was easy. The lawyer pointed out that, during his application to the National Asylum Court in June 2009, he spoke of the burial on 14 April. *When are you lying?"* the lawyer continued. *"What is true is what I am saying today!* Maître LINDON pointed out that on that date, he was not yet being prosecuted!

Maître Loïc PADONOU then asked him if he knew Félicien KAYINGA. He knows him, he saw him at the Health Centre. And yet, NGENZI supported him. How can he come and accuse him? The accused replied: *"All the witnesses say that it is because I was the mayor! On the 17th, I am no longer in the commune"*.

Hearing of Philippe OUDY, psychologist expert in the NGENZI case.

The expertise was carried out on 12 November 2010, in Fleury-Mérogis. The contact with the accused would have been superficial. He attributed to his patient an *"intelligence within the general average"*. He did not report any obvious defects. He added that no event had disturbed his personality and that he did not discover any delusional themes in him. NGENZI denied the facts of which he is accused, he does not know why he is here. *"If he is lying, he is doing it deliberately,"* he said later. He considers himself a victim and exonerates himself of any responsibility. He would even have put his life in danger in front of the death squads. In a word, he is more a victim than a culprit, he has *"a persecuted life"*. There is no paranoid structure. He would rather be psycho-rigid. He has never used the term "genocide".

Hearing of Laurent BUCYIBARUTA, himself the subject of a complaint dating from 2000.

Witness called by the defence.

In 1994, he was no longer prefect of Kibungo as he had been transferred to Gikongoro in July 1992. BARAHIRA is said to have informed him of his intention to resign as soon as he arrived in Kibungo in January 1986. The witness then spoke about the conditions under which his successor was appointed. The prefect had given three candidates, and he admitted that his preference was for the appointment of NGENZI, while acknowledging that he did not really know any of the three. The President of the Republic will appoint NGENZI. He had fulfilled his role of burgomaster very well throughout the period when the witness had been prefect. The latter emphasised that he had nevertheless encountered two difficulties: the RPF invasion on 1 October 1990 and the multi-party system from June 1991. NGENZI was a universally appreciated bourgmestre.

The witness is questioned about the circumstances of BARAHIRA's resignation. He knew nothing about it or did not want to know. There were rumours but he did not want to listen to them. However, the witness is reminded that during a deposition in March 2014, he had stated that he had advised BARAHIRA to resign! He knew RWAGAFILITA [4], but nothing more. With great difficulty, he will end up acknowledging that he too is being prosecuted in France for genocide, but accuses *"tourists who are experts and say anything"*. To a juror who wants to know if he was a member of the MRND: *"But who are you?"* He refuses to acknowledge that he was a member of any political party, even if he was in the MRND until 1991. Maître PADONOU wants to talk about his judicial file but the witness recalls that the question is not on the agenda. He acknowledges that there was indeed the genocide of the Tutsis, but also the *"massacre of the*

Hutus". He still won't say that he is under investigation in France. This is the attitude that he will maintain when Maître AKORRI questions him in turn.

Mr Philippe COURROYE introduced himself and asked him in turn: How often does a mayor resign?

Answer: *"It happens*. The reasons? The witness did not want to go back over matters that had happened before his arrival. Member of the MRND? Yes, until the multi-party system. The witness acknowledges that Léon MUGESERA's speech in Kabaya was *"not balanced"*, according to what he was told.

Maître MATHE intervenes in her turn. She invited the Court to refer to the reference book by Alison DESFORGES which never implicates BUCYIBARUTA. She recalled that Kibungu was a neglected prefecture. She tells the witness that in Kibungu Hutu and Tutsi lived in harmony. *"The old demons were awakened by the war,"* said the witness. But with the multiparty system, there was much more conflict between Hutus themselves than between Hutus and Tutsis. Asked whether a bourgmestre could directly request the army or the gendarmerie, the witness said that any citizen under threat could request the intervention of the gendarmerie, but that for the army, the normal way was to go through the prefect. However, in exceptional cases, the burgomaster could meet the military commander. However, neither the prefect nor the burgomaster could *'give orders'* to the military. *"The prefect had the power to requisition but not to conduct operations'.*

To close the hearing, the president maliciously said: *"Goodbye, Mr. BUCYIBARUTA, and I won't say goodbye again!*

Hearing of Daniel ZAGURY, psychiatric expert in the BARAHIRA case.

The witness began by saying that he was in possession of the report concerning ... Callixte MBARUSHIMANA! The president was astonished and, after recalling that it was Mr BARAHIRA, he handed him his own copy. (NDR: Mr MBARUSHIMANA is also the subject of a CPCR complaint).

The expert met with BARAHIRA whom he described as *"a dejected man denying the facts"*. He was a weary, tired, sick man. Even if it is difficult to assess his personality, he does not show any psychiatric pathology. BARAHIRA is said to have mentioned the RPF war, stressing that *"the winners of the armed conflict wanted to harm him"*. He does not recognise any of the facts that he is accused of. If he is being attacked, it is because he was a mayor. This is the RPF's strategy. The expert then mentioned the accused's background after leaving Rwanda, his health problems, his schooling. In short, any psychiatric pathology must be eliminated. He said he was a victim, had no regrets or feelings of guilt. There is no disorder that alters his discernment and he is accessible to a criminal sanction.

Questions from the President, the Advocate General and the defence will give the expert the opportunity to talk about the psychology of mass murderers. Referring to the Nuremberg trial, he spoke of the reaction of an American expert: *"These are men like many in the United States"*. He also quoted Christopher BROWNING, author of the book "Ordinary Men": *"All those who were given the choice to kill, they did it. According to a Dutch scientist, there is a "lack of psychic elaboration" in this type of executioner. The killer is part of a group action in which he dissolves his free will. He feels shame towards his family, but not guilt. "They (the killers) would have to relive the crimes they committed in fantasy for them to feel guilt. The old woman I kill has nothing to do with my mother, the child I kill has nothing to do with my child."*

When questioned by the defence, the expert stressed that he remained a psychiatrist in his investigations, that's all he knew how to do. History? It is not his field. And he recalled a Rwandan proverb: *"A man cries from within"* (NDR: that's right! A man can also cry!)

The hearing is suspended.

1. The first part of the interrogation took place the day before, on Monday 27 June.
2. Municipal Centre for Continuing Education.
3. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
4. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungu where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France!

Ngenzi/Barahira trial Wednesday 29 June 2016. Day 36

- Hearing of Gérard LOPEZ, psychiatrist in the NGENZI case.
- Hearing of E.M. PHESANS, expert psychologist in the BARAHIRA case.
- Testimony of Alain NGIRINSHUTI, vice-president of Ibuka France.
- Testimony of Alain GAUTHIER, President of the CPR.
- Testimony of Dafroza GAUTHIER.

Hearing of Gérard LOPEZ, psychiatrist in the NGENZI case.

The psychiatric examination of Mr. NGENZI was carried out on 22 May 2011 in Fleury-Mérogis prison. The accused stated that, as mayor, he had done everything possible to avoid the massacres. No remorse but regrets. He said that his father had been assassinated by the RPF (?). The doctor acknowledged that NGENZI had not been mistreated and that he had no previous criminal record. The contact with his patient was pleasant and serene. The latter considers himself to be a victim of political manoeuvring (already mentioned) and of false testimony. He also expressed concern about the fate of his family. According to the expert, the accused does not have a psychiatric disorder. He lives alone in his cell but works, participates in a Bible group and goes to Mass on Sundays. For him, "*everything is a lie, manipulation*". He is accessible to a criminal sanction and there is no cause for altering his criminal responsibility.

Hearing of E.M. PHESANS, expert psychologist in the BARAHIRA case.

The expert does not report any constituted neurosis but has a predominantly defensive position. He found his patient introverted, unwilling to talk about the past. "*He pushes everything that is complicated into the background of his existence*". BARAHIRA seems to suffer his life: he is the only one in his family to have studied, and does not know why he was appointed burgomaster. His speech is completely institutional. He does not get any satisfaction from all this. He did everything out of duty.

As regards his resignation, the accused blames it on fatigue, which the psychologist describes as "*unsatisfactory behaviour*". BARAHIRA thinks that he is being prosecuted because he was a mayor, because he had political functions. He says he has always had good relations with the Tutsis. Having retired from politics, having held a not very rewarding position as an electricity meter reader, he ran for the presidency of the MRND in January 1994.

Is he capable of killing with his hands? "*Everyone is capable of doing it in a given context*. Cf "[The Banality of Evil](#)" by Hannah ARENDT. For the accused, the genocide did not take place because he does not know who organised it.

Testimony of Alain NGIRINSHUTI, Vice-President of Ibuka France.

The witness shared with the Court his situation as a survivor and spoke briefly about the *Gacaca* courts [1].

Testimony of Alain GAUTHIER, President of the CPCR.

Mr President, members of the Court, ladies and gentlemen of the jury. The mark of genocide is not fury, it is silence. *La fantaisie des Dieux: Rwanda 1994*, comic book by Patrick de Saint-Exupéry and Hippolyte. I appear before this court, both as a family of victims, but above all in this trial, as president of the CPCR, the Collectif des Parties Civiles pour le Rwanda, a civil party association which filed a complaint against Mr Octavien NGENZI on 21 May 2010, while he was in Mayotte where we had been informed of his presence for several months. Having heard of Mr BARAHIRA during my initial investigations in Kabarondo, we filed a complaint against him on 28 March 2011. The objective of our association is to prosecute the alleged Rwandan genocidaires present on French soil. Some media, who have ignored us for a long time, especially our opponents, present us as "genocide hunters", or even "hunters of Hutu intellectuals". You will understand, after these eight weeks of trial, that I can only refute this vocabulary, which is precisely that of genocide. We are simply asking the justice system of our country to verify whether the suspicions that we have about people who allegedly participated in the genocide of the Tutsis, whether these suspicions are founded. Who in this audience, even on the defence benches, would dare to say that the prosecution of the Nazis was not justified? It was not us who brought Messrs NGENZI and BARAHIRA to justice, it was the French investigating judges. Without the CPCR's complaint, it is unfortunately true, Messrs NGENZI and BARAHIRA would probably have continued to live without being worried, there would not have been an assize trial and you would have been spared these eight trying weeks. And I would like to apologise for having dragged you into this adventure after fate had chosen you as jurors to accompany us. We would have preferred that the justice system in our country responded positively to the extradition requests so that those suspected of having participated in the genocide could be tried as close as possible to the crimes of which they are accused, as close as possible to the victims. It should be noted that on more than 20 occasions, the Court of Cassation has refused to extradite to Rwanda those whom their country demanded to be tried. This decision, contested by jurists specialised in international criminal law, remains incomprehensible to us.

These eight weeks were hard for us, but this has been our daily life for over twenty years. It was certainly hard for you too, because, by immersing yourself in the horror of a genocide, you will be marked forever, your life will never be the same. For you, there will be a before May/July 2016 and an after. Your

responsibility as jurors is immense, and the decision you will have to make in a few days' time will perhaps be the most important of your lives. It is in your soul and conscience that you will have to render justice, on behalf of the French people. On our side, "neither hatred nor revenge", to quote Simon Wisenthal, the man who has been nicknamed "the Nazi hunter". Personally, I have always said that I prefer a guilty man to be free than an innocent man in prison.

This trial was obviously organised for the victims, for their memory. Not to carry out this fight for justice would be to kill them once again, to bury them in oblivion. This thought is intolerable to us. This trial is also for the survivors, for their families, who drag the after-effects of the genocide like a ball and chain, who relive the horrors of the massacres all day long. And the more time passes, the more the weight of the past is felt: the pain does not disappear with time. Finally, this trial was also made for the defendants. It could have allowed them to recognise part of the truth, to ease a conscience enlightened by the many witnesses who came to deliver their truth.

I want to enlighten you because your task is terribly complicated. You will have to take into account the problems linked to the cultural gap, the problems linked to translation, the multiple hearings to which the witnesses have been subjected, which brings out contradictions. Kinyarwanda is a complex language, very subtle, and when you hear the words of an accused who says that "we must not kill the Tutsi girls so that our boys can marry them", we could also have translated "so that our boys can appropriate them", which means "to rape them", to make them their "sexual slaves". And if rape was absent from this trial, in Kabarondo, as elsewhere in the country, rape was also, along with clubs and machetes, a weapon of the genocide. This genocide was committed far from France, 22 years ago, in a country that you may not even have known existed. Other problems are linked to a failing memory, the disappearance of witnesses, survivors or killers, their weariness to testify... Other witnesses, victims, cannot denounce the killers of their own family: their only support, to work their fields, is the one who exterminated their own. Finally, you were confronted with the denial professed by the defendants: the witnesses were all allegedly liars. Their defence, on several occasions, even tried to make you understand that the witnesses who came from Rwanda were subjected to pressure or, as a background witness from Brussels said, and who made a fool of himself in front of you, that they belonged to a "syndicate of informers", of which we would also be part. Allow me to give you a few chronological points of reference, a few elements that I believe are important for you to understand the commitment that we have made.

When I was 13 years old, in the seventh grade, a priest from the Society of White Fathers, Missionaries of Africa, came to show a film about the martyrs of Uganda. At the end of the session, I slipped him a piece of paper: "I would like to be like you!"

In 1970/1972, I enrolled at the Faculty of Catholic Theology in Strasbourg, within the Society of White Fathers, and instead of military service, I opted for a two-year stay in cooperation. By chance, I accepted a position as a French teacher in a secondary school in the south of Rwanda, in Save, diocese of Butare. During this stay, I met an old Latin teacher, a royalist Hutu, Mr NAYIGIZIKI, who taught me the history of the country. I also met Dafroza who, due to the chance of life, but especially the fate of the Tutsis in 1973, I met again two years after my departure from Rwanda, in 1974. In 1977, we decided to unite our destinies,

'for better or for worse'. For fifteen years, we led the ordinary life of ordinary citizens and welcomed three children. We went about our business, Dafroza as a chemical engineer and I first as a French teacher, then as director of a secondary school and a vocational school.

The attack of the RPF on 1 October 1990 worried me a lot because I feared that the Tutsis from 'inside' would be the first victims of this new situation. My fears were quickly realised as from the first days of October many Tutsis were arrested, including members of our family. At the beginning of 1993, the intervention of Mr Jean CARBONARE, on television, reminds us that the situation in Rwanda is extremely serious. I wrote a letter to President MITTERAND, asking him to intervene with his Rwandan counterpart, his friend. I received two replies: one from the presidency, the other from Foreign Affairs. France is doing its best to bring peace to the region. The future will prove the contrary, as the French government has chosen its side. The Arusha Accords, signed on 4 August 1993, lead us to believe that genocide could be avoided in Rwanda, but the procrastination of the Rwandan president, under pressure from extremists, does not augur well. In February 1994, Dafroza went to Kigali to visit her mother. The situation is dramatic and she is obliged to cut her stay short: she writes a new letter to the French president which remains unanswered. And our life was to change on the morning of April 7 when I woke up and told my wife that President Habyarimana's plane had been shot down on its return from Dar-Es-Salam, where he had finally agreed to implement the agreements signed a year earlier.

On 8 April, while I was in my office at the Collège Jeanne d'Arc, which I run in Reims, I learned that Dafroza's mother had been killed when she had taken refuge with other members of the family in the parish in the Nyamirambo district, the "Charles Luanga" parish, one of the martyrs of Uganda, whose story I mentioned at the beginning of my testimony. On my way home in the evening, I have the heavy task of telling Dafroza that his mother has died. Our son, Emmanuel, then aged 11, uttered these disturbing words that still echo in my head: "Mama, I will avenge you".

For three months, we will live as if in a dream, but we will be very active: petitions, sleepless nights, nightly calls from survivors holed up in the Hôtel des Mille Collines in Kigali, interventions with the media, demonstrations... Thank you to all those who have enabled us to stay on our feet during these three months.

On 15 August, we were happy to welcome two young orphans from our family, Pauline and Jean-Paul, who were found in Burundi and who stayed at home for a year, until we learned that their father had escaped the genocide. A little later, we welcomed an orphan nephew, Emile, and more recently, Isimbi, whose father was killed and whose mother was miraculously found under the bodies of the victims.

It was not until the summer of 1996 that we returned to Rwanda: it was a shock, an emptiness. The family destroyed, the friends gone, the houses destroyed... More than a hundred people are missing!

During our holidays in Rwanda in the summer of 1997, we collected our first testimonies concerning Abbé Wenceslas MUNYESHYAKA, who has been the target of a complaint since 1995. A cousin of Dafroza,

a survivor of the Holy Family Church with two of her children, enabled us to meet other survivors. We give these testimonies to a lawyer who is then working on these genocide cases.

And then there was the first trial in Brussels in the spring of 2001, the "trial of the Butare Four", which was the trigger for our commitment. At the end of the trial, one of our friends, Gasana NDOBA, asked us: "And you, what are you doing in France? We decided to gather our friends and create the CPCR, Collectif des Parties Civiles pour le Rwanda. Insofar as the public prosecutor's office has never deigned to prosecute the slightest alleged Rwandan genocidaire present on French soil, we take up our pilgrim's staff and decide to go to Rwanda to collect testimonies, first of all in the existing files. We became a civil party in three cases: Wenceslas MUNYESHYAKA, a priest in Gisors, in the diocese of Evreux, Sosthène MUNYEMANA, a doctor in Villeneuve sur Lot, and Laurent BUCYIBARUTA, the former prefect of Gikongoro, in the heart of the Turquoise Zone! We are also investigating these cases by providing new testimonies. Another emblematic complaint of our fight was the one we filed a little later against Dominique NTAWUKURIRYAYO, sub-prefect of Gisagara near Butare. We had found him working in the service of migrants in the diocese of Carcassonne. This case was taken up by the ICTR, which sentenced him to 25 years in prison, a sentence reduced to 20 years on appeal. At the same time, this same ICTR renounced the extradition of MUNYESHYAKA and BUCYIBARUTA and asked France to judge them! The MUNYESHYAKA case is dismissed (we have appealed). Still no closure of the investigation for Laurent BUCYIBARUTA! In 15 years, we will file 22 new complaints which are currently being investigated by the crimes against humanity unit created at the TGI of Paris since January 2012. We go on an investigation each time a new case presents itself to us. We collect testimonies, usually in Kinyarwanda, translate them under the responsibility of Dafroza, and hand them over to our lawyers who draft the complaints, who have been following us since the beginning of our involvement. At this point, I would like to pay tribute to our children who have allowed us to embark on such a time-consuming adventure. Without their support, we would not have been able to embark on this fight for justice. A tribute that we also share with our lawyers.

In June 2004, we were called to Kigali: a mass grave had been identified in the courtyard of the Nyamirambo parish. We will spend a week paying our last respects to Dafroza's mother and the other victims discovered in this grave.

Ladies and gentlemen of the jury, genocide is not a natural disaster, it is not an earthquake that swept away hundreds of thousands of victims. A genocide is not even a million dead, anonymous, piled up in the streets, taken away in trucks and thrown into mass graves. A genocide is a mother, a brother, a sister, a cousin, an old man, a baby who takes days to die in the latrines where he was thrown, young men and women who were beginning to taste life... A genocide is victims, all innocent, who only wanted one thing: to live. A genocide is even lives interrupted in the womb, all ignobly executed, meticulously, meticulously. All our dead had names, wanted to live or grow old in peace, to be born in peace, to grow up in peace.

We are part of the families of the victims, but in none of the complaints we have filed are we directly concerned. We are not fighting for the dead of our families, we are fighting for all the victims, for all the survivors who cannot speak.

As I have already told you, if Messrs NGENZI and BARAHIRA are here before you today, it is because the investigating judges thought that there were sufficient charges against them to be referred to an assize court. The CPCR is at the origin of the two complaints, but it is the investigating judges who wrote and published the Order of Indictment, the OMA. If our struggle is relayed by the media, it was not always so. For many years, we worked in complete anonymity. This trial did not get the media coverage it deserved. A news director of a major national radio station would have said that the French were not interested! How can they be interested if those in charge of informing them are not interested? We are fighting this battle "without hatred or revenge". And yet, this commitment has not brought us only friends.

Indeed, our struggle regularly arouses hostile reactions, in particular from personalities who constantly pour out their venom in their books or in the press, which welcomes their writings in dubious taste. These slanders and lies give "courage" to others who, anonymously, spit their bile: infamous and degrading messages, death threats, people who come to prowl around the house... But nothing will divert us from a fight that has occupied us for nearly twenty years, the genocide of the Tutsis being an integral part of our life.

And contrary to what our detractors claim, it is not the Hutus that we are prosecuting, but people who allegedly participated in the genocide of the Tutsis. It will come as no surprise to anyone that the vast majority of those being prosecuted are Hutus. Weren't the vast majority of Nazis Germans?

Mr NGENZI and Mr BARAHIRA, allow me to address you. During these eight weeks, I have dreamt that one day your armour would crack, dreamt that you would finally let your guard down. This trial, if it is done to restore the honour of the victims, if it is done to allow the families of the victims to mourn, not to forget, but to continue to live in the belief that their lives still have a purpose, this trial could also have been an opportunity for you to regain the part of humanity that you have lost. This trial was a chance for you, but you deliberately refused to take it. You, more than anyone else, know what your conduct was in the days leading up to your escape. Unfortunately, you have made your children victims who of course do not have to pay for the crimes you are accused of.

At the beginning of the trial, you said that you sometimes read. "Not often", you admitted. But during your studies in French, you may have heard of one of the greatest and most popular poets in French literature: Victor HUGO.

In his book 'The Legend of the Ages', we find the poem 'The Conscience' which tells the story of Cain and Abel, the children of Adam and Eve. Cain, the farmer, is jealous of his brother Abel, a herdsman. Cain, having committed his crime by killing his brother, tries to escape the eye of his conscience. He flees to the end of the world, takes his wife and children with him, builds a tent, then thick walls, shoots arrows at the stars... As the eye is still there, he decides to build a tomb where he will be locked up. And here are the last lines of the poem which I leave to your meditation:

*"So they made a pit, and Cain said, "It is good.
Then he went down alone under the dark vault.*

*When he had sat down on his chair in the shadows
And the underground was closed on his forehead,
The eye was in the grave looking at Cain.*

Mr President, members of the Court, ladies and gentlemen of the jury, thank you.

A special thought for our friend Sharon COURTOUX from Survie, who has been diminished by illness and has been by our side for many years. We owe her our respect.

Questions put to Mr GAUTHIER by the jurors.

A first question concerns the refusals to extradite to Rwanda.

Alain GAUTHIER: *"On numerous occasions, more than 20, the Court of Cassation has refused to extradite to Rwanda persons targeted by an international arrest warrant. The argument put forward is that the organic law that punishes the crime of genocide in Rwanda is subsequent to the genocide itself, and that this crime cannot be judged in Rwanda. This position of principle is shocking and legally unacceptable. International criminal lawyers have studied the issue and refuted this argument: see the article by Professor Damien ROETS of the University of Limoges on our website. France has judged Maurice PAPON, Paul TOUVIER or Klaus BARBIE on the basis of the major international conventions of New York and Geneva. Double standards?"*

A second question relates to the financing of the CPR.

Alain GAUTHIER: *"The CPR is an association under the law of 1901 which receives no subsidies from the State. In order to finance this trial and the appeal of SIMBIKANGWA which will take place from 25 October, we need financial support. As our association has an annual budget of around 15,000 euros, we felt it was essential to launch appeals for support. A foundation has given us its support: the OAK Foundation. Moreover, insofar as it is Rwandans who are on trial, there is nothing abnormal about the Rwandan state itself granting us aid."*

Question on Jean CARBONARE.

Alain GAUTHIER: *"I personally never met Jean CARBONARE. I did not know the SURVIE association until well after the genocide."*

Question on the date of obtaining Rwandan nationality for Mr GAUTHIER.

Alain GAUTHIER: *"I didn't talk about it in this Court and I don't see the point, but I think I remember that it was in 2009. I could probably have obtained it much earlier. But I don't see what this has to do with this trial!"*

And the juror concluded: *"The Court will appreciate it!"* A remark of rare impertinence in the mouth of a juror.

Why wouldn't the CPR file complaints against the RPF?

Alain GAUTHIER: *"This is not the first time I have been asked this kind of question. Now, if you have proof of the crimes of the RPF and if you have the courage to engage in this fight that will take up your life, do it. We have our own fight that takes up our whole life."*

What do you live on?

Alain GAUTHIER: *"I have taught all my life, and was responsible for the management of a secondary school and a vocational high school before ending my career as deputy director of a large school in Reims. I have now been retired for three years."*

If trials had taken place in Rwanda, under what conditions would they have taken place?

Alain GAUTHIER: *"Rwanda has tried many genocidaires. In Rwanda, even today, people are judged as in any state that has laws and respects them.*

About the "conspiracy theory". You are the representative of it as president of the CPCR. How do you defend yourself?

Alain GAUTHIER: *"I don't have to justify myself or give arguments to those who accuse us of participating in this 'conspiracy theory'. We have given ourselves an objective that we are trying to achieve. Others have put Nazis on trial, I don't understand why people suspected of having participated in the genocide of the Tutsis could not be prosecuted in France.*

Intervention of the President: *"I have an observation to make on the legal level. Usually, the attention of the jurors is drawn to the importance of asking questions with respect to the presumption of innocence. I think that was the case this morning. But this formula used by the professionals, "the Court will appreciate", seems to me to be misleading. Mr GAUTHIER, may I point out that the date of acquisition of nationality is not part of this trial. I wanted to make it clear to you: the Court will not appreciate!*

Intervention of Maître MATHE, for the defence of NGENZI.

"I wanted to assure you that we do not doubt the sincerity of your commitment and by temperament and ideology it is not the role of the defence to show compassion: it is a professional doctrine.

Alain GAUTHIER: *"I didn't talk about the defence".*

Maître MATHE: *"I would have liked to draw the Court's attention to the fact that your work has contributed a great deal to the exercise of universal jurisdiction and I have said that I am personally and professionally attached to it, but this is not the case in this file. In this case, the origin of this case comes from the prefect of Mayotte who transmitted the decision to the CNDA on 29 March 2010. It is concomitant there are administrative opportunities on which I will explain, I always defend the action of the institution that I consider suitable and appropriate. I would now like you to inform us about the authorities in KIGALI. I don't claim that you are the head of the conspiracy but I think you have privileged access for example to the prisons."*

Alain GAUTHIER: *"Each time we investigated, we went through official people, we went through the right people and it's true that this is very difficult. But each time we have had access to prisons (we are not the only ones, cf. films or reports) we have obtained official authorisations each time. It is not necessarily by going through the public prosecutor's office that we obtain these authorisations. For example, we made a request to the person in charge of prisons, who at the time was Mr Paul RWARAKABIJE, who had returned from exile in 2004, after having fought at the head of the FDLR in the forests of Congo for 10 years.*

Maître MATHE: *"You have created a sister association in Rwanda.*

Alain GAUTHIER: *"Yes, on 28 March. It is very clear. In the preparation of this trial, we thought that the Rwandans, as victims in our judicial process in France, we considered that this genocide concerned above all the Rwandans and that it would be good to create a sister association "Friends of the CPCR". For the moment, it has not done any fundraising activities, but this is the objective that this association has set itself to help us continue our fight in France.*

Maître MATHE: *"What was the "organizing power"?"*

Alain GAUTHIER: *"The organisation of the launch event was entrusted to the CNLG, the National Commission for the Fight against Genocide, chaired by Mr Jean-Damascène BIZIMANA.*

Maître MATHE: "He was a member of the MUCYO commission of enquiry which is the commission to establish the responsibility of France, to establish the role of France in Rwanda. You can't fight conspiracy theory better than by dispelling fantasies. I don't intend to demonstrate a conspiracy theory view, I have a slightly more subtle view. Do you have direct or family relations with civil and military authorities in Rwanda?"

Alain GAUTHIER: "I have never hidden it, I am not ashamed of my family: a cousin of my wife is the wife of James KABAREBE, former Chief of Staff of the army and current Minister of Defence. This is not a 'rumour', as you say. We meet at family parties but we have very little contact."

Maître MATHE: "He was also Minister of Defence in Congo!"

Alain GAUTHIER: "It's not my fault!"

Maître MATHE: "He has been diplomatically indicted!"

Alain GAUTHIER: "I don't see any connection with this trial".

Maître MATHE: "I'm sharing questions and rumours that are circulating on the internet!"

The President, annoyed: "The Internet is getting bigger and bigger, we only take into account the file we have: thank you."

Alain GAUTHIER: "I answered the questions with all possible honesty."

Testimony of Dafroza GAUTHIER.

In order to give more visibility to his testimony, it was decided to publish it on Thursday 30 June 2016.

1. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.

Ngenzi/Barahira trial Thursday 30 June 2016. Day 37

Testimony of Dafroza GAUTHIER given the day before in court.

I was born in Rwanda, on 04/08/54 in Astrida, which became Butare, after independence. I am a chemical engineer. I was born in a family of Tutsi pastors, my parents lived at that time in the ex-prefecture of GIKONGORO, located in the South West of Rwanda. Part of my father's family lived in the Nyaruguru region. We had a good childhood there, without any particular history, with large families living not far from each other, many aunts and uncles, many cousins,... years of childhood and carefree life... years of happiness...

"The more time passes, the less we forget" (Boubacar Boris Diop) Murambi or the Book of Bones.

As far back as I can remember as a little girl, two events remain imprinted in my memory:

I remember the moment when my father came to announce the death of King Mutara III Rudahigwa, I must have been around 5 years old. I see the adults upset and my mother wiping her eyes... but it is only later that I will understand the significance of this event...

A second event, closer to our families, and which must have taken place towards the end of 1960, was the assassination of my primary school teacher, with an axe, decapitated, (we would learn this later): his name was Ludoviko, in French Louis. He was much loved on our hill. A neighbour came and whispered something in my mother's ear. I see her panicking, catastrophized, destabilized, and hiding her tears...

Since this assassination, a first family reunion with the closest Tutsi families, including that of my cousin Ruhingubugi, has taken place. The fear was perceptible, the world seemed to have stopped! In the early evening, two employees from my paternal aunt's house arrived. I can still see my mother picking up a few small items and putting them in large trunks. I understand with my childish eyes that this is not a normal situation. During the night, we went on foot to my uncle's, my aunt's husband, about 4 or 5 km away, with all the occupants of the house. A second family reunion had just started.

The very next day, our house and those of the neighbouring Tutsi families were looted and burned. We lost everything! I never went back there until today...!

And it was in those years, from 1959 to 1962, that our Tutsi families in the region fled en masse to Burundi, where we lived barely 20 km from the border.

The year 1963 was a murderous and bloody year in our region of Gikongoro. At least 20,000 deaths. André RUSSEL, a philosopher, spoke of the "*small genocide of Gikongoro*" in the newspaper Le Monde dated 6 February 1964:

"The most horrific and systematic massacre of men since the Nazi extermination of the Jews.

At the age of 9, I owe my life to the church in Kibeho where we found refuge with my mother, my close family and other Tutsis from our region. The militia did not massacre in churches at the time, which was not the case in 1994 when this taboo was shattered and churches became places of massacre, places of execution and Kabarondo is an example of this!

Following the massacre in the Gikongoro region, many of the survivors from our families were displaced to the Bugesera region, southeast of Kigali. At the time, this was a region inhabited by wild animals, an inhospitable region, without drinking water, a region where the tsetse fly was rife. Entire families were decimated without any possibility of care. The Bugesera was discussed in this court of assizes in connection with the 1992 massacre.

The Tutsis, forced into exile in 1963, having survived the tsetse fly, having survived the 1992 massacres, will perish en masse in 1994. There were almost no survivors in the Bugesera region. The genocide took them away en masse...

We were refugees within our own country. I went to boarding school at a very young age, from 3^{ème} to 6^{ème} primary school, with the nuns, with other Tutsi children including my cousin Emma. Our parents had sheltered us, they thought. We learned to do without them very early on, too young...to do without the family's sweetness. We grew up as orphans and had to make do with the minimum.

We were second-class citizens, we Tutsis, with our identity cards that said 'Tutsi'. We were foreigners in our own country.

Later, after my years of secondary school in Save, 12 km from Butare, when I entered the Lycée Notre-Dame in Kigali, about 130 km away, I had to get a "laissez passer" issued by the prefecture. I was not the only one. At the famous Nyabarongo bridge, at the foot of Mount Kigali, we had to get off the bus to be checked and present our passes, us Tutsis, in view of our faces.... This operation could take hours... We were insulted, sometimes even brutalized, humiliated, and all this remains engraved in our memories...

We grew up in this atmosphere of fear and exclusion, with revolt deep inside us...! As children, our mother taught us to keep quiet, to be small, not to make waves: at school, at college, at high school, in the street, at church, everywhere, we had to keep quiet, lower our eyes, shave the walls...!

I was lucky enough to go to school and get a normal education. Many Tutsis, especially boys, could not go to the state secondary school. It was the time of quotas.

And it was at the beginning of 1973 that I left my country to take refuge in Burundi after the pogroms of that period. This episode was evoked in this Court of Assizes. Driven out of schools, high schools, universities, the civil service and other jobs in the private sector, the Tutsis again took refuge in neighbouring countries and swelled the numbers of previous years, those of our old families in exile since 1959.

I can still hear our mother telling us, at the beginning of February 1973, with my sister, that we had to leave and as quickly as possible. She was afraid of seeing us killed or raped in front of her eyes, she would tell us later... It was a very painful separation, I hesitated... I remember those moments so sad, so heartbreaking... at nightfall, when we had to leave very quickly, without looking back, our eyes full of tears!

After our departure, our mother was summoned by the mayor of our commune, a certain J.B. KAGABO, and put in the communal dungeon. She was reproached for her lack of civic-mindedness, because of our escape. She came out with her right arm in a sling, broken, she told us later. I felt guilty for having run away, and for having abandoned her!

I will spare you the account of this journey in the middle of the night through the marshes of the KANYARU, the river which separates Rwanda and Burundi. An interminable crossing in two days, where the group of our friends from Butare, who had preceded us, were not so lucky: they were savagely murdered by the smugglers, these pirogue men who wanted to take their meagre booty... We were lucky, the men of our group were stronger and more numerous and we were able to return to the north of BURUNDI, near Kirundo, on the verge of exhaustion, but without too much damage. This crossing often comes back in my dreams or nightmares, we saw death at very close range. Our bodies still bear the scars.

A UNHCR camp was waiting for us with its blue tarpaulins as the only makeshift shelter and we were welcomed with the usual formulas: registration, distribution of blankets and another small bowl for the only food. A bowl of rice was our daily ration!

We were not welcomed with open arms by our Burundian brothers, I remember. A life in exile is a unique experience from which you never emerge unscathed. It conditions the rest of your life!

After a few days in KIRUNDO camp, a first sorting is done to reach the capital Bujumbura. I am part of the journey. I will only stay in Bujumbura for 7 months, to join my elder brother, a refugee in Belgium since the beginning of the 1960s. I was able to continue my studies.

My status, since Burundi, is that of a political refugee with a UNHCR travel document and the restrictions that this document imposed at the time. In 1977 I obtained French nationality through marriage, which was quite quick at the time.

From 1977 to 1989 were uneventful years, an ordinary family life with our three children. We were able to return to Rwanda regularly to see my mother and the families who were still there.

Our last family trip to Butare was in the summer of 1989 when our youngest, Sarah, was 18 months old. During the summer of 1989, we took advantage of our holidays in Butare to visit our refugee families in Burundi. I still remember the incident when we arrived at KANYARU, at the border post with BURUNDI, the border police stopped us. They let all the vehicles through, except ours. They made us wait a whole day, with our young children! We had proper papers, proper passports, everything seemed to be in order, but they found a way to humiliate us once again, making us wait on the side of the road, without explanation: I was revolted! It reminded me of my high school years at the NYABARONGO bridge, except that I was no longer alone, our children were suffering without understanding anything!

Anecdotes of this nature are inexhaustible, under the first and second republics!

The war broke out in October 1990 and we could no longer visit my mother.

On 1^{er} October 1990 the RPF attacked from the north of the country. News from the country came to us from various sources, including NGO reports. Some of them were mentioned by the context witnesses in the first weeks of this trial. My brother followed the political developments in the country very closely via the front. He also had many friends who were human rights activists on the spot, including Fidèle KANYABUGOYI and Ignace RUHATANA, his friends, founding members of the KANYARWANDA association, whose names were mentioned before this Assize Court. They were both brutally killed in 1994 along with almost all the members of the KANYARWANDA association.

At the end of February 1994, I went alone to Rwanda to see my mother who was resting with her family in Kigali at the home of Geneviève and Canisius, my cousins. They lived in Nyamirambo, near the parish of St André. My cousins had a pharmacy. Canisius and Geneviève, his wife, had fled like me in 1973. We were in Burundi together. They then left Burundi to return to Zaire in search of better living conditions. They returned to Rwanda in the 1980s when Habyarimana encouraged Tutsi refugees to return to rebuild the

country. Some of our friends and family members returned from exile at that time, and they did not escape the 1994 genocide. The survivors of that time can be counted on the fingers of one hand.

So I went to the country, at the end of February 1994, it was "***a journey at the end of the night***"! I arrived in Kigali on the day of the MDR meeting that was taking place at Nyamirambo stadium, on the heights of our neighbourhood, under Mount Kigali. At the exit of the stadium, there were fights between militias of the CDR, the MRND, the MDR and the PSD, but the Tutsis, the scapegoats of all time, were especially attacked! Tutsis were beaten up in the street and were pushed into the gutter by this pack of excited people on the boulevard. We looked out of the window and my cousin Geneviève called the Red Cross to pick up the wounded or dying! We could see the Red Cross vehicles coming, stopping on the side of the road and waiting for the militiamen to finish their dirty work. Once the militiamen had left, the Red Cross would pick up the victims! It was a period when RTLM was at work, broadcasting night and night its messages of hatred, horror and calls for murder by quoting lists of Tutsis to be killed as well as their neighbourhood of residence. In the aftermath, RTLM announced that the work had been well done and that the graves were still empty.

In Kigali, during this period, Tutsis were attacked in their homes and killed for no other reason than being accomplices of the RPF!

During the night of 21 February 1994, the Minister of Public Works, GATABAZI Félicien, a member of the PSD party, was assassinated. He was originally from Butare. This assassination was mentioned in this court of assizes. In retaliation, Gatabazi's supporters assassinated BUCYAHANA, the leader of the CDR, the extremist party. He was murdered near Butare, at MBAZI to be exact, as he was leaving for Cyangugu where he was originally from. Very quickly, certain districts of Kigali were cordoned off and attacked. I am thinking of the GIKONDO neighbourhood where BUCYAHANA lived, but also my aunt Pascasie and her children and grandchildren. They suffered reprisals, as well as other Tutsis from the same neighbourhood. The *Interahamwe* of GIKONDO were known to be the most extremist, and were also known for their cruelty. In February and March, in the city of Kigali, Tutsis fled to churches and other places they thought were safe, such as the Christus Centre, the Jesuit convent. Many of our families and friends have found refuge there: they will spend a few days there. This week was particularly deadly in Kigali, while elsewhere in the country there was relative calm.

I look back on this period with great sadness. I would have liked to have exfiltrated my family, some of them, those I thought were the most exposed, like my cousin Canisius, so that they could leave Kigali! But it was already too late...! I, like others, failed... Kigali was sealed off by all the exits, one could not pass anymore when one was a Tutsi! The tension was at its highest!

We did not leave the house that week, except once, at the Nyamirambo market, with my cousin, for a little food. My cousin slept outside and came back in the morning... Shouts, screams, grenade attacks in the neighbourhood punctuated these endless days!

Every day we were provoked by militiamen, big tyres burned all day long in front of the pharmacy, in the gutter, on the boulevard. I remember my mother coughing and our eyes were irritated by the thick smoke of hydrocarbons and plastics.

I will always remember my cousin Geneviève's naive advice to wear only trousers, you never know, because she and the other women wore long johns under their loincloths! As if that would keep rapists away...!

There was total insecurity in the St-André neighbourhood and elsewhere in Kigali. Nyamirambo was known to be inhabited by many Tutsis. My mother was very worried, and she told me that we had to leave as soon as possible, as in 1973... "This time, you have your husband and children. *This time, you have your husband and children, death must not find you here and we all perish at the same time*"! She had no more illusions! With the help of a friend, I was able to bring forward my return date...!

I saved my skin, but not them!

The return to France in March 1994 was very hard, with this feeling of guilt that never leaves you... I felt guilty and cowardly for having left them, for having abandoned them in those critical moments...! We will be checking in regularly through a friend. In view of the growing insecurity, my family ended up taking refuge in the parish of St André during the week following my return.

Alain, my husband, started to alert again: he wrote to François Mitterrand, but it was a cry in the desert! It was not heard, just like Jean Carbonare's appeal on Antenne 2, on Bruno Masure's set!

On 6 April 1994, I don't remember exactly that evening with my family. I remember especially the morning of 7 April, very early in the morning, when Alain, who was listening to RFI, told me that the plane had fallen and that President Habyarimana was dead. In the aftermath, I phoned my brother in Brussels to get some fresh news, took a shower and got ready for work. But even before leaving the house, I receive a phone call from a fellow journalist, Madeleine, who tells me about the attack on the Jesuit convent in Remera, Kigali, and on the Cyprien RUGAMBA family. My brother also tells me about the uncertain fate of the opposition personalities, including that of Mrs UWILINGIYIMANA Agathe, Prime Minister. With the trip I had just made, I understood that this time the machine was in motion!

On the morning of 7 April, shortly before 6 a.m., we learnt that soldiers had taken over the house in Nyamirambo. The pharmacy was looted and all the occupants were asked to come out, with their hands up, into the inner courtyard of the house. There must have been around a dozen of them, along with friends and visitors who had not been able to go home because of the situation. On the morning of 7 April, they managed to reach the Charles LWANGA church, on the other side of the boulevard, in exchange for a sum of money, just as it happened to some of them in Kabarondo...! Other Tutsis from the neighbourhood joined them. They spent the first day of the 7th and the night in the church.

On 8 April, in the morning, shortly before 10 am, militiamen accompanied by soldiers attacked the church. They asked the refugees to leave. Shots were fired, grenades exploded, bodies fell and littered the floor of the church, while other refugees tried to flee. Almost the same scenario as at the church in Kabarondo and elsewhere in the country...!

My mother, Suzana MUKAMUSONI, aged 70, was shot twice in the back in front of the church. Our neighbour, Tatiana, fell next to her with her two-year-old grandson on her back. The three of them are mortally wounded, they are not the only ones, other victims lie in the courtyard, killed or seriously wounded, like Gilberte, better known as Mama Gentile, the wife of a cousin, one of the occupants of the house: she will be evacuated by the red cross to Kabgayi.

We will learn that thanks to a heavy rainfall, the militiamen and the military moved away to take shelter. During this time, the survivors of the church managed to reach the presbytery and take refuge there. That day, my two cousins were among them.

It was at the end of the day on 8 April that I learned of my mother's death. Alain was able to get one of the parish priests, Father Otto MAYER, on the phone and he asked him to call back at the end of the day. It was the parish priest, Father Henry BLANCHARD, who informed him of my mother's death. My body gave up on me when I heard the news: I don't remember the rest of that evening of 8 April.

Of the 14 occupants of the Nyamirambo house, only Gilberte survived the attack of 8 April with bullet wounds. My cousin Canisius KAGAMBAGE was shot at the Josephite brothers' house on 6 June 1994, where he had managed to hide with about 90 other Tutsis. We found his remains when the pit at the Brothers' house was opened, thanks to his identity card in his trouser pocket. As for my cousin Geneviève, she will be killed on 10 June, four days apart, with the hundred or so refugees from the St-André parish! She was thrown into a mass grave in a district of Nyamirambo, with the others, many of whom were children. Many of them were thrown in alive, as in Kabarondo. The militiamen put tyres there and burnt them with petrol. And when the pit was opened in 2004, no bodies were found, just bits of kneecaps and some jaws! We were even deprived of their remains.

In this Court of Assizes, you have listened to survivors who are trying to find out where their family's remains are, and where they were dumped. It is difficult to begin the work of mourning!

I will always remember that June 2004, when my husband and I had to leave in a hurry when a friend told us that a mass grave had been identified in St Andrew's parish. According to some accounts, my mother could have been in that one with those who were murdered on the same day. We both left for Kigali without our children. The opening of the grave was attended by families from all over: Canada, South Africa, the USA and everywhere else. Some Nyamirambo survivors and close friends were also there.

It is an unchanging ritual: workers who are paid for this particular task arrive with their tools, picks and shovels, for the opening. These are difficult moments for the families and loved ones: it is difficult to contain one's emotions. With each blow of the pickaxe and shovel, we are surprised to jump, to scream, a particular stress accompanies these unique moments, between the cries and the nervous fits interspersed with silence, until the moment when the phalanges of a hand appear. People observe each other, look at each other, rush around, sometimes bicker around these pits of despair. It even happened that we laughed a lot, as if to ward off the spell! Smells that will never leave you, they remain printed forever in your brain! The worst thing is that everyone thinks they recognise their own! And here is that with the

second blow of the pickaxe appears a beautiful skull with a very beautiful dentition. At this moment, I accuse the blow, it can't be my mother, she was 70 years old...! Is it a young person, an old person, we are all transformed into forensic doctors, where each one of us is going to scrutinize the slightest distinctive sign, a dress, a little jewel, a shoe!

From this pit in St. Andrew's parish, only two bodies were formally identified, a young 20-year-old basketball player, Emmanuel, I believe, recognized by his brother. His whole body will appear, in sportswear, fluorescent orange jersey, number 14: he seemed to be sleeping a deep sleep, his head buried in the red sandy soil of this parish land. The other body was that of a young child of 7, identified by his cousin, thanks to the clothes he was wearing that day.

For my part, I'll settle for a piece of copper bracelet and a rosary as my only distinguishing marks, hoping that they were my mother's. I brought them back to Reims to show our children! I took them back to Reims to show them to our children!

Our dead still haunt our minds, especially some of them, especially the children, swept away in their innocence, swept away without understanding anything. It is hard to forget them. I often think of the children of my cousin Vianney, killed with his wife Christine, in REMERA, near the airport. They were the ones who welcomed us when we arrived on holiday. Their five children were thrown alive into the latrines where they agonised for a week, calling for help that never arrived! This is the kind of story we hear in GACACA.

On my mother's side, no survivors have been found to date! Entire families disappeared forever! Places unrecognizable, transformed by the new occupants, it's the aftermath of the genocide...!

Genocide is absolute evil. The evil from which there is no cure. Everyone tries to survive it in their own way, in their own way, to avoid disappearing in their turn!

For my part, I am healing myself through action and through this quest for truth and justice! This justice that we missed: one could kill the Tutsi without being worried in Rwanda from 1959 to 1994. Impunity was the established rule. The Tutsi was not a man, simply a cockroach, an *Inyenzi*, a snake, he was dishonest and bad in business. He was a foreigner who had to be got rid of by any means, send him back home to Abyssinia!

In 1994, in Rwanda, the Tutsis were abandoned by everyone! We were watching them being killed, from afar, we, their families, and live, powerless, helpless, annihilated... We were looking at all these butchered bodies in the streets of Kigali and everywhere else, these bodies swollen and carried by our rivers, we were facing the unspeakable.

Calls for help from those who were still hiding somewhere came to us: I think of the refugees at the Hôtel des Mille Collines who sent us faxes for help, calls from those who were hiding somewhere. I remember the call from Régine, a friend, who wanted us to inform the Minuar of the place where she was hiding, I

remember Irène who told us that the killers were arriving at her door, then the phone fell silent, and then nothing more, her body was bathed in blood at the entrance to her house when she was found.

We mobilised, in France, in the whole diaspora, throughout Europe, throughout the world, petitions were launched, we went from demonstration to demonstration, but our calls for help went unheeded! We were beyond sadness, beyond anger, beyond grief, we were devastated!

In 1994 in Rwanda, all the borders were closed and the Tutsis were killed, in broad daylight, for three months, from north to south, from east to west. This was the only 'job', there was no other! Kabarondo was no exception to the rule, it was the same scenario: the church was no longer a refuge, the Tutsis were savagely executed by their blood brothers under the orders of a genocidal state, an enormous machine for manufacturing death, with the supervision of the administrative authorities including the mayors!

Mr BARAHIRA was undoubtedly one of the few to pick his bananas, to look after his cows, to take care of domestic chores, to repair an electric transformer, while his Tutsi neighbours were being butchered and while hundreds of bodies were dying in the Kabarondo church. He did not see them!

The genocide did not happen in his neighbourhood, while everywhere else, in the whole country, it was an apocalypse. He saw nothing, heard nothing, the radio was not on!

As for Mr NGENZI, he was one of the few mayors concerned about death certificates, which he was never able to obtain. He tried but without success. He saw a few dead, not more than 200. He guarded his commune to avoid looting!

In 1994, in Rwanda, the Tutsis were not buried, their butchered bodies were thrown alive or dead in huge pits, in latrines, in rivers, eaten and torn apart by dogs, by rats, by birds of prey, and KABARONDO is no exception to the rule. The bodies of the Tutsis from the church, the health centre and the IGA were swallowed up by this enormous hole on 16 April 1994, bodies that were already decomposing and that nobody wanted to bury!

For us, there is now a before and after 1994.

Faced with history, *our history*, the history of the Tutsi genocide, my generation has enormous responsibilities. We have lived through this troubled period from 1959 to 1994. We are the witnesses of this *History*, the History of Rwanda. We are going to pass it on to the younger generation, to our children, grandchildren, and to the generations after...

We must write this story on the right side to avoid so much suffering, so much trauma. I share this history with the two accused. Tito BARAHIRA and Octavien NGENZI, without hatred, and without a spirit of revenge, are accused of the worst of crimes. For eight weeks, their children and our children have shared together, here in this Court of Assizes, the same story of genocide, that of Kabarondo: and I am delighted. From now on, they will become, in their turn, transmitters of this history, transmitters of this memory, the memory of the genocide of KABARONDO: *IBUKA*, remember!

Here, in this Court of Assizes, we represent those who are absent, those who are no longer with us, those who will not take the stand to demand justice. We represent them today, we have a moral debt to them. We also represent all those survivors, exhausted, wounded in their flesh and in their soul. Not all of them were able to attend this trial, although it is primarily intended for them, for their reconstruction, for their mourning! Those of them who had the courage to testify before all of you, before this Court of Assizes, shared their ordeal with us: it is not easy to tell, because to tell is to relive, to relive the horror, to plunge back into the old demons that always haunt you, to tell is to relive all this suffering, to relive the unspeakable...

Justice is now helping to rehabilitate the victims of the Kabarondo commune through this trial, through these debates, through these accounts. Evoking their memory, evoking their remembrance, is to give them a dignified burial.

Justice is a major act, a masterpiece, a weapon against oblivion, a weapon against the negationism that we witnessed in this Court of Assizes. Minimising the facts, watering them down, making them incomprehensible, and then denying them is an objective of the gravediggers of memory, our *Memory*. Let us therefore remain vigilant!

In this Court of Assizes, I have the opportunity to evoke some of the victims of the church of Kabarondo, of Bisenga, of Rwakigeri, of Cyinzovu, of Rubira, of the Centre de Santé, of the I.G.A, Rundu, Kiyonza, Rurenge, the Tutsis transported from Kabarondo to the commune of Birenge to be executed, all these martyred places, all this blood shed, the blood of innocent people who had committed no other crime than being born Tutsi.

Coincidentally, this trial took place during the 100 days of mourning for the genocide, which begin on 7 April and end on 3 July each year.

And Dafroza GAUTHIER named more than 200 victims of Kabarondo in order to bring them out of the anonymity into which the genocide had plunged them.

The few survivors of these hills and their families told us the names of the murdered victims: the youngest was a few days old infant, and the oldest was 97 years old.

Mr BARAHIRA and Mr Ngenzi may recognise some of their former constituents.

I will start with the victims of Mélanie UWAMALIYA, a civil party in this trial and originally from KABARONDO. Mélanie is an old friend, whom I first met at the Lycée Notre-Dame des CITEAUX in KIGALI. Later, we met in exile, in Brussels, around the fight for justice within the Collective of Civil Parties in Belgium to have the perpetrators of the genocide of the Tutsis judged:

Nyiranjara Stéphanie 67 years old (Mélanie's mother)
Musabyeyezu Marie 42 years old (Mélanie's younger sister)
Usengimana Ignace (Marie's son)
Umugwaneza Yvonne (daughter of Marie)
Kayihura Bernard 38 years old (brother of Mélanie)

Kayihura Mugorukeye (wife of Bernard)
Kayihura Kangeyo (their daughter)
Kayihura Rwagaterura (their son)
Athanasie
Kananzobe (Melanie's aunt)
Murikanwa Béatrice (Athanasie's daughter)
Kagoyire Assumpta (Athanasie's daughter)
Iragena Stéfano (Athanasie's son)
Mwiseneza Jean (Athanasie's son)
Mukakayonga M. Goretti (Jean's wife) and their 4 month old baby.

The other victims:

Rudashirikaka Fidèle: 47 years
Rudashirikaka Dafroza
Rudashirikaka Edouard,
Mbola: 35 years
Kayumba: 40 years
Mpfizi J. de Dieu
Kayiranga
Abayisenga
Mudaheranwa Denis: 48 years
Mukambuguje Gaudence
Kabwebe
Gahutu
Ngabonziza Elie: 40 years
Ruzindana Godefroy
Tarcice fils Kamanzi
Rutagengwa Petero
Mugiraneza: 45 years
Ngango Théoneste: 48 years
Seminéga Alex: 21 years
Kanyangoga Célestin: 18 years
Ntakiyimana Jean: 7 years
5 years
Mukampfinzi Athanasia: 97 years
Mukamunana Gratia: 32 years
Nsinzabahizi J de Dieu: 12 years
Niyomungeri Carole: 3 years
Rwakabwa Faustin: 28 years
Nyirabashumba Léokadia: 67 years
Gahonzire Laurence: 30 years
Bajeneza Georgia: 28 years
Mukakibibi Bernadette: 75 years
Mukamusoni Cécilia: 65 years
Nyirabucari Theresia: 70 years
Bugingo Dany: 69 years

Kanyandekwe J.Bosco: 46 years
Rajabu
Ruhingana Théogène: 20 years
Kagobya Théogène: 17 years
Cyarukweto Pilote: 17 years
Mumararungu Théoneste: 10 years
Kanyonga Odetta: 22 years
Mayonde: 5 years
Rudasingwa: 20 years
Musaniwabo Donata: 30 years
Bavumiragira: 70 years
Nyirabikari : 65 years
Makobana: 5 years
Kagina Cléphace: 95 years
Kasine Verdiana: 70 years
Ruganintwari Tharcice: 32 years
Gahutu Venantie: 30 years
Karagire: 5 years
Rutayisire: 32 years
Mbagire Espérance: 25 years
Maneza: 4 years
Mahoro: 9 months
Kayobya Enoch: 66 years
Kankundiye Agnès: 60 years
Muvunyi: 20 years
Ntirenganya: 16 years
Mukankubana Eveline: 47 years
Ngaboyiranga: 1 year
Rukingamabiri Canisius: 29 years
Uwanyirigira Providence: 28 years
Mafirimbi Dominique: 10 years
Kabaloni: 8 years
Nduwayo: 6 years
Makobwa: 3 years
Karuganda Denis: 61 years
Nyirafaranga Thereza: 58 years
Mukandori Agnès: 40 years
Majyambere Emilie: 20 years
Mugabekazi Béata: 22 years
Masoho Jérôme: 18 years
Uwanziga: 16 years
Mukamisha: 14 years
Kayiranga: 12 years
Gatete Théogène: 10 years
Nyiranuma: 3 years
Kanyarupangu : 88 years

Gakwaya Antoine : 57 years
Karekezi Mathieu : 61 years
Cyaboshye Adèle : 70 years
Ngiruwonsanga Saverine : 60 years
Mugesera : 30 years
Rutayobya Thadée : 50 years
Rutayobya SHAMI : 38 years
Kimonyo Shami : 2 years
Mukagasana Spéciosa : 50 years
Muhawenimana: 20 years
Makobwa Angélique: 9 years
Sebashaka Célestin: 22 years
Sagisoni Jean: 75 years
Kanagwa: 25 years
Gasagwa Claver: 18 years
Macali: 16 years
Makobwa: 14 years
Bizimungu Saver: 62 years
Murekatete Angelique: 18 years
Kalima: 16 years
Nkubito Eugene: 20 years
Gahirima André : 55 years
Kibweceli: 10 years
Rusizana: 14 years
Rwemalika Dismasi: 42 years
Mukakanyemera Anastasia: 65 years
Rutagengwa Sekamare: 20 years
Rupfakarengane
Muhirima Isaac: 42 years
Mukaruhumuliza Belancila: 38 years
Kanyabazungu: 14 years
Nizira: 8 years
Kimonyo: 4 years
Mukamuhigirwa: 18 years
Mugesera: 3 years
Mudaheranwa Vedaste: 49 years
Mukamurangira Primitiva: 45 years
Mukantwari Godeliva: 30 years
Ntirenganya: 15 years
Mukamutsinzi: 16 years
Niyita: 8
years
Byiringiro: 6 years
Mugabekazi: 4 years
Munyakarambi: 40 years
Gahigi Théodore: 42 years

Bikorimana Bosco: 16 years
Nshimiyimana Janvier: 14 years
Munganyimana Mathilde: 12 years
Dusabyeyezu Christina: 10 years
Bahigi Tarsisi: 48 years
Mugenzi Serufigi: 10 years
Ndayisenga: 6 years
Sumuniza: 12 years
Bishyundu: 2 years
Kalisa Olivier: 18 years
Uwamaliya Chantal: 16 years
Rusagara Jean: 12 years
Ntirushwamaboko François: 46 years
Mukagatare Léocadie: 42 years
Ntirushwamaboko Olivier: 16 years
Ntirushwamaboko Christian: 14 years
Ntirushwamaboko Hervé: 11 years
Ntirushwamaboko Roger: 9 years
Ikirezi: 7 years
Mwerevu Jean- Baptiste
Kankera Athanasie: 80 years
Mukagatete Cécile: 56 years
Mukakamanzi Scholastique: 46 years
Uwamwezi Denise: 26 years
Kagabo Evariste: 18 years
Bimenyimana J.Jacques: 8 years
Mukagasana Spéciosa: 49 years
Muhawenimana
Munyancogora Toto
Uwamahoro Francine
Rucogoza
Rudomoro
Nakabonye
Mungarurire Jean-Pierre
Gatete Charles
Gatera
Gatete
Muteteri
Murekatete
Rwamihigo Jerome
Kaburame
Murenzi
Mugabo Benoit
Mbindigiri
Kayiteta
Murorunkwere

Mukaruhira Daforoza
Mukaruhigira Josephine
Butera
Murebwayire Edith
Kampundu Vestina
Musonera
Munyawera
Emmanuel et Innocent
Rudasingwa
Mutabazi Josephine
Nsengiyumva Chrisante
Kananzobe
Athanasie
Murikanwa Béatrice
Mwiseneza Jean
Mwiseneza Mukamanzi and their 2 children
Kagoyire and her 2 children
Gahima Eularie
Zirimabagabo
Mwiza
Mishahi
Cyibuka Bruno
Nikuze
Kibingi
Nyiramatana
Kabasinga

Here, in Paris, on 29 June 2016, in this Assize Court No. 3, a story of Kabarondo has just been written... an indelible proof of what happened in Rwanda in 1994. No one can say that it did not happen. Justice is a prerequisite for any reconciliation, and for any reconstruction: the reconstruction of people, the reconstruction of Rwandan society and the reconstruction of Rwanda as a nation.

"...Do not forget that it was, no, do not forget it... Primo Levi

My thanks go to the Court.

I would like to thank our lawyers, Michel LAVAL and Sophie DECHAUMET, who have worked with us for all these years. This trial would never have been possible without them. Maître LAVAL is the first Parisian lawyer to have reached out to us, he did not hesitate, he was not afraid of this story and yet...

Thanks to Claire and Laura, interns, for their generosity and valuable contribution.

Thank you to the members of the CPR, who are carrying out this work with us: without them, nothing would have been possible.

To our friends in Reims, who have taken turns, discreetly, throughout this trial, in this Assize Court: they have carried us for 22 years, without ever being discouraged, without ever failing!

To the survivors of our family in Rwanda, who understood the importance of this indispensable, demanding and rigorous work. Their contribution, as early as 1996, was decisive.

To the RWAYITARE family, who acted as surrogate parents for our children while we scoured the hills of Rwanda for evidence.

To two friends, who brought the picnic every day to prevent us from getting hungry.

My deepest affection to our children whose immense generosity has enabled us to do this work of "*Memory and Justice*". Our lack of availability must have weighed on them at certain moments in their lives and it continues to do so. It is not easy to have parents like us! They accepted us without ever judging us, without ever rejecting us, on the contrary, they surrounded us with their support and their love. We can never thank them enough.

Jury questions.

Question: *"We know that the past and the present are very much linked, can you tell us about the present, the future. You talked about reconstruction and reconciliation.*

Dafroza GAUTHIER: *"I was carried away by that, by the reconstruction, you have heard that there was no animosity between Hutu and Tutsi before, long before. But the genocide destroyed everything, and not only on the victims' side. The present is reconstruction and justice that will allow us to talk together, to make plans together and to see the future together.*

Question: *"What do you think is happening in Congo today?"*

Dafroza GAUTHIER: *"I will be very, very, very brief: it is the direct consequence of the genocide. This is the reason for the destabilization of the Great Lakes Region.*

Ngenzi/Barahira trial: plea of Maître DECHAUMET, CPR lawyer

Text of the pleadings of 1^{er} July - second hearing devoted to the pleadings of the civil parties.

Mr President, Councillors, Ladies and Gentlemen of the Jury

It is with pride but above all with great humility that I stand before you in support of the interests of the Collectif des Parties Civiles pour le Rwanda and of 15 civil parties who we represent with my colleague Michel Laval.

Having almost reached the end of this trial with a lot of emotion on my part, I must confess that these two months of hearings have also, like you I imagine, deeply upset me... Upset as a lawyer of course, as a citizen, but also as a woman and as a mother...

A gap, if not more, separates France and this magnificent country of a thousand hills, a time gap, between 6 April 1994 and 1^{er} July 2016, a geographical gap and a cultural gap that must not be overlooked in this trial.

However, today, thanks in particular to the CPRC, which I have the honour of representing, but also to all the associations and civil parties, a bridge has been established between YOUR Court and this terrible genocide that we all find difficult to understand.

A nagging question that all of us in this room have asked ourselves: how is this possible?

As a preliminary point, I wish to rectify a number of points that were insidiously distilled by the defence at the opening of the debates....

What is the CPRC, without which this trial would probably not have taken place?

The CPRC is above all the fight of a lifetime... The fight of a couple who sacrificed everything, their health, their family life, their personal life...

The CPRC is also, and I think it is important to remember this, a non-profit association, which does not generate any turnover and does not redistribute any profits to itself.

It is surely out of modesty that Mr. Alain GAUTHIER did not tell you that, for years, many years, it was he and his wife who supported the association with their personal resources.

The CPRC has done a titanic job, a colossal job, travelling 5 to 6 times a year to Rwanda, tirelessly travelling the country in search of the truth...

So it seems to me that today we can only thank Alain and Dafroza GAUTHIER for giving the victims back their lost dignity.

And obviously, I confess, I shudder, I jump when I hear them being asked, whose entire family was decimated in April 1994 during the genocide, why they are not taking legal action against the RPF, the RPF whose entry, I remind you, had the merit of putting an end to the massacres against the Tutsis...

Ladies and Gentlemen of the Court, what haunts this courtroom today is neither the abuses committed by the RPF, which are not disputed, nor the massacres in the Congo, but the genocide of the Tutsis in April 1994 in Rwanda, and more precisely in Kabarondo.

Do not go where the defence has been trying to take you since the opening of the proceedings...

When I reread the ICTR judgments, the decisions handed down in Brussels, I noticed that there was indeed a common strategy on the part of the genocide defendants, a strategy that is absolutely unbearable for the victims:

- By consistently applying the "strategy of the mirror accusation" described by Mr Audoin-Rouzeau and H el ene Dumas, the historical untruth gradually took hold in this room, as Michel LAVAL had anticipated from the first day. Putting the RPF on trial, putting the Tutsis on trial, is what is commonly known as the mirror accusation, we finally accuse others of what we have done ourselves.

* This common strategy also consists in minimizing the facts, minimizing the number of deaths:

Mr NGENZI's sudden last minute change of heart about the number of dead in the church is significant and will not fool anyone...

At the time of the investigation, on 1^{er} December 2010, but again in February 2014, he was formal, 150 or 200 deaths at the most.

His wife, a model of dedication, also maintained last Friday before you very formally that the number had not changed. If it was 200 in 1994, it is still 200 in 2016.

And then, during the debates, Mr NGENZI will, by pure opportunism, suddenly realise that he has probably forgotten a zero and apologise...

Mr BARAHIRA, as we have already been told, did not see any deaths, at least that is very clear. It's the most absolute denial. He saw nothing, heard nothing...

Just as during the first trial concerning the genocide, Mr SIMBIKANGWA, two years ago, very quietly assured that in his region of Kyovu, there had been almost no deaths.

This joint strategy also includes :

- To raise the issue of the inequality of arms from the outset of the trial and to present oneself as a weak defence, which, we all agree, proved to be completely inaccurate during these two months of hearings, as Mr NGENZI and Mr BARAHIRA could congratulate themselves on being brilliantly defended by lawyers who knew their case perfectly and had a perfect command of the procedure

Finally, this common strategy consists of :

- systematically discrediting the witnesses who took the stand, transforming the executioners into victims and the victims into executioners.

The defence never stopped hammering the witnesses, the survivors, until very late at night, too late, demanding incongruous details, wanting to make them geometers, asking for excessive details, with the sole aim of putting them, 22 years later, in default.

One thing that struck me was that the defence systematically questioned the witnesses about the time, the timetable. On the other hand, yesterday and the day before, when they questioned their client, they were

very lenient in pointing out that it was perfectly normal for him not to remember the exact time and that he could simply refer to the position of the sun...

Always a double standard...

Ladies and Gentlemen of the Court, we are not going to lie to ourselves, all those involved in this trial (the defence, the prosecution, the civil parties, your Court) have noted that certain witnesses who can be unanimously considered to be biased should be excluded.

We saw them, we recognised them.

But we cannot ignore the other witnesses, those whose word is free, whose integrity is complete, and there are many of them...

All these witnesses who have tirelessly come before you with dignity and courage. Keep in mind that most of these people are simple peasants, who do not speak the same language, who in some cases have never seen the capital Kigali, who have never taken a plane, who travel for 48 hours when they know full well that in the event of a conviction, they will not be compensated...

So, there are obviously inaccuracies, details that have changed, but it is up to you to note the overall coherence of all this testimony.

Because you can't disqualify the whole of the testimony because it contains variations, inaccuracies or uncertainties?

Bear in mind that all these people have no interest in coming to testify before your Court other than to contribute to the truth about what happened in Kabarondo.

Kabarondo and these two men....

Ladies and gentlemen of the Court, you must always bear in mind that these two people played an essential role in the articulation of the power in place in 1994, one was a burgomaster (I recall that there were only 142 burgomasters in Rwanda).

The other was a former mayor and de facto or de jure President of the MRND, a party described by Mr NGENZI as a party with values of peace and unity...

Remember that the chain of command in Rwanda is perfectly structured and that the massacres that were committed in Kabarondo, as everywhere in Rwanda, must be analysed as a mental process, fed by hate speech, hammered out at state, prefectural and communal level, hammered out on the radio and in the newspapers, for several years.

Kabarondo... Commune of 40,000 inhabitants which has been run for 10 years by a respected, influential, intelligent burgomaster, described by some as devious, playing a double game, and by a de facto president of the MRND, a former burgomaster, who is also respected and feared.

What do these two people, whose destinies are ultimately intertwined, have in common?

They are the protégés of Colonel RWAGAFILITA, who was much talked about during this trial, a member of AKAZU, a shareholder of RTLM, one of the most influential personalities in the Kibungo region, whom he had given the uniform in 1994, who masterminded the organisation of the preparatory meetings and the massacres. A great relay of central power in the Kibungo prefecture!

When questioned about RWAGAFILITA during the investigation and even during his interrogations during the trial, Mr NGENZI always defended him, indicating that he had never heard him say "bad things", even going so far as to suggest that RWAGAFILITA was still alive when he was dead, and that he knew this for a fact since his nephew was going to visit him in the Fleury-Mérogis prison...

However, I must be honest with you and confide in you (but this is a personal reflection) that I sometimes felt uneasy during this trial. I think that on a few rare occasions, I say rare occasions but which nevertheless unsettled me, Mr Octavien NGENZI, whom I consider to be an extremely clever person, managed to make me doubt... And I agree with what Alain GAUTHIER said the day before yesterday: what is worse than an innocent man in prison...?

And then one day, the jigsaw was put back together, I understood... Everything appeared to me with clarity, with limpidity... because in reality all the testimonies, in spite of their gaps for some of them, all overlap...

And my firm conviction, which I wish to share with you, even though I am perfectly aware that it is not my role as counsel for the civil parties, is that at no time, I repeat at no time, did these two men, respectively mayors and de facto presidents of the MRND, lose their authority during the genocide. There is not a shred of evidence to suggest that these men were overtaken...

Certainly, and this is probably what you will be told, these two men are cowards, who undoubtedly lack courage, who are devoid of any principle of honour. But make no mistake, it is much worse than that...

These two men are fully part of the genocidal process.

I am firmly convinced that Abbé INCIMATATA is telling the truth when he tells you that NGENZI totally changed his mind as of 11 April 1994.

He moves freely, he criss-crosses the hills, which does not fail to provoke the admiration of his wife, he directs the operations, always armed, he accompanies the searches drinking beers with the Interahamwe, he recruits for the burial, what shall I say, the burial...

Only his best friend, Mr MPAMBARA, tried to come to his aid, telling him for the first time that it was he who had told his friend that on the morning of the 13th, the soldiers were looking for him because he was an accomplice of the RPF who was hiding Tutsis!

Now, the Advocate General, who brilliantly challenged him before your court, has stressed this on several occasions: in 2006, before his friend NGENZI was questioned, before the ICTR, during the reconstruction of his schedule, Mr MPAMBARA never indicated that he had been to Kibungo and that he had met Octavien NGENZI on the 13th. On the other hand, on the morning of the 13th, Mr NGENZI and his family did not yet have any refugees at home, who, I would remind you, as his wife confirmed to us on Friday, had arrived after the massacre at the church.

In this respect, Mr. NGENZI, who even goes so far as to try to pass himself off as a righteous person, a classic procedure of presumed genocidaires, who did he actually save?

The young Alice, a Hutu, 15 years old at the time of the events, who appears before you collapsed, thanking NGENZI, introducing him as her father, whereas both of them will confirm that they have cut all links, all contact for years...

I have a few personal reflections here, but I will now humbly resume my position as a PC lawyer and give the floor to the victims.

After these two months of hearings, ladies and gentlemen of the Court, we must not get used to the horror, we must not fall into the trap of trivialising evil...

We must never forget the dead of Kabarondo

Let us never forget the mother of Véronique MUKAKIBOGO, civil party, who at the age of 85 was savagely thrown alive into a septic tank during the massacre of RUNDU, one of the sectors of Mr NGENZI's commune, of which he was perfectly aware on the one hand, and which he allowed to take place on the other, being much more busy criss-crossing the hills to gather the Tutsis...

Let us never forget the thousands of infants (the youngest was 8 days old), young children, teenagers, pregnant women, young parents, grandparents and great-grandparents (the oldest was 98 years old), who perished in atrocious suffering on 13 April 1994 at the church in Kibungo... all these shattered destinies, all this innocence taken away forever!

Let us never forget the young children aged 9 and 10, and the pregnant wife of their third child, of Eulade RWIGEMA, civil party.

Let us never forget the husband and more than 20 members of the family of Benoîte MUKAHIGIRO, the civil party who appeared before you, her voice hoarse for life because of a machete blow and unable to stand because of a club blow to her spine, but who insisted, despite her very fragile health, on coming to testify....

Let us never forget the husband and 5 children of Berthilde MUTEGWAMASO, the civil party, who were savagely macheted in front of her eyes in the church and whose only survivor was a little 8-month-old baby who saved her because he took the machete blow instead of her, while she was carrying him in her loincloth on her back.

Let us never forget this baby, now a young adult, who is now disabled for life....

Let us never forget the family of Francine UWERA, the civil party, who came to testify with overwhelming dignity and who, at the age of 14, saw her entire family except for Augustin, her little brother, the civil party, her beloved older sisters, murdered in front of her, her older sister who continued to reassure her even though part of her face had been ripped off. Her last image, she told us, was that of her 8-month-old little sister who was sucking on the breast of their dead mother Only her 5 year old brother, Augustin, who was listening to her in tears in the room, miraculously escaped...

Let us never forget the three children, aged a few weeks, 2 years and 7 years, the wife, mother, brothers and sisters, cousins, of Jean-Damascène RUTAGUNGIRA, the civil party.

Let us never forget the 150 members of Jovithe RYAKA's family, the civil party, including the wife, the two sons, the parents, the brothers and sisters, and nephews...

Let us never forget the baby of Straton GAKWAVU, a civil party, who had managed to escape with his mother from the church but who died of hunger in the bush,

Let us never forget all those victims who lost their lives in that church...

Some of whom, gentlemen, were your neighbours, your colleagues at work, your childhood friends, and for whom you did not show the slightest hint of humanity...

Let us never forget the mother, the aunt, the cousins of Mélanie UWAMALIYA, who has been present every day since the opening of this trial, and who has joined as a civil party with her daughter, Alexandra, and her nephew, Jean-Eudes.

And you, gentlemen, never forget that the day after the massacre in the church, when you did not deign to go to the scene because you did not think of it, never forget that young children were still alive and could have been saved...

Let us never forget *Mélanie's* sister, brother, nephews and nieces who were killed at the Birenga communal office, following the raids on the Médiatrice home orchestrated by Octavien NGENZI .

Let us never forget this woman, Mediator, civil party who, at the risk of her life, with incredible courage, hid for several days about twenty refugees...

Let us never forget Jacqueline, the civil party, who told us that she was loaded into the van "*like oxen being led to the slaughterhouse*", and who lived through the terrible massacre of Birenga, telling your Court

about the silence of the adults who were faced with the cries of the children who were being massacred with machetes and clubs in pools of blood...

Let us never forget all the other victims of Kabarondo.

How dare you, in front of the families of the victims, claim that you have given these victims their dignity by burying them, when you literally left the bodies to rot for 3 days and threw them into a mass grave, like animals, without a glance?

Mr NGENZI and Mr BARAHIRA, I am addressing you one last time: you have, over the past 45 days, had several meetings with the truth, which you unfortunately missed, which again, never forget, prevents the victims who are there before your eyes, and all those who have already returned to Rwanda, which prevents them from rebuilding themselves....

I therefore naturally turn to you, Ladies and Gentlemen of the Court, since from now on you have the heavy burden (and I imagine how heavy it is) of re-establishing this truth for all the victims and families of victims that we represent....

Ngenzi/Barahira trial Friday 1^{er} July 2016. Day 38

Pleadings of the civil parties

It is difficult to convey here the intensity of the pleadings that gripped the courtroom over the last two days. It should be remembered that the entire trial was exceptionally recorded on video "for history".

While waiting for it to be made public, it is useful to refer to the AFP article ("At the assizes, the last cry of the victims") relayed by some media, so few exclaims Maître GOLDMAN: "*How many journalists are there when history is being judged here*" [1] whereas as Maître LAVAL reminds the jurors "*you have understood that the crimes you are going to talk about concern the whole of humanity [...] your task goes far beyond the ordinary mission of the assize court, which is already quite heavy. Yes, this is a historic trial.*

To all those who are still wondering why this trial is taking place in France and not in Rwanda [2], Maître PADONOU and several of his colleagues remind the jurors: "*Why universal jurisdiction? You must not be put on the wrong trial: "If the current regime is a dictatorship, it can only raise opprobrium, but you are not seized of this decision... You are not in charge of the trial of the RPF, nor are you in charge of the trial of the Great Lakes region of Africa or of the Congo," Mr LAVAL insisted, referring to the confusion that the Defence tried to maintain in the hope of minimising the guilt of the accused: "I said on the first day of the trial that we wanted to inoculate you with the poison of doubt and I think that a lot of work has been done in this direction. France, "sorry, the French government", he said, "is the only government in the world to have recognised the interim putschist government". In the name of the CPR, "I filed more than 20 complaints and I came up against total inertia. [3].*

"Never forget..."

When Maître DUCHAUMET in turn recalled the names of the disappeared reported by the witnesses throughout the two-month trial, for the first time Mr NGENZI lost the impassive and slightly contemptuous smile to which he had accustomed us.

The whole afternoon was then devoted to the beginning of the closing arguments of the Advocate General, Mr Philippe COURROYE. It will be completed the following Monday.
Jacques BIGOT (CPCR).

Read also the texts of the pleadings transmitted by the lawyers:

- **Text of the plea by Maître Michel LAVAL, CPCR lawyer**
- **Text of the plea by Sophie DUCHAUMET, lawyer for the CPCR.**

1. In this regard, Maître Sabrina GOLDMAN and Maître Rachel LINDON published an article on 7 July after the trial in Libération: Rwanda: indifference, a racism that does not say its name
2. The CPCR would have *"preferred that our country's justice system respond positively to extradition requests so that those suspected of having participated in the genocide can be judged as close as possible to the crimes of which they are accused, as close as possible to the victims. It should be noted that on more than 20 occasions, the Court of Cassation has refused to extradite to Rwanda those whom their country demanded to be tried. This decision, contested by jurists specialising in international criminal law, remains incomprehensible to us.* (Alain GAUTHIER during his testimony at the bar, on 29 June).
See also: Refusal to extradite: the opinion of Damien Roets, law professor.
3. See the section "Our legal actions" and on the Survie website: "20 years of impunity: France's complicity in the genocide of the Tutsis in Rwanda

Plea by Michel LAVAL, lawyer of the CPCR

Text of the pleadings of 1^{er} July - second hearing devoted to the pleadings of the civil parties.
Mr President, members of the Court, ladies and gentlemen of the jury,

If you will allow me, Mr President, I will plead from this seat. This is my line, my trench, from where, since the beginning of this trial, I have tried to hold the position of the civil party that I represent.

It is always an ordeal for a lawyer to be the last to plead. That is the task that falls to me. I don't know whether it is for my honour or for my seniority that my colleagues have entrusted it to me. But whatever the reason, I will try to do my best.

It is always a trial to plead when so much has already been said and said well.

A cycle is coming to an end, which is the cycle of the civil parties, and I close the proceedings.

I once heard a word that left me more than a little perplexed; it was "*unspeakable*" when referring to the monstrous events we had to face together for two months.

I don't know what that word means. Nothing is unspeakable, just as nothing is written. Everything can be said, everything must be said. Not to express things, not to say them, not to show them, is to make them fall into silence, into a zone of darkness where oblivion sets in.

We must say EVERYTHING, express EVERYTHING: that is our task.

You have to say EVERYTHING, in order to judge.

You will have to judge. I can imagine the vertigo that must seize you at the time when you have to pronounce on such a serious subject with such consequences. I understand this vertigo. I know the vertigo and I know the traces it leaves. Your decision will remain engraved in your minds as one of the most essential decisions you have made in your life.

No doubt you have forgotten the rather grotesque appearance of the witness MATATA before you. No doubt you have forgotten the warning he gave you against the "pressure" he said you would be subjected to. No doubt you have forgotten that I stood up that day to remind you that you had the heaviest burden of all citizenship, that nothing could have any effect on you.

As a citizen, your task is immense. As a judge, it is infinite. You are seized by virtue of universal jurisdiction. This jurisdiction is linked to the universal nature of the crimes to be judged. These crimes have a universal resonance, they concern the whole of humanity. You have clearly understood that these are not crimes with a hexagonal dimension. You have understood that your decision will be spoken of all over the world, that it will be echoed in South America, in Africa, in Asia, that it will cross the oceans and cross the mountains. Because this decision is of interest to all humanity. So you are not, in my eyes, an ordinary court of law. You are much more than that. You are, in fact, a court of humanity.

I agree with everything that the civil parties' lawyers have said. But there is one remark with which I disagree. Yes, this trial is a historic trial, I said so from the first day. I maintain that this trial is historic, and I maintain that your decision will be a landmark. That is why we must not have the wrong trial.

Beyond important differences, we share the same values with the defence. But just as the defence can adopt any strategy it wants, the prosecution can make any judgement it wants about that strategy.

I said on the first day that we wanted to inoculate your minds with the poison of doubt, and all the work of the defence was done in this direction.

You are not aware of the political nature of the current Rwandan regime. If this regime is a dictatorship it can only suffer opprobrium.

But this issue is not before you.

The RPF trial is not before you. If the RPF committed abuses in the war it waged against the government of the time, none of us will cover up those abuses. I am not a militant, I am a totally free lawyer. Those lawyers who serve human rights, do you think they would cover up any abuses?

But you are not in charge of the RPF trial.

Nor are you in charge (I say this courteously for the benefit of one of you) of the trial of Africa's Great Lakes or the Congo. Events of a more than worrying, even dramatic nature are taking place there.

But this issue is not before you.

You can judge the *gacaca* [1] as you wish; I found that these courts of circumstance were unfairly considered. When you are faced with a crime of this magnitude, a crime that has involved part of the Rwandan population, a crime committed by thousands and thousands of perpetrators, when part of the population has been involved in this crime, what should the state do, what can it do after such a storm? How will it repair the rift that runs through society?

What did we French do at the Liberation? You know this story. What did we do when some of us had committed crimes that had disgraced us? We judged quickly, sometimes unjustly. Special courts were set up, exceptional courts with fewer guarantees.

Were there no lawyers in the *gacaca*? Our French revolution abolished bars and orders. It banned our title and took away our robes. It suppressed us, the lawyers! Is that why the whole revolution was called into question? And today, those who claim to be lawyers come before you, waving the great principles against the Rwandan government! And in the intellectual comfort in which they find themselves, they try to disqualify the whole trial with this nagging question heard throughout the hearings, which in the end became absurd: "*Did you give evidence before the gacaca?*" Is this what they want to ruin the testimony with? And yet, they were never denied in substance. Never were the common sense peasants who came to testify taken to task. In essence, they said the same thing and that same thing was nothing but the truth. You will undoubtedly have to ask yourself the question of the impact of this *gacaca* deposition on the testimony.

But you don't have to judge the *gacaca*.

It is not for you to judge the remission of sentences granted in return for a confession.

And even if this did happen, you cannot draw any conclusions about the reliability of these confessions.

It's strange that this confession system, which is part of a national reconciliation logic, is being called into question. You surely remember what the Italian government did to fight against the terrorism of the Red Brigades and also the mafia. How did it do it? It institutionalised it. It promised terrorists and mafiosi preferential judicial treatment if they gave up information. It was a criminal policy imperative that took precedence over all other considerations. It was to prevent the country from being destabilised and society from being destroyed. Does this mean that Italy had become fascist? Why would anyone say that the Rwanda measure was the manifestation of a 'totalitarian regime'?

It is not for you to judge.

You do not have to judge the ICTR. The ICTR comes into our legal world as a godsend. I remember it very clearly. I remember the legal disarray in which we found ourselves at the time. Nuremberg had not kept its promise of an international criminal court. We were faced with nothing. Apart from the Special Court

for the former Yugoslavia, there was NO action on international justice. The ICTR accelerated the process, as did the tribunal for the former Yugoslavia, the process towards an international criminal jurisdiction which culminated in the international criminal court.

Has the ICTR worked well? For the most part, yes. Always? No. But a justice system that works very well all the time is a worrying justice system. The ICTR has made mistakes at times, but it has done an enormous amount of work. Prosecutor Carla del Ponte decided to resign because the RPF people were not brought before her. But how many genocidaires has she prosecuted before? How many convictions do we owe her? The ICTR has established criteria for the legal qualification of crimes of this nature.

But you don't have to judge the ICTR.

One of you legitimately asked about the CPCR's position on the extradition of certain presumed genocidaires to Rwanda [2]. He seemed to take offence that he was in favour of it. Obviously, with what we have tried to instil in your minds about the Rwandan regime, such a position may seem unthinkable. I have been in charge of the CPCR's interests for over 15 years. I have filed more than 20 complaints against alleged genocidaires. For a long time we were confronted with total inertia on the part of French justice! Because, as you well know, France, or the French government, because I cherish France too much to confuse it with its governments, French governments, whatever their political colour, have had a very particular policy in this matter for a long time. It is the only government in the world to have recognised the criminal interim government set up the day after the attack on President Habyarimana's plane. We know all the contortions, all the compromises of French governments. MITTERRAND's friendship with HABYARIMANA - he was, of course, a real dictator. For years we fought in the desert, with Alain and Dafroza who despaired that justice would never be administered. And this explains the CPCR's position on extradition.

Justice is now your business. It is yours. The President has set the limits. Your task is perfectly clear.

You have before you two defendants who are being prosecuted for their participation in genocide and a crime against humanity in Rwanda, between April and July 1994, in the town of Kabarondo, against a community, the Tutsi community, which they wanted to exterminate exclusively because it was Tutsi. You have to give your opinion on this issue.

Comparison is not reason, but there are events that instruct, that bequeath a legacy. The philosopher Hannah ARENDT says something essential in the book she devoted to the Eichmann trial, which she covered as a journalist. She says that "*a court of justice is made to judge a man, an individual, to decide on the responsibility of this man, this individual in the crime that is imputed to him*". A court of justice is not a faculty; it is not there to tell the story: it is there to judge individuals, to decide on their guilt. This burden is sufficiently large that it does not need to be accommodated by other concerns.

The Rwandan genocide is an admitted, recognised, historically and judicially established fact.

No one can deny the existence of this genocide. I know that we are in a world where, with the help of social networks, misguided minds can claim that Christopher Columbus never crossed the Atlantic to discover the New World, that the Battle of Verdun never took place and that the Shoah is an invention. But if you are a reasonable person, you know that a genocide took place in Rwanda, that it was prepared, carried out and caused the death of nearly a million victims. We know that this crime was not committed by a small group walking around. We know that it was carried out under the orders of an interim government that had the Prime Minister and the moderate Hutus who were protecting the Tutsis murdered in an appalling manner. We know all this.

We know, and this is what is before you, we know that there was a genocide of the Tutsis. We cannot doubt or deny it.

We know that there was a plan. We know that this plan had been prepared. We are told: what plan? Do we have a written proof? We don't need it. There is no need for written proof. There is a plan that is inferred from the modus operandi. The question was decided by the Court of Paris in its SIMBIKANGWA judgment. The scale, the speed, the same means, the same scenarios, people crammed into churches, schools, convents, hospitals, public places, according to the same procedures; the means used: machetes, spears, clubs; the groups that go around according to the same procedure, that enter the villages, the farms, that torture them, rape them; the army that follows, that completes the work. This is the plan. What more do we want? A signed paper? An affidavit?

Think of the Armenian genocide? A telegram has been found, the meaning of which is disputed by historians. Nothing else. But it is certain that there was a plan. The Turks made the Armenians walk on roads (how many died while walking?) which all converged towards a region where there was nothing, towards a desert where death awaited them. Those who could no longer walk were killed. And when the last ones arrived in this desert, they died of hunger and thirst. The procedure used revealed the existence of a plan, because it could only lead to the extermination of the Armenians.

There was a prior plan and also a plan that was being carried out very well. Because the Interim Government had the entire state apparatus at its disposal within which orders were executed, a chain of command in which orders were executed very well and of which the bourgmestres were one of the essential links. The Interim Government was a criminal government that turned the Rwandan state into a criminal state, the state hierarchy into a criminal hierarchy, prefects, criminal prefects, burgomasters, criminal burgomasters.

From the 7th, the killing machine is in motion. Everywhere people are killed, massacred, tortured, raped and they do it in the same way.

Continuing to descend into the bowels of the genocide, I go down to the prefecture of Kibungo. It has been called a haven of peace, a Garden of Eden. It has been called the "Creuse of Rwanda", where everything was peaceful, where nothing happened! Poor Creuse!

Kibungo was the stronghold of RWAGAFILITA [3], the worst of the Hutu extremists, of whom Messrs Barahira and Ngenzi were the creatures and who, like ALL the mayors, were members of the MRND, which had become a criminal party.

Kibungo was put to fire and blood from the beginning of the genocide. The first crimes occurred as early as 7 April, and multiplied every day in all the communes. I have in my hand the bulletin of the bishop of the parish of Kibungo, published less than a year after the execution of the genocide. I will read you the crimes: on 8 April, 1500 refugees exterminated in *Rutara*; on 9, 10 and 12 in *Mukarange*; on 13 April, in the parish of *Kabarondo*; on 15 April, about 10,000 people in the parish of *Nyarubuye*; on 15 April in *Kibungo* at the St Joseph centre, 1500 refugees were massacred.

Do you remember what happened on 15 April? Mr NGENZI took his little red car and went to Kibungo to see the prefect. At that moment, 1500 people were massacred in the parish. And finally, four days later, in this Arcadia, 50,000 Tutsis died. That's how things happen.

I arrive in Kabarondo where BARAHIRA and NGENZI are.

In Kabarondo nothing happens according to the two defendants.

BARAHIRA goes to his banana plantation, he sweeps his doorstep, he does not forget to collect his rent, he cuts grass to feed his cows. The church in Kabarondo fills with refugees who pass in front of his house: he sees nothing, he hears nothing. When he gets the idea to go there, the damage is done, the massacre is committed. Three thousand dead! He doesn't try to help anyone and leaves to repair a generator. There are children crying, women moaning. The complaint that rises is appalling. He goes to fix a light bulb! And when he is accused, when a great number of witnesses accuse him of having participated in the massacre and in the days before of having participated in the hunt for Tutsis, he cries out that it's a lie, a conspiracy?

And NGENZI! To come before us pretending to be a "just man", claiming to have saved the Tutsis when we have not the slightest trace of it. What an IMPOSTURE! By arguing, like BARAHIRA, that everyone is lying. What impudence! Obviously his wife has moved you. Obviously, a wife who comes to beg for clemency for her husband, that moves you. That's your share of humanity. But it is you who are crying. You are crying as you did when the victims came to tell you about their suffering. But him, NGENZI, have you seen him cry once? The only thing that makes him cry is when he talks about himself.

Of all the crimes that NGENZI is accused of, there is one that marks his crime. It is what is wrongly called the burial, which was in reality a burial. I cannot conceive, it is intolerable to think that the victims were buried in this way if one is not guilty. We have all been confronted with the death of loved ones. We understand burial, we know that it is in burial that humanity manifests itself. We know that the trace of mankind is in the rite with which they surround death. We know this. Believer or not, it is the sign of man. We must take the dead with dignity, make graves for them, put their names on plaques, that is humanity.

NGENZI, for his part, recruits gravediggers of circumstances. And what do these gravediggers do? Do they lower the dead one by one into the grave, cover them with a cloth? Do they line them up carefully? No,

they throw them in a heap. Does NGENZI count them? Does he try to identify them? NO. Is this the behaviour of a mayor who protects his population, as he claims?

Is this the behaviour of the Christian he claims to be? NO, IT IS NOT.

I say to you, Mr NGENZI, I say it to you in your eyes, you did not bury human beings: you wanted to hide the bodies. I say to you, Mr NGENZI, you did not act as a Christian: you behaved as an executioner.

You gave in to EVIL. You could have said: "*No, I won't do it*". You could have refused. People refused. On 12 April senior FAR officers refused to obey the Intermediate Government and they were removed. Burgomasters refused. The brave peasant who came here, remember this peasant who came out of the ranks of the killers where they wanted to recruit him and who said: "*No, I couldn't do that, I'm a Christian*", and who went back home where he hid at the risk of his life. You could say NO. You can always refuse.

One of you asked an expert who described him as an ordinary man how BARAHIRA could have committed the crimes he was accused of.

It is a great and serious problem, it is a problem that affects a fundamental aspect of the human person. It is the question of moral judgment, of moral conscience.

We all have the ability to exercise moral judgement, to distinguish right from wrong. There are values that are not relative. There are absolute, universal values. We do not, for example, have the right to kill our neighbour. It may happen that a man kills a man, but he cannot consider that this is good.

We are constantly confronted with moral judgement and it is up to us to exercise it.

What explains the behaviour of NGENZI and BARAHIRA, who are ordinary men, is the abdication of their moral judgment. They are ordinary men who have abdicated their moral judgement.

I arrived on the bank along the river on the other side of which the prosecution is waiting.

As I said on the first day, we civil parties' lawyers are not private accusers. We are the voice of victims, we are the voice of suffering.

I heard a word the other day that struck me. That word is forgiveness.

It is one of the greatest human virtues. It is the highest part of our consciousness.

But you are not there to grant or deny forgiveness. Forgiveness is the exclusive prerogative of the victim. But in order for her to give it, she must be asked. Because to ask for forgiveness is to recognise the harm that has been done, it is to ask him to give us back the part of our humanity lost in the crime.

But you have to render justice, without trembling, without any other concern about their guilt.

You have before you two men who are already old and one of them even ill. But what does this have to do with their guilt? Think of what they were in 1994 when they committed the crimes they are accused of. Look at the young people on the killing field, strong, arrogant. Life has inflicted its ordeal on them, but how should it affect your judgment?

We must act consistently. Judge the precise facts at a precise moment.

The civil parties are not waiting for a pardon: they are waiting for justice.

1. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation.
2. The CPCJ would have "*preferred that our country's justice system respond positively to extradition requests so that those suspected of having participated in the genocide can be judged as close as possible to the crimes of which they are accused, as close as possible to the victims. It should be noted that on more than 20 occasions, the Court of Cassation has refused to extradite to Rwanda those whom their country demanded to be tried. This decision, contested by jurists specialising in international criminal law, remains incomprehensible to us.* (Alain GAUTHIER during his [testimony at the bar, on 29 June](#)).
See also: [Refusal to extradite: the opinion of Damien Roets, law professor](#).
3. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungu where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France!

Advocate General's closing argument (Part 1)

The Advocate General, Mr Philippe COURROYE, began his closing remarks by citing certain events that occurred during 1994 in the world, events that are known to all. He then pointed out that if we were asked to name the 10 most significant events of 1994, the genocide of the Tutsis in Rwanda would certainly not be the first event to be mentioned.

He continues by challenging the jurors and making them understand that today they are doing their duty towards humanity. He then raised two questions that they could legitimately ask themselves:

- Why judge in France 22 years later?
- How to judge?

He then recalled the universal jurisdiction of France which can be applied in this trial since the two accused were arrested in France. He explained that the trial was taking place 22 years later precisely because the two accused were "*fugitives*", and that the particularly long duration of the investigation in this case was in fact a normal delay given the complexity of the case. With regard to the investigation, Mr COURROYE also addressed the appeals made by the defence, in particular against the indictment order

(OMA): consequently, the claims that the defence was able to make during the hearing on elements of the investigation do not hold up, it should have been done during the investigation, and the defence had the opportunity to do so.

How to judge? The Advocate General began by talking about the witnesses that the jurors had seen during the two months of hearings. Indeed, no scientific proof of the massacres was presented, so the testimonies played an important part in the process of developing their innermost conviction. The jurors and members of the Court saw witnesses from a wide range of backgrounds: background witnesses, convicts, victims and personality witnesses. With regard to the integrity of the witnesses, the Advocate General told us that they came without hatred, sometimes with a dignified reserve. Then he quoted Maitre MATHE, NGENZI's lawyer, who was able to say to her client during an interrogation "*we rarely lie, we are sometimes mistaken, we always reconstruct the truth*". Indeed, the trauma that witnesses may have experienced during the events of April 1994 inevitably leads to distortions, but what could be more normal? The Advocate General draws a parallel with the testimony of the victims of the Bataclan or Orlando killings and wonders whether the defence would have dared to question their words if they had forgotten certain elements. Moreover, we are 22 years later, the witnesses have experienced horrible things. And finally, if the witnesses had repeated word for word what they had said during their hearings by the French gendarmes, would this not have been proof of witness manipulation? The distortions in the witnesses' testimony cannot prove their corruption. Recalling also that context witnesses, such as Stéphane AUDOUIN-ROUZEAU, or Hélène DUMAS and Eric GILLET were able to say that they had been confronted with "*free speech*" when they went to Rwanda.

With regard to the role of the Court of Assize, the Advocate General of course noted the procedural differences with international jurisdictions, particularly with regard to the length of the trial or the status of witnesses, or the quality of the people judging (a popular jury in France and professional judges at the ICTR). However, the Advocate General pointed out that this does not in any way prevent the equality of arms or the principle of adversarial proceedings from being respected, while noting that the latter can be somewhat undermined when the defence, on the eve of the pleadings, at around midnight, submits 166 pages of documents.

The Advocate General reminded the jurors that this was a trial for History and Humanity since the crimes committed were crimes against the community of Men of which they themselves were a part. He also reminded them of the role of the Public Prosecutor's Office, which is to defend the general interest and consequently, if it turns out that an accused is innocent, the objective of the Public Prosecutor's Office will not be to convict him.

Mr COURROYE then turns to the crimes committed in Rwanda in 1994. He recalled that the ten days of early April experienced in KABARONDO are only one page of what took place in the whole country at that time, but that each death remains an individual tragedy and that they must not become a dehumanised unit that is added to the statistics. The representative of the Public Prosecutor's Office then turned to the evidence of the planning of the genocide committed against the Tutsis in 1994. Eric GILLET and Jean-François DUPAQUIER spoke of the deep roots on which genocide was based. The Advocate General takes up this metaphor and explains that it is entirely applicable to Rwanda and looks at the history of the

country, particularly since colonisation. He then addressed what he considered to be the essential triptych for the commission of this crime:

- A strong and dominant central state
- A context of war
- An ideology

It shows that the first and last elements are present for Rwanda, from the beginning of the 1960s. Moreover, in 1990, the attack of the RPF shifted the country into a context of war, which allowed, as Jacques SEMELIN has well described, to shift the various problems of the country to the enemy that is the Tutsi. The Advocate General then outlined the various events of the 1990s that could prove the planning of the genocide: Léon MUGESERA's speech in Kabaya in November 1992, the creation of the militias, the RTLM and the civil defence, the various NGO and UN reports, the publication of the "10 commandments of the Bahutu" in the newspaper KANGURA..

The Advocate General concluded: "*While barriers are being erected, moral barriers are falling*" and summarised the planning as follows: "*Frustration, domination, segregation, extermination*".

He then came to the facts of the case. Mr Philippe COURROYE first mentions the massacres committed on 7 April 1994 in the various sectors of Kabarondo. But which in reality reflect a policy of massacre that was carried out in unison throughout the territory, as Stéphane AUDOIN-ROUZEAU said: "*The State no longer protects, it whips the spirited horse*". In this context, the Advocate General evoked the role of the mayor and the attitude of NGENZI, referring to a historical quotation from a nephew of Napoleon: "*In the event of a major sweep, on which side will you be? On the side of the handle, of course*". The prosecution comes more specifically to the attack on the Cyinzovu sector and the prior meeting at the Kyonza crossroads organised by BARAHIRA, thus proving the authority retained by the latter. Mr COURROYE then referred to the meeting at the Cyinzovu football ground, and cited the various testimonies concerning the statements attributed to BARAHIRA. The Advocate General then concluded that it was "*the open bar of violence! Go ahead, it's free!*" With regard to NGENZI's presence at this meeting, and returning to the role of the Public Prosecutor, which is not to convict at will, he stated that he would not retain NGENZI's participation in this meeting, as the testimonies were not sufficiently concordant. However, he noted that NGENZI could not have been unaware of this.

Based on the testimonies, Mr Philippe COURROYE evokes the consequences of this meeting, including the destruction of the house in YORAMU, the attack on the Project Forest and of course the attack on the church.

On the Kabarondo church, the Advocate General returned to the influx of refugees from 7 April. He closed the debate on the number of refugees who may have been present at the time of the attack of 13 April. He explained the reasons why people took refuge in the church, referring to a "*sanctuary that had been inviolate*" until then. With regard to the stay of the refugees in the church, the Advocate General recalled that NGENZI had never given instructions to help the refugees, nor had he put in place communal logistics for the population. The food was insufficient and no particular protection was given. Alison DES FORGES clearly demonstrated that starving the population was a technique put in place by the authorities to exterminate more easily.

With regard to the attack of 13 April, Mr Philippe COURROYE introduced his remarks as follows: "The dawn will break on the bloody day of 13 April and NGENZI will not have a semblance of humanity for the refugees". He then unfolds the day of 13 April by evoking a well-known strategy, divide and conquer, separate men and women to better exterminate. The Advocate General then drew a parallel with the tragedy of Oradour sur Glane, where the women and children had been locked up in the burnt-out church and the men shot in the barns and on the market square. He then summarised the first attack by the *Interahamwe* [1] led "by the misnamed Benefactor". The Advocate General then made two remarks about this attack:

- The violation of the sacred: he evokes Victor HUGO and Notre Dame de Paris. The hunchback having snatched Esmeralda from the flames, he locks himself in the church and asks for asylum, a church that will not be violated by the king's soldiers. But the Advocate General, questioning the defendants, added: "In Rwanda in 1994 you did not hesitate to add sacrilege to horror". The church was then transformed into hell on earth, with the Tutsis burning like demons.
- The industrialisation of the massacre: faced with the resistance and defence of the refugees, organised by Abbé INCIMATATA, during the *Interahamwe* attack [1], the military, the gendarmes and the municipal police intervened.

With regard to the various participants in the attacks, Mr COURROYE mentioned the geographical and ideological proximity of the militia to the accused; the *Interahamwe* were MRND militiamen, the *Abarinda* [2] came from Rubira (NGENZI's home area), the *Simba Bataliani* [3] was led by a former youth worker at the time when BARAHIRA was mayor. The gendarmes have been under the authority of the burgomaster since a 1974 decree, as have the municipal police. The soldiers are described by several as intervening at the request of NGENZI. Numerous witnesses say that they saw him leave to find the soldiers, or return with them. Moreover, CYASA (NDR: nickname meaning "the destroyer", in the literal sense of the word), who has no interest in lying on this point, says that he saw NGENZI on the 13th at the HUYE camp to ask for the soldiers. Finally, Laurent BUCYIBARUTA, former prefect of Kabarondo until 1992, then prefect of Gikongoro, confirmed during his hearing that it was possible for the bourgmestre to request the intervention of the military, without going through the prefect, in the event of an extreme emergency. According to the Advocate General, there was a sort of scientific rationalisation of the murder that took place on the morning of 13 April. He described the day of 13 April experienced by the refugees in the church as an "apocalypse": the massacres began at 9 a.m. and ended around 6 p.m. Mr. COURROYE then made a comparison with the day experienced at the hearing, asking the jurors to imagine that the room had been bombed throughout the day. "It's an eternity of horror," he concludes. And "the house of the Lord will finally give way to the evil weapons of men". The Advocate General then comes to the moment of the exit of the last survivors from the church, who will be "finished with a trowel" and who will be asked to take out their identity card, "to take out this piece of paper which is life or death", "that is genocide, that is the absurdity, the atrocity of genocide, the pure hatred of the five letters of the word Tutsi". The Advocate General then spoke about the days following the massacre, when the few survivors who escaped death had to try to survive.

Then he discusses the role of the accused, alluding to Voltaire's character Candide (NDR: Candide ou l'Optimisme is a philosophical tale by Voltaire published in Geneva in January 1759), the first image that comes to mind when referring to BARAHIRA: "One must cultivate one's garden". As for NGENZI, he is the

Red Cross who saves some survivors after having stayed behind the cypress trees without seeing anything. And in the evening he goes home without worrying about the situation at the church. The Advocate General took up the various testimonies of the victims and participants implicating the accused. He concluded that NGENZI was "*a leader, a chief of staff, an organiser*" and that BARAHIRA was "*an operator, an auxiliary of the machete present at the church on 13 April*".

In the days that followed, as with the destruction of the crematoria in the face of the Red Army's advance, in KABARONDO the bodies were buried in the face of the arrival of the RPF, bodies that were described as being in decomposition, with the Advocate General dating this burial to 16 April. It was not, therefore, to restore the dignity of the bodies that NGENZI had the bodies buried. Moreover, he is going to look for manpower to bury the corpses, and what manpower? The *Abarinda* militia [2] who will kill the survivors of the church with machetes.

Philippe COURROYE recalls that on the evening of the 15th, instead of worrying about the 3,000 bodies of the victims in the church, NGENZI joined his family and blew out his 36 candles (NDR: he was born on 15 April). "*Will NGENZI then run away from this horror? No, in the following days he will continue. Death has become his profession*".

This concludes the first part of the Advocate General's summing up. These submissions are marked by a great mastery of the case and the course of these two months of hearings. By quoting one after the other the testimonies of the people who came to give evidence, Mr COURROYE makes us relive with emotion the whole of the hearings, but always with a great firmness of tone.

Continuation and end of the indictment on Monday 4 July.

1. *Interahamwe*: '*Those who work together*', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
2. *Abarinda*: in the NGENZI sector, this group had taken the traditional name "*people who know how to hunt*" and applied it to the hunting of Tutsis.
3. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.

Indictment continued.

- Indictment by Mr Ludovic HERVELIN-SERRE.
- End of the closing arguments of Mr Philippe COURROYE
(started on Friday afternoon)

Indictment by Mr Ludovic HERVELIN-SERRE.

"If nothing had happened in Kabarondo on 13 April 1994, if history had stopped there on that terrible day, if nothing had happened at the Health Centre... we would have enough to say that the genocide passed through Kabarondo... If nothing had happened at the IGA... if nothing had happened at Cyinzovu... we would have enough to demand that Tito BARAHIRA and Octavien NGENZI be declared guilty!" It is with these words that Mr HERVELIN-SERRE begins his intervention.

Referring to the burial of bodies, the prosecutor acknowledged that this is not reprehensible in itself, but that in the case of Kabarondo it was not the performance of a funeral rite but the desire to conceal what had happened as the RPF approached! He added: "*When someone has nothing to do with a murder, what*

interest does he have in hiding the dead? NGENZI was well armed, it was he who designated the "volunteers", he kept his authority over the communal policemen... The burial of the bodies probably took place on the 16th rather than the 15th!

The massacres that followed at the IGA [1] and at the Health Centre, perpetrated by some of the gravediggers, took place in perfect continuity. By the way, at the church, were the victims all dead? We will never know. On the other hand, before burying the dead, time had to be allowed for the bodies to be looted: *"The killers paid themselves off on the victims!* As for NGENZI, if he remained on the spot during the entire "burial", it is impossible that he did not count the dead. The Prosecutor recognises that *"all the places where NGENZI leads victims turn into a trap!*

At the Health Centre, they do not just treat the wounded: the authorities prevent the nurses from providing care. And to ironise: *"No electricity despite BARAHIRA's efforts"*, alluding to what the latter said when he shared his agenda with the Court! Were the killings at the Health Centre foreseen? A witness suggests so. Another witness hears a hole being dug behind the building. The victims will be executed in front of the pit, *"the Tutsis to be buried were the living!* NGENZI says that he was not there, yet Félicien sees him, near the tank. The wounded were taken away standing up, those who could not walk were transported on stretchers. They were stripped of their clothes before being clubbed or macheted and thrown into the pit. Only the children shouted!

After the Health Centre, *"we will continue on this macabre path that leads to the IGA"* where NGENZI invites to a meeting *"for the return of peace!* And according to many witnesses, the bourgmestre carries a revolver. The hunt for Tutsis continued with searches of the families of mixed couples. NGENZI claims that he is always there to protect the Tutsis, but the witnesses do not give the same interpretation of the facts, whether at RUZINDANA's house, at KAREKEZI's house or at the house of the anonymous spouses. NGENZI is still, if not the leader, at least shares the responsibility with TURATSINZE and company.

As for the survivors that the bourgmestre is supposed to take in, he is not a protector for them. There were few Tutsis in the group, and all of them were killed: only the Hutus escaped! It is impossible to say that NGENZI is part of the "just". It is not him who hides the Tutsis, it is the people who come to hide with him! There is a difference! And the prosecutor evoked the situation of those called *"killers/rescuers"*: having saved people cannot exonerate the responsibility of the killer in the crimes he committed. And to return to the episode of Father Papias, the Hutu priest for whom NGENZI went to ask for a ransom from the bishopric of Kibungo. The accused denied this, but the lie is too big: the Bishop of Butare, Monsignor RUKAMBA, gave his damning testimony for the mayor. And finally, the searches at Mrs UMUTESI's home and the move to the commune of Birenga after passing through the commune. Mr HERVELIN-SERRE evokes the massacres with great emotion. NGENZI claims not to have gone to Birenga: Jacqueline MUGUYENEZA affirms the contrary and it is she who seems to be telling the truth. And in Birenga, we witness the same atrocious scenes as in the church: the victims ask to be shot to avoid being cut up! All these events alone constitute crimes that are subject to criminal sanction, it is a question of going to the end of a logic... no place being sanctuary... *"It will not be necessary to remember what a Tutsi looked like!"*

He concluded: *"NGENZI has dotted the 'i' of the word genocide. The facts are serious. None of us will ever be confronted in our lives with what happened in Kabarondo between 7 and 17 April 1994... We cannot find worse... we cannot even imagine worse. You don't have to be the worst man to do the worst crime.*

Mr. COURROYE took the floor again to conclude his indictment begun on Friday afternoon.

"That's it! We have presented you with the facts, facts that fall under a precise legal qualification: crime of genocide and crimes against humanity. The accused are here under universal jurisdiction. And Mr.

COURROYE made it clear what falls under the crime of genocide, the extermination of Tutsis because they are Tutsis, and what falls under crimes against humanity such as summary executions or massacres against the civilian population as a whole. The two crimes cannot be confused, they correspond to two distinct qualifications. In Kabarondo, there was nothing to do with a fight against armed enemies: *"In these massacres, where is the front, where is the RPF?*

Moreover, these acts are not subject to any statute of limitations, even 22 years after the commission of their abomination. These massacres aimed first of all at eliminating the Tutsis on the one hand, and the *"accomplices"* on the other. Mr COURROYE does not hesitate to evoke *"the final solution"* in relation to what happened in Kabarondo! On the other hand, the Advocate General continues, one should not confuse *"in execution of a concerted plan"* (in the French criminal code) and *"agreement to commit genocide"*.

There was no agreement between NGENZI and BARAHIRA, but that does not mean that there was no concerted plan, a notion that can be *"deduced from the sheer scale of the crimes"*. He added: *"The way in which the crime was committed is sufficient to define the concerted plan!* Indeed, the state character of the concerted plan does not have to be established.

Mr. COURROYE then denounced the notion of double genocide, an argument which, for him, is a sophism: everyone is sent back to back. Whatever *the exactions committed by the RPF, how does that exonerate the accused of the Kabarondo massacres?* The lawyer repeats the formulation of Rachel LINDON in her plea: *"Should Hitler's crimes be absolved because Stalin committed them?* To attack the power of President KAGAME is irrelevant. The criminal responsibility of the two accused is full and complete. The public prosecutor underlines the paucity of BARAHIRA's denial and denounces NGENZI's defence system which would have us believe that he acted under duress, that he had been deprived of his authority. According to the accused, for having *"wanted to save everyone"*, *"this would deserve a trial. According to the accused, for having "wanted to save everyone", "this would deserve a trial, but a trial for beatification! NGENZI deserves the medal of the Just!*

"I am not asking NGENZI to be a hero, to be Jean Moulin, to be the prefect of Chartres who tried to commit suicide in order not to compromise himself... We are asking him to act as a free man. And quoting Saint Augustine: "Freedom does not consist in doing what one wants, but what one must! The tone becomes grating: *"NGENZI, it is Judas who pockets the ransom, it is not "in spite of us"* (allusion to the Alsatians enlisted by the German army after the reconquest of Alsace by the Germans)...". *All torturers, at one time or another, saved lives"*. The public prosecutor then quoted Joseph KESSEL's book, The Miracle Hands, and alluded to the film Schindler's List (an American historical drama directed by Steven Spielberg, released in 1993). *"NGENZI willingly shook hands with evil. The two accused missed appointments with the truth, with forgiveness... I held out my hand to them and this hand remained in the void of their denial. Their responsibility is local and national. Mr COURROYE then referred to the book by Alison DES FORGES No witness should survive concerning the role of the burgomasters in the genocide. To illustrate the position of the accused who were allegedly coerced, the public prosecutor shares his personal experience: he met Klaus BARBIE on several occasions and the latter never ceased to deny his responsibility for the crimes he was accused of.*

To quote MIRABEAU (French revolutionary): "*There is worse than the executioner, it is his servant*". And to conclude: "*NGENZI and BARAHIRA are both the executioner and the servant*". Mr COURROYE finally mentioned 'Elie WIESEL, who has just left us, and his book entitled La Nuit.

And, turning to the issue of punishment, **the public prosecutor asked for life imprisonment for the two defendants.**

Tomorrow will be devoted to the defence case. The verdict is still scheduled for Wednesday 6 July.

1. Municipal Centre for Continuing Education.

Indictment (detailed account)

- Closing arguments of the Advocate General, Mr COURROYE
- Closing remarks by Mr Ludovic HERVELIN-SERRE

Closing arguments of the Advocate General, Mr COURROYE

1994. Paul TOUVIER is sentenced to life imprisonment. On 1^{er} May, Ayrton Senna killed himself. François MITTERAND and the Queen of England inaugurate the Channel Tunnel. MANDELA was elected president in South Africa. The Oscar for best film is awarded to *Schindler's List*. 1994 will be remembered as an excellent vintage of Bordeaux and Champagne. You have to magnify the lens to see the spring and the genocide in Rwanda. Would we, recalling this year to our memories, have cited this event first? Yet we know from the two months of the trial that it was the most significant event of the year. A tragedy that stains the end of the 20th century^{ème}.

This 'complicated' Rwanda of 1994, you have to approach it with two simple questions, and risks that have to be evacuated.

We can try in France under universal jurisdiction. The two accused were arrested in France. So why the French court of assizes and not the ICTR? Because the ICTR was limited in time. Moreover, it was not exclusive, because the national courts could judge.

Why are we judging 22 years later? Because we are dealing with fugitives. NGENZI was in Mayotte. BARAHIRA is exactly the same thing. It took the CPCRC's complaint, which was filed in 2011. The investigation was completed on 28 May 2014. This is quite normal in the context of a procedure of this nature. We started in 2016, but justice started a long time ago.

The second question that needs to be asked is how to judge. On Wednesday 13 May, on the fourth day of the trial, you heard Joseph MATATA who tried to inoculate you with the poison of doubt. He suggested that justice was impossible, that the witnesses were under pressure, you too... And then we had the smokescreen of the double genocide, and the smokescreen of current totalitarianism.

There were many witnesses, called by the defence, by the prosecution, from different backgrounds. The strategy of the defence is quite in line with the substance of what Mr MATATA has told you (the witnesses

have negotiated their sentences, they have negotiated their release, they say anything...). On 31 May, we heard Patrice NGIRUMPATSE who said at one point: *"I am the messenger of the prosecutor's office in Kigali"*. There, the defence straightened up! A flop. In fact, he explained to us that the Kigali prosecutor's office had sent him the summons... There was even a witness who said: *"I did not take a private jet! All the witnesses said that they were free."*

We had the conspiracy theory. BARAHIRA said so. NGENZI and his wife said: *"They are prosecution witnesses"*. But this thesis is shattered because of the disparity of circumstances in which the witnesses are situated. If there is pressure in this case, it would rather come from the entourage of the accused. I recall Manassé MUZATSINDA: *"I hope that what I can say will not have any consequences on my life"*. In this case, the testimonies have a special place. Maître MATHE said the other day: *"We rarely lie, we are sometimes mistaken, we reconstruct a lot"*. I believe that you have sorted out the reliable witnesses and those who were less reliable. I am thinking of Mr Jean MPAMBARA, who obviously lied. Or we have had partial quotes, omitting sentences explaining the circumstances: for example, concerning Mediatrix UMUTESI and her statements about MRND meetings, which she heard but was not part of, simply because her shop was located opposite the meeting ground.

What is important is the overall coherence. The distortion is rather a sign of the authenticity of the testimony. If we had had tracing copies, what would we have heard on the defence benches! The witnesses were not recounting a mushroom trip. So we are dealing with different points of view, a selective memory that telescopes certain details. If we were to examine the hearings of the survivors of the Bataclan and the Orlando massacre, we would find differences. Does that disqualify their testimony? No. There were distortions between the oral and written statements, translation problems, answers to questions only in the interrogations.

For me, it felt like a sense of reality, suffering and realism. And what was sensitive was their dignity. No hatred, no settling of scores. Stéphane AUDOIN-ROUZEAU told us: *"I have never felt that this speech was framed"*. DUPAQUIER came to tell us that he had never encountered any difficulty in investigating. HÉLÈNE DUMAS, same thing. We chose our interpreter. We heard Eric GILET, this Belgian lawyer, who had taken part in the 94 commission. He had realised that MATATA had not translated correctly (at the time Mr MATATA was affiliated with the RPF, but he had to go through all the colours).

At the ICTR, there are no juries, no investigation procedure, and therefore lengthy proceedings that can last 5 to 10 years. The witnesses are prepared by the defence or the prosecution. In the ICTR procedure ? the witnesses are "anonymised" (you have Mr X, with a number). We have a different jurisdiction. The driving force behind your decision is your personal conviction. You have a heavy responsibility, but this responsibility must not make you feel tense, on the contrary, it must make you human. This is a trial for history, for humanity, and for all of humanity.

You are not judging the RPF, the *gacaca*[1], the current political regime... You are judging two men, two accused who are accused of having committed the most serious crimes in the universal crime. For these are crimes against all men.

What is the role of the prosecution? It does not represent any political or diplomatic interests. In conscience, the public prosecutors are the defenders of the general interest. The prosecutors, the public prosecutor, are not 'ready-made' accusers. We have listened to the debates, listened to the charges. Defending the general interest is not about convicting innocent people. If we thought so (that they were innocent), we would tell you. It is our duty. It is our duty to tell you our intimate conviction.

So I'll come back to :

I - the context

II - the characters

III - The facts of the case.

(I - Background)

From 7 April to 17 April in Kabarondo, what happened? In Rwanda, there are about 7 million 600 000 inhabitants before the genocide. Almost 15% of the population of Rwanda was killed in 3 months. It was a final solution. Every death is an individual tragedy. The Rwandan genocidaires may be at the top of the efficiency podium.

Is this genocide the result of reprisals? From generalized chaos? Or was it planned? Remember Eric GILET, he summed it up well: "*A genocide is not a summer storm that breaks out*". The crimes have historical roots, they come from a triptych through which the Tutsi becomes the enemy. DUPAQUIER said: "*If we compare the genocide to a tree, it has deep roots*". First there was the Hutu frustration, then the Tutsi frustration.

This genocide is close to us because it has the same line of thought. It comes from the Belgian administration. It ethnicised the country and in the 1930s the identity card appeared with the mention of Hutu and Tutsi, which would become the yellow star for Tutsis 60 years later.

The triptych by which the Tutsi becomes the enemy to be eradicated describes a set of conditions that are always found in all cases of genocide:

- a dominant central state
- the war
- ideology

The state.

Rwanda benefits from a very grid-like administrative structure inherited from colonisation. We go as far as the 10-house cell. Why such a tight grid? It allows information to flow down and up very easily. In this system, the mayor has a key role. He is the personification of communal power. (He quotes GUICHAOUAS on this point). Alison DES FORGES writes: "*Of a lower rank than the prefect, (...) he exercised a more direct and more global power over the population than his superiors*" [2]. He was the central figure in their (the citizens') daily lives. In 1994, out of 143 burgomasters, 2 were Tutsi, members of the MRND.

The war.

600,000 Tutsis left the country following the pogroms of the years 59, 60, 63, 73. They are amassed in camps at the border. The RPF is formed in Uganda. It attacks in October 1990.

Easily, the country is letting go of power. In 1991, a multi-party system was declared, in 1993 the Arusha Accords were signed. *On April 6, 1994, the government in place was not genocidal*": this is what we were made to quote! Extract from GUICHAOUA. Of course it was. But the presidential power was!

Ideology.

An ideology of segregation governs the country. The central motive is the fear of the return of the Tutsis. As soon as the Hutus took power, the power matrix was segregationist. In 1964, Grégoire KAYIBANDA[3] prophesied that if the Tutsis from outside tried to take over Kigali, *"it would be the precipitous end of the Tutsi race..."*. Nothing could be more normal.

The attack on the RPF allows the internal problems to be resolved: the only problem is the Tutsis. The war allowed *"identity-based entrepreneurs to flourish, manufacturing the THEM and US"*, as Jacques SEMELIN put it. *The Akazu*[4] and *Hutu Power*[5] then emerged.

Multipartyism leads to increased bipolarisation. Arusha is experienced as a betrayal. The presidential power is then strengthened and advances masked. In 1992, Léon MUGESERA gave a speech at an MRND meeting. A speech where he quotes HABYARIMANA, where he explains that the mistake they made was to let the Tutsis go to the border, and that if they wanted to come back they would be sent back through the Nyabarongo to Ethiopia. This is far from the speech: *"Peace and Development"* that Mr NGENZI quoted! And then, as DUPAQUIER said, there is always a parallel power. This will be the *Interahamwe* [6]. The Tutsi were equated with the RPF, the *Inkotanyi* [7], the 5^{ème} column. In Bagosora's memorandum, we find notes (which are quoted in *"Kill them all"*). They are dated at the end of March 1994, but this document actually dates from much earlier. They concern civil self-defence: "For all these communes, two groups of 55 people each will be formed. There will be 11 rifles per group". If this is not planning and genocide without a name, I wonder what is? Moreover, there are weapons, the officers told us that they received Kalashnikovs. More than 500,000 machetes were delivered between January 1993 and February 1994. Félicien KABUGA imported 500,000 machetes. This is the proof.

And then there is denial. A third of all households have a radio. A lot of them were distributed with batteries in 1993. Kangura, which began in May/June 1990, even before the RPF offensive, this beautiful newspaper *The 10 commandments of the Hutu*".

LES DIX COMMANDEMENTS DU HUTU

1. Tout Muhutu doit savoir que Umututsikazi [une femme Tutsi] où qu'elle soit travaille à la solde de son ethnie Tutsi. Par conséquent est traité tout Muhutu :

- qui épouse une Umututsikazi ;
- qui fait d'une Umututsikazi sa concubine ;
- qui fait d'une Umututsikazi sa secrétaire ou sa protégée.

2. Tout Muhutu doit savoir que nos filles Bahutukazi sont plus dignes et plus conscientes dans leur rôle de femme, d'épouse et de mère de famille. Ne sont-elles pas jolies, bonnes secrétaires et plus honnêtes !

3. Bahutukazi, soyez vigilantes et ramenez vos maris, vos frères et vos sœurs à la raison.

4. Tout Muhutu doit savoir que tout Mututsi est malhonnête dans les affaires. Il ne vise que la suprématie de son ethnie. « RIZABARA UWARIRAYE ». Par conséquent, est traité tout Muhutu :

- qui fait alliance avec les Batutsi dans les affaires ;
- qui investit son argent ou l'argent de l'État dans une entreprise d'un Mututsi ;
- qui accorde aux Batutsi des faveurs dans les affaires (l'octroi des licences d'importation, des prêts bancaires, des parcelles de construction, des marchés publics...)

5. Les postes stratégiques tant politiques, administratifs, économiques, militaires et de sécurité doivent être confiés aux Bahutu.

6. Le secteur de l'enseignement (élèves, étudiants, enseignants) doit être majoritairement Hutu.

7. Les Forces Armées Rwandaises doivent être exclusivement Hutu. L'expérience de la guerre d'octobre nous l'enseigne. Aucun militaire ne doit épouser une Mututsikazi.

8. Les Bahutu doivent cesser d'avoir pitié des Batutsi.

9. Les Bahutu où qu'ils soient, doivent être unis, solidaires et préoccupés du sort de leurs frères Bahutu. Les Bahutu de l'intérieur et de l'extérieur du Rwanda doivent rechercher constamment des amis et des alliés pour la Cause Hutu, à commencer par leurs frères bantous. Ils doivent constamment contrecarrer la propagande tutsi. Les Bahutu doivent être fermes et vigilants contre leur ennemi commun tutsi.

10. La Révolution sociale de 1959, le Référendum de 1961, et l'idéologie Hutu, doivent être enseignés à tout Muhutu et à tous les niveaux. Tout Muhutu doit diffuser largement la présente idéologie. Est traité tout Muhutu qui persécutera son frère Muhutu pour avoir lu, diffusé et enseigné cette idéologie.

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DUPAQUIER then asks HABYARIMANA, he is there: "*What do you think of the 10 commandments of the Hutu? - Freedom of the press". November 1991. What are the *Inyenzi* [8]? Cockroaches, they need to be eradicated. And then there was Radio Rwanda and in August 1993 the creation of RTLM. Because it was necessary to ensure loyalty to the party. RTLM used the relays of the national radio, of course, it was broadcast everywhere. It is very much listened to, by the targets too. And by the RPF. DUPAQUIER says that it carries out "*brainwashing to prepare the genocide*", with Georges RUGGIU. There are two people in Rwanda who did not receive RTLM. Bad luck. BARAHIRA and Octavien NGENZI. It's strange because the Mediator, 100 metres away, could hear him... From the day after MUGESERA's speech, on 22 November 1992, there were corpses in the Nyabarongo. It didn't take long!*

On 7 April, the prepared genocide was implemented. The Prime Minister and the Hutu opponents were eliminated. The conflagration was immediate. The genocidal methods are common: barriers, encouragement of murders, the army... The state no longer protects, it becomes a killer, it whips the spirited horse. While barriers are being erected, moral barriers are falling. But we told you it's more complicated than that: we kill *in the name of* something. We weed. Planning is based on four steps, like the four steps of an internal combustion engine: frustration, domination, segregation, extermination. A plan. No more than Hitler woke up one fine morning in 1942 with the final solution.

The defence tried to establish a before and after of 19 April 1994, the date of the speech of the brand new president who came to remove the prefect of Butare who was still resisting (which was followed by his execution and the industrial massacre of the Tutsis in the region who had held out until then). But remember the voice of the RTLM announcer that we hear in *Kill Them All*. What does he say? Before the

plane was shot down? *"Something will happen, get ready, all because of the Tutsis who are making a mess of things.*

How can we believe them when they say they knew nothing? They have been fed on these teats that have infused them with genocidal milk. One wonders who they really are?

(II - The characters)

First, there is a closeness in their background. Their normality. They come from the same region, they are of the same generation. They both had a trouble-free childhood. NGENZI, his mother might be Tutsi, she did not testify on his behalf in the *gacaca*. BARAHIRA was very discreet about his married life. His wife said: *"He was my husband"*. She divorced him. Both are notables. They are considered by the witnesses who came as cultured. They are members of the state apparatus. BARAHIRA worked for a time as a youth leader.

There is one major absentee between the two: Colonel RWAGAFILITA [9]. NGENZI and BARAHIRA are the only ones who are not aware of RWAGAFILITA's sectarian ideological positioning. RWAGAFILITA is the finger of God, the finger of the President on them. We see them together, at the bar of Anaclet RUHUMULIZA. The prefect at the time, who was not MRND (a deal under the Arusha Agreement on multi-party politics), was executed. All this happened in a very disciplined, very hierarchical society.

NGENZI, he is a member of the MRND prefectural committee. He is not just a member. His wife said that he is gentle, kind: he is a righteous man, in two words, who travelled the hills to keep the peace. Except that we have witnesses who say his attitude changed in 1990. This means that he is in line with the regime. There is Médiatrice UMUTESI, Oscar KAJANAGE, Jacqueline KANSORO, Etienne GAKWAYA (NGENZI reproaches him for being in the PSD and refuses to take him back in his car). One can discern a double game; on the garden side: gentle, on the court side: sectarian. Hosea KAREKEZI said: *"Cunning, malicious, concealed, who works to deceive"*. Opportunist. In my opinion, NGENZI, he is one of those men who, if an authority asks him what time it is, answers: *"The time that pleases you"*.

As for BARAHIRA... As much as NGENZI is stringy, BARAHIRA is granite. A monolithic personality, devoid of any empathy. At least he doesn't bother with any embellishment in his lies to let a little empathy pass.

So you are not born a genocidaire, you become one. A genocide occurred and they served it. Both will flee.

(III - the alleged facts)

There is a double game strategy with NGENZI. He is ambiguous, he does not show his game. NDOBA says: *"We asked him for reinforcements, he always refused them"*. Donatille went to take refuge where he had been told to go, and the next day the *Simba Bataliani* [10] arrived. The livestock, TITIRI's goats... NGENZI said: there's nothing! TITIRI's goats are dated 8 April. You heard a witness say that NGENZI said at the time: *"You don't eat the goats when the masters are still alive"*. A witness said that he saw NGENZI and heard him say: *"Eat the goats afterwards"*. He saw NGENZI talking with the son of Anaclet (editor's note: a very important local *Interahamwe*). NGENZI moves around freely. Of course, he is a mayor, MRND, close to Colonel RWAGAFILITA... and who is holding the barriers? The population designated by the local authority, under the direction of the burgomaster. Samson MUSONI goes to see him to report grenade massacres and NGENZI tells him: *"Go home"*. NGENZI has selective attention, but as the Duke of MORNY

(brother of NAPOLEON III) says: *"In case of a big sweep, which side would you be on? - But on the side of the handle, of course!* NGENZI is on the side of the handle.

There were attacks that BARAHIRA witnessed as a leader of the *Interahamwe* (he quotes them). Florian MUKESHAMBUKA mobilised the population for three days to resist. He met BARAHIRA who told him: *"Come and work with us"*. BARAHIRA is a calm man, a good manager, a good father, a sort of Rwandan GANDHI. About the meeting of April 13: I give you credit for simplicity if not credibility. About the meeting at the football field on 13 April: he was not there, he was at home, it did not take place, and the football field does not exist! But we have: when? On 13 April. Where? At the football field in Cyinzovu. Samuel NSENGIYUMVA beats the drum - probably, it was done by word of mouth. Who? Men. Hutu. About 300 to 500 of them are in the stadium. Most of them arrive armed with machetes, spears, clubs. Who spoke? BARAHIRA. I don't remember NGENZI's presence at this meeting, but it couldn't have been done without his approval. BARAHIRA was an authority. He has the MRND label, he is a former mayor. Remember this witness who said that they were the ones who pushed him, because what they say has the force of law: *"The directives have penetrated us"*, remember.

There is no ambiguity: the enemy is the Tutsi. *"Go and work, go and ensure security in your communes"*, that means: go and exterminate. And to top it all off, BARAHIRA is going to be even more precise, he is going to talk about mixed couples. This shows the extreme theorisation of genocide. The logic, because ethnicity is transmitted through the father. If you kill the mother, you kill the child. Like in hunting. If you kill the doe, you kill the fawn. It is the open bar of violence. To be a Tutsi is to be condemned to the death penalty. In the Project forest, people are executed. On his own scale, BARAHIRA is the designer of this explosion engine. And then among these brutes infused with BARAHIRA's harangues, there are those who go to church.

Now I come to the church. On the evening of 12 April, there are 3500 people. On the morning of the 13th, perhaps 4000. The church seems to be an inviolable asylum. Did NGENZI lead refugees to the church? - Yes, he did. So did he not concentrate them in order to exterminate them better? Likewise at the IGA [11]? NGENZI knows that. It was done elsewhere, in other parishes. It is done elsewhere because it is a state policy. NDOBA (editor's note: municipal employee) knows NGENZI well. He thinks that NGENZI concentrated the refugees in the church. KAJANAGE did not say the contrary.

What I know for sure is that there was no help. No food. There was a request from Father INCIMATATA and no communal logistics available to the population. In the church that is filling up, the food is very insufficient. Mrs NGENZI, whose pain I understood, lacked decency when she had the audacity to say that the population had had plenty to eat in the church, and that there had been no waste... Alison DES FORGES said that it was a strategy: the population was being weakened in order to better kill them. When asked about what he would have done, Etienne GAKWAYA said that he would have started by closing down the drinking establishments. Then he was dismissed by Anacleto RUHUMULIZA. He tells NGENZI: dead letter. This shows the collusion between the extremists.

I come back to this meeting on security, a few days before the church massacre, in which Abbé INCIMATATA participated. During this meeting, there is a split between those who are "power" and the others. The abbot tells us that the burgomaster is 'neutral'. Let's hear it! He does not take a position. The sector resists the killings; the abbot goes to reassure the population. It was on that day of 11 April that NGENZI was to change his mind. He went to Kibungo to look for reinforcements; he returned and... nothing. NGENZI did not go to see the abbot on the evening of the 11th. But the Abbot learns that NGENZI

does not want us to make any more rounds and that he has returned. That he had gone to his sector of Rubira and that he had said: "*The Hutus must not kill each other any more, we must kill the Tutsis*". The next day, NGENZI told him that the soldiers would not come, that they were all at the front. The abbot gives him 7000 francs to bring to his family, NGENZI tells him: "*That's a lot*" - as if they were already dead. Manassé sees NGENZI on the 11th, near the military camp and NGENZI takes him back to Kabarondo. NGENZI tells us that he did nothing. So what was the reason for NGENZI's visit to Kibungo? Manassé saw him near the military camp.

CYASA said that Colonel RWAGAFILITA [9] came to set up camp in Huye on 8 April. There was Colonel Anselme for military defence and RWAGAFILITA was in charge of civil defence. So there is a double command. Prefect RUZINDANA is bypassed! He is not on the right side. Colonel RWAGAFILITA is the strong man. We questioned NGENZI, he told us: "*I have no contact with the military*". The problem is that INCIMATATA says that there was a soldier from the Huye camp in the commune next to NGENZI. The prefect was executed on 18 November, he is from the PSD, he does not carry much weight. RUZINDANA complained in 1993 about security problems! On 8 April, the day the Abbé saw NGENZI with the soldier, he also saw his car in front of the prefecture. We know of a prefectural meeting with all the burgomasters and Colonel RWAGAFILITA on 8 April.

Marie-Thérèse has heard about the attack on the church, she warns KAJANAGE. I'm surprised he didn't know, the mayor. So if he didn't agree, he could have warned. If there's a groundswell coming, you warn whoever is on the shore. People by the hundreds, by the thousands, will die.

The attack is dated. 13 April. Two important events are reported. Firstly, the presence of Colonel RWAGAFILITA. NDOBA tells us that he saw him near the communal office and stood to attention. GATABAZI saw him with his own eyes, and he was leaving for NGENZI's house. So I will tell you, if RWAGAFILITA comes to Kabarondo on 13 April, who is he going to see if not the burgomaster? Secondly, the meeting at the market place. Several witnesses, at least nine of them affirmative, report that NGENZI invited the refugees to come to the market square. In any case, it is unthinkable that the mayor of Kabarondo would have allowed such a meeting to take place without being informed. We heard the communal police officers. This meeting is a stratagem to better exterminate the refugees. You have to divide them, separate the men from the women. How, at this point, can we not think of another crime against humanity? Oradour-sur-Glane. That SS division called up to reinforce the German troops in Normandy! (*Here, NGENZI's daughters leave the room*). It is the same stratagem: the men are gathered in the barns, they are shot, the women and children in the church. On 9 April, Anaclet RUHUMULIZA distributed grenades to the population.

But the refugees are not going to let this happen. INCIMATATA leads the battle. It's going well. So we have to ask for reinforcements. There is a gradation of horror. Two points. First, there is a violation of the sacred. The church represents an inviolable tabernacle, and this in an ancestral way. There is a novel by Victor Hugo called *Notre Dame de Paris*. The Egyptian woman, Esmeralda, is going to be executed in the square, and the hunchback saves her. He takes her, locks her in the cathedral, stands on the balcony and shouts: "*Asile! Asile!*". The royal justice will not enter the church. In the Middle Ages. That day, this ban will be violated. That day Christians will kill other Christians. That day, gentlemen, you did not hesitate to add sacrilege to horror. At that time you had many extremists who considered that the priests were too open to the Tutsis. And then there is a form of exorcism. The Tutsis will burn like the devil. It was considered that the devil was in the Tutsis, body and spirit.

Secondly, there is an industrialization of the massacre. Heavy weapons were brought in, mortars were used. The gendarmes moved to the south of the church, between 5 and 10. The military arrived, about a hundred of them.

There is a relational closeness between the accused and the *Interahamwe*, which the defence tried to shatter. The reality is that the youth of the MRND are not folk dancers, they can finally put into practice the hatred inculcated in the meetings: "*There are no Interahamwe in Kabarondo...*". Wrong! There is Toto and Bienfaiteur. There are geographical, even village, links with them; political and ideological links, hierarchical links. Osée KAREKEZI said that the Interahamwe depend on NGENZI. Constance MUKABABAZAYIRE said that on the morning of the 13th she saw NGENZI with the *Interahamwe* and Anaclet RUHUMULIZA, the leader of the *Abarinda*. It is said that NGENZI was taking the *Simba Bataliani* to MRND (Daniel X) meetings. So much for the militias.

But here come the reinforcements. The gendarmes, the military. Who called them? The prefect was bypassed. In any case, when the gendarmes are in the commune, who has the authority to direct them? The burgomaster. As for the military, who brought them from the Huye camp? We have several testimonies:

- Abbé INCIMATATA. For the abbot, it was NGENZI who went to look for them. He saw the vehicle from the commune leave at around 9am and return at around 10am.
- NDOBA saw NGENZI pass in the morning in the communal vehicle towards Kibungo. And he came back with soldiers. Like INCIMATATA, he thinks that it was NGENZI who went to look for them.
- CYASA is positive: NGENZI came to Huye camp to ask for reinforcements, only he knew the number of refugees - maybe he was not passing by the church to say hello! CYASA says: 150 soldiers, 3 buses. There is Colonel RWAGAFILITA and Colonel Anselme. CYASA, I'm not going to submit him to beatification, but such an accusation gets him what? He gets life imprisonment!

There is no watertightness between military and administrative authority, as he would have us believe. The massacre is going to be carried out according to an appalling Taylorisation process. The military and the gendarmes will do the heavy lifting. The cement mixer. 1000 men fall in front of the church. And it is Francine who says: "*The soldiers are coming, we were lucky!*" And then a man who says: "*Pray. The Interahamwe did not get us, they called the military.*" And then she described. She said to her sister, who had half her face torn off by a bullet: "*But Denise, you're dying!*" The mother (her mother) and her child will die a little further on in the church. How long will this Apocalypse last? Just imagine! We started this hearing at 9.45 am, imagine that since this morning we have been under heavy gunfire... But this is an eternity of horror!

But the soldiers, although heavily armed, are no less cowardly. They enter the church, and there, big surprise: there are many survivors. So after the cement mixer, the finishing touches with a trowel. Francine comes out with her hands in the air. We kneel down in front of the machetes and clubs. And we take out a small piece of paper that says life or death, the five letters of the word Tutsi. We sort it out. We mow down with automatic weapons. But BARAHIRA was concerned about ammunition and said: "*Save the bullets*". They started to cut. It was Marie MUKAMUNANA and her child. And then the flight, the hunger, the dogs...

What is the role of the accused in all this?

So BARAHIRA is the quiet man of Cyinzovu. VOLTAIRE, the quiet man, said: "*You have to cultivate your garden*". On 13 April, he said: "*I was at home! I cut grass to feed my cows*". He didn't see anything. He is "*the electric gardener*". It reminds us of that old EDF advert: "*Men serving men*".

NGENZI is the Red Cross! I took over his interrogations. He will report to the prefect on the morning of the 13th in Kibungo. What to do there? And what does he report when he goes back at the end of the day if he didn't go to church? In order for his statements to be consistent with those of MPAMBARA (Ed.: who speaks in his defence), he reserves a time slot for himself... So he is at home until 11am. I'll tell you, it's even worse if he saw MPAMBARA, because MPAMBARA, the mayor who is fleeing, he had to tell him what happened in his commune, in his church. This could be the title of the day: "*Behind the cypresses*" (Editor's note: NGENZI said that he had seen nothing all day, that there was a row of cypress trees between the communal office, outside which he was sitting, and the church). His wife says of him: he never went to church. What do they say? A grenade was fired by the refugees at a convoy of soldiers passing by... In Oradour, 99 people were shot the day before the massacre, and the pretext, because there always has to be one, is the so-called shooting of the maquisards.

In the file, there is at least one false testimony: that of MPAMBARA. In February 2006, when he was asked about his schedule at the ICTR, he did not mention NGENZI! Various police officers, including NDOBA, confirmed his presence at the church. Manassé confirmed this, saying that he had heard: "*Do not hinder the military in their work*". I asked: did you see him for a long time? They are precise. NGENZI has switched, he is on the side of the genocidaires, he is on the dark side of the force. Christine MUTETERI saw him with the assailants, standing in the middle of the asphalt road. Marie MUKAMUNANA saw him standing among the soldiers. Bertin saw NGENZI with "*a small rifle*". Constance MUKABABAZAUIRE saw NGENZI and BARAHIRA through the church window. Oscar KAJANAGE described the end of the world: "*He was there, standing by the road, I could see him*".

BARAHIRA, how could he have missed the bouquet of the day?! He is an operational. NGENZI, he is the organiser. BARAHIRA, he is the machete officiant. How badly you lie! BARAHIRA said he did not hear anything. A witness came and said: "*You could hear all that from further away than BARAHIRA's house*". No sound, no image. In October 2013, he said he spoke to NGENZI at the church. During another interrogation, he says that NGENZI told him that he had transported the wounded, that it was very hard. On 16 June, here, he says that he saw NGENZI but did not speak to him. BARAHIRA considered that "*this could be described as genocide*". But there are witnesses who say they heard him say: "*Cut them up, cut them up!* How many corpses litter the nave, the courtyard, the surrounding fields? How many survivors for this Oradour of a thousand hills? BARAHIRA and NGENZI can be proud of having exceeded the number of victims of the SS division in Oradour. 150 to 200 said Mrs NGENZI, 200 to 300... We forget a zero, the zero is the infinity of horror.

After these bacchanals of horror, you have to hide. We know that it's not exactly the same as a war zone. We will hide the corpses. Probably on the 16th. The 14th? NGENZI spent his day looking for J.P.'s body to bury it! There are 3000 corpses waiting to be buried in front of the church. On the evening of April 15, he probably blows out his 36 candles. In front of the church, there are 3000 bodies. That is to say, like the Wall Trade Center. There were men, families, infants. Is Octavien NGENZI going to leave it at that? Will he run away from this abomination? No. There are the following days. More corpses are added. The Health Centre, the IGA, the raids on neighbours, on his friends, on his adoptive parents. Octavien NGENZI has now chosen his camp. Death has become his profession.

Mr President, members of the court, ladies and gentlemen of the jury. Well, here we are, we have set out for you the facts for which Octavien NGENZI and Tito BARAHIRA are before the court. They have a legal qualification that you will have to assess. The crime of genocide and the crime against humanity are the most serious crimes.

(He explains the difference between these two crimes). The two conditions are cumulative and met. The crime of genocide is different from the crime against humanity. In genocide, what is central is the total or partial destruction of a defined group. In the crime against humanity, it is the mass execution of civilians, it is Oradour, it is Kibungo, who are executed because they are considered enemies or accomplices. These qualifications do not overlap, as the defence tries to do. In a crime of genocide, justice protects a specific group. In a crime against humanity, it is a civilian population as a whole. In Kabarondo, you have clearly understood that there is no combat against an armed enemy. Where is the threat? Where are the soldiers? Where is the front line, the much talked about RPF? These crimes are so serious that our legislator, by a law of 26 December 1964, made them imprescriptible. Time does not soften anything.

These two crimes are tragically undisputed. They emerge from the witnesses, from the very statements of the two accused who no longer contest the genocide. These massacres were aimed at killing the Tutsis, designated as the enemy within. They had to be eliminated from the face of the earth; I used the term final solution. And then also those who are too moderate. This is a factual reality but also a legal one. It is the KAREMERA decision I quote the court because it sets the legal principles: *"Between 6 April and 17 July 1994 throughout the territory of Rwanda, systematic attacks were directed against the Tutsi civilian population*. The two crimes are recognised, stigmatised by the international jurisdiction: genocide and crime against humanity.

There is no numerical threshold. We are talking about destroying *"a substantial part of the group"*. We are talking about 800,000 people. No one disputes that the intention was to kill the entire Tutsi group in Rwanda, if not all of them.

There is another notion that I must come back to, and that is that of a concerted plan. There is a very great similarity between the French criminal code and the international jurisdiction. In the French criminal code, these two crimes must be committed *"in execution of a concerted plan"*. I recalled the ideological elements preceding the attack which show that the massacres did not come from a spontaneous impulse. The defence wanted to show that there was no concerted plan. And it will do so again. It will talk about the difference between the *"agreement"* and the *"concerted plan"*. For that, we will talk about Colonel BAGOSORA. He was convicted of genocide and crimes against humanity. He was indicted for *"conspiracy"*, but this was not retained. It was necessary to verify whether in view of the charges the prosecutor had enough evidence to prove that they had a common understanding. You are asked for your *"intimate conviction"*. But be careful, conspiracy is an autonomous offence (Article 213.3 of the Criminal Code). It is an association. BARAHIRA and NGENZI were prosecuted for this agreement, a sort of criminal association between them. We are not in the same field as that of the concerted plan, which constitutes genocide, which is a general framework in which the crime is committed. The agreement was not retained, but that does not mean that there is no concerted plan! The parliamentary works say: *"The concerted plan can be deduced from the very scope of the crime"*. The Minister of Justice came to the Senate on 10 June 2008 to create the ICC. He says that the notion of a concerted plan can be deduced from the facts, it is not necessary for it to be in the laws, in the decrees, etc. *"The manner in which the crime was committed is*

sufficient to establish the concerted plan. We are not going to ask to go before a notary to file the plan! Basically, it is the mass movement that makes people kill without questioning. And then the concerted plan does not have to be a state plan. It can come from a parallel government, a militia, a tiny extremist group. What do you have in mind? I am thinking of the Kibungo club, which was a big movement of extremists on the pretext of discussing the economic development of Kibungo. Obviously, you often see the state's hand. It seems that it is almost impossible to commit the crime of genocide without the participation of the state. Obviously, this plan you find on the scale of Kabarondo. Regardless of the weaving of the decisions, all the ICTR decisions rejected the thesis of widespread chaos, of reprisals following an attack. There was a plan, not from 19 April, as the defence will say. But the international court says from 6 April. And this is what researchers and historians say, given the speed with which the massacres were set up, their execution, the administrative relay, the identical operating methods (barriers, concentration of Tutsis in various places, etc). "*In Rwanda, there was a supervised population to kill the Tutsis*" says GUICHAOUA. In *framed* there is *framework*, and in *framework* there is *plan*. And then there is the judgment of the Court of Paris of SIMBIKANGWA. They said: "*Collective efficiency which necessarily reveals the existence of a concerted plan*".

The defence will try a smokescreen: the theory of double genocide. Two atrocities are thrown back to back, one everywhere, and nothing. Whatever the exactions of the RPF during the days when BARAHIRA and NGENZI were on the rampage, how would that exonerate them from the massacres that have been mentioned? Should we absolve Adolf HITLER's crimes because STALIN committed them too?

Just to answer the question of the double genocide, it is still a very contested thesis. The RPF certainly wanted to overthrow the HABYARIMANA regime, says Alison DES FORGES, but it did not want to re-establish the Tutsi monarchy. DES FORGES says that in the RPF, they take everyone; Colonel KANYARENGWE was a Hutu. They take everyone. From 17 July, the date on which the RPF controlled the whole territory, there were no more identity cards.

As for the current totalitarianism, are you judging a police force? This is irrelevant! You are judging facts committed by two men, from a free justice. So the criminal responsibility of the accused is full and complete in these events.

There is a question in the qualification of crime against humanity (that of active participation). For genocide, the text says: "*Committed or caused to be committed*". In a crime, one can be a co-perpetrator, but there is also the question of complicity. It is the one who helps, assists, facilitates the crime; it is the fact of being the thinker, the designer of the crime. In complicity there is no mitigation of guilt. As for BARAHIRA, you know that he actively participated, machete in hand, in the Cyinzovu crime. He gave instructions at the meeting on the football pitch, but he was implicated himself by several witnesses (including the elderly Josephine), which indicates his active participation. In front of these witnesses, he only has his denial. So you will remember that he is a full co-author.

NGENZI is more devious, more duplicitous. What will he plead? That he was deprived of his power. He is a driver who is at the controls of a vehicle on the ice... He even told us on 28 June: "*I wanted to save the world!* If he wanted to save the world, why do so many people come to accuse him? He deserves a medal.

Or, I say, he deserves a trial... a trial for beatification! The problem is that I see Judas above all. It's a fiction, ladies and gentlemen, I'm not asking NGENZI to be a hero, to be Jean MOULIN, the prefect of Chartres who, when the German authorities arrive and ask him for a list, he refuses, he's locked up, he breaks a light bulb to cut his throat, he tries to kill himself. He was not asked to be Jean Moulin, but to act as a free and responsible man. There is a very beautiful sentence by Saint Augustine which says: "*Freedom is not doing what you want but what you must*".

There is a guilty passivity, but also a guilty activism. It is a presence that is more than intellectual encouragement. It is a participation. He is coactive in these massacres: at the burial ground, at the IGA, at the Health Centre, in the homes. He leads the convoy, he is the first in line! He is both a participant and an organizer! SIMBIKANGWA was convicted of complicity in crimes against humanity because he was not present at the scene of the crime, he was a bureaucrat. NGENZI was perfectly present. He lied. There is one lie that shocked me, and that is in front of the abbot, in front of the bishop, by video conference. Was NGENZI unarmed? False. He gave 50,000? False! It was Judas who took the ransom. And he and his wife say that on the 15th they dipped into the family savings to save a life? But that is impossible. On the 15th, Father PAPIAS, he is not arrested! You can read in the coffee grounds! And then he said that it was Abbé PAPIAS who embezzled the ransom intended to save him! NGENZI, he did not save Abbé PAPIAS, he racketted him to prepare his escape. He is not a "*malgré nous*", you know, those Alsations enlisted under the German uniform - enlisted in massacres that they disapproved of. You can't prosecute someone who has been forcibly conscripted, under irresistible duress that puts you in an impossible situation. Coercion is a gun to your head! But NGENZI, supposedly threatened by the army, by the RPF? If this is the case, why was he arrested in 2010? He should have been a prefect, or even a minister today! Is he under threat? He was crossing the barriers. He is enemy number 1, his mother-in-law is not arrested. But Edith, what threat did she represent?

In the church, there is the full civil authority, represented by NGENZI, and the army. It is a full and complete collaboration. You remember, I told you about the request of INCIMATATA who comes to ask NGENZI for help and there is a military man next to him. He is not afraid. This is the co-production of genocide. One is not necessarily forced when one is armed. You are not forced when you smoke, when you drink beer in a round-up, when you drive the truck - which proves that you know where you are going. You are not forced when there are no soldiers - in the raids, at the IGA, at the Centre. So I consider that he is a co-author, fully.

He is the authority when he delivers, when he saves (the accountant, RUKINKA, PAPIAS). Then, you know, all the torturers had, according to their interest, actions like that. You have a very beautiful book, "The hands of the miracle", by Kessel, about the masseur of HIMMLER. He saved thousands of lives by massaging. Because HIMMLER liked his masseur, and then "you never know". So you know, saving lives is not a mark of humanity, it's a mark of power. Now NGENZI clearly chose his side, it is that of genocide, of extermination, even if he had the skill to do it underhandedly. He shook hands with evil, consciously. It is his Montoire. Montoire, that little town where PÉTAINE shook hands with the Führer. "*You must never go through Montoire, you end up in Sigmaringen*" (this castle where the Vichy government exiled in Germany, in September 1944). Yes, Mr. NGENZI, you said yes, you must suffer the consequences. Remember the gendarme who said: "*NGENZI, he has all the cards in his hand*. He can resign. Like Etienne GAKWAYA. He could do it before 94, after 94. In any case, he can, where he is, say no. Saying no is a duty of humanity, towards his conscience.

He and Barahira, during this trial, have missed appointments with the truth. I have often reached out my hand, which remained in the void of their denial. Remember what his deputy David TANAZIRABA said. What would you have done as mayor? He replied on two specific measures. 1) *"I would have held meetings to tell people not to kill each other"*. 2) *"I would have made rounds"*. This was in the power of the MRND. And when we said to him: *"Could he say no?"* He replied "yes." (The lawyer quotes here 2 burgomasters who said no or maintained order. One of them, locked up on 12 April, locked up, but survived). Another mayor gave passes. *"He who saves a life saves the whole of humanity"* as the Talmud says. NGENZI wanted to save his job. Because he thought that the RPF could be beaten. Which is terrible. *The fish rots from the head* - this is a Chinese proverb -... the powerful, the notables, all those who should embody civilisation... the administration and politics: the burgomaster, NGENZI, and the president of the party, BARAHIRA, and commerce, with Anaclet RUHUMULIZA. They kept their position and their function, the problem is that they do the opposite of what they should do! They incite, they excite! They have a double responsibility: local and national. At their level of authority they are the undisputed leaders. At the national level they are zealous executors of a plan they serve. I quote Alison DES FORGES in *"No Witness Should Survive"* about the burgomasters: *"Using their authority to involve citizens in communal projects (...), the burgomasters brought the attackers to the scene of the massacres (...). The burgomasters ensured the regular and ordinary participation of the population in these activities directed against the Tutsis"* [12]. Their role of organising and coordinating with the army and then putting pressure on *"those who opposed the violence"* is clearly designated. Everything is said.

Colonel RWAGAFILITA [9] was mentioned. He would have a place between the two accused. That would not have removed one iota of the criminal responsibility of NGENZI and BARAHIRA. But it is always the same system of defence: the ball is passed from the lower to the higher level of responsibility. In 1986, when I wanted to become a prosecutor, I found myself supervising detainees as part of my studies. I find myself supervising Klaus Barbie in his cell. I accompanied him on his walks, we did a lot of them. He had exactly the same line of defence: *"I was a little lieutenant"*. But I was also aware of this. I spoke to him about Jean Moulin. He was just saying that the ordeal in the bathtub was a balneotherapy session! *"It's not me, it's Colonel Blaumerger, when he was taken to Avenue Foch..."* You can duplicate: Colonel Blaumerger is RWAGAFILITA. And how would that have exonerated Klaus BARBIE? *"There is worse than the executioner, it is his servant"*, said MIRABEAU. NGENZI and BARAHIRA, they are both the executioners and the valets of the planners. Thus they have full responsibility as co-perpetrators.

So to assess the sentence, you don't start from scratch. You have heard. Anaclet RUHUMULIZA: life; CYASA: life. Does it seem to you that the responsibility of the two accused is less and deserves a more lenient sentence? Burgomasters have been tried; Burgomaster GATETE, of Murambi: life, then 40 years on appeal; another: 30 years, then life on appeal. This court tries common law crimes. A recidivist rapist was tried for 30 years with 22 years of security. There are life sentences that are requested by this country for a single crime. In your deliberations, you will remember BARAHIRA's dialysis. But what does the state of health have to do with the events of 1994? When they were fresh, vigorous, strong. There is one final question, a metaphysical one, to which we do not have the answer. It is the mystery of the inhuman. The black hole evoked by Jacques SEMELIN. It would be far too easy, far too much, to say that the genocidaires of the Shoah, of Phnom-Penh, of Rwanda were born sadists. In this text by Primo LEVI, *"If this is a man"*, he said that there were very few monsters in Auschwitz. These genocides are committed with ordinary people, fathers, neighbours. I remember a series, which was on a few years ago:

Holocaust. The guy is a normal guy, we see his evolution. At the end he runs a camp, he goes home, his wife says to him: *"It's fine, you had a good day, not too hard?"* We see his little girls opening the door for him, they smile. An ordinary man. Death has become their job. This is what Hannah ARENDT called *"the banality of evil"*, but she was misunderstood. Banality is not trivialisation. It is mechanisation, banality. The only problem is that they are not robots. They are men, they belong to our community. A man requires discernment. BARAHIRA told the expert: *"I was not there to think"*. In Rwanda, it was not a small handful of sadists who committed the genocide. They are not perverts, they are fellow human beings - *"mon semblable, mon frère"* as BAUDELAIRE says. Why did they fall? By submission, by hatred, by lack of critical sense, because they left the shores of humanity to join the shores of the absurd, in the sense of CAMUS. BARAHIRA said it: *"There is no why"*.

I had talked about the Oscar for "Schindler's List". There is a scene that moved me: a wheelchair being thrown out of the window, and an SS man playing a Bach suite. Many of you have been to Auschwitz. Night falls at 3.30 pm. I remember I was walking along that railway line, along the barracks, and I heard in me the second last aria of "St. John's Passion". The words say: *"Rest in peace, holy bones, let me also rest... open heaven for me and close the door of hell"*. How could the homeland of BACH, GOETHE, H.HEINE commit such abominations? How could the country of Alexis KAGAME, the poet, commit such abominations? How can one commit... be capable of the best as well as the worst? *"Today I am sad for my whole generation"*, said Antoine de SAINT- EXUPERY on 30 July 1944, it was his last letter. *"God was absent"* said Stéphane AUDOIN-ROUZEAU. It made me think of Elie Wiesel's "The Night". They were hanged that day. Two Jews and a teenager. His agony lasts two hours. The others watch the ordeal, and then someone says: *"Where is God? I hear a voice inside me saying: "He is here, hanging on the gallows"*. I deeply believe that the face of humanity triumphing is always that of the tortured, transfigured by the one who has left the torturer.

What your verdict will have the duty to remind us of is the price of life *"which is worth nothing, but which nothing is worth"*, as MALRAUX said. Your justice will send a message: justice is done, whatever the weather. It will say that participating in the genocide of a million men, NGENZI and BARAHIRA wanted to murder all humanity. And yet Armenia, the Shoah, Cambodia... have you learned nothing? And then your verdict will say this little citadel that comprises all humanity: conscience. The conscience of good and evil, of saying no. You quoted, Mr GAUTHIER, Victor HUGO's poem, "La conscience". There is a chapter in "Les Misérables": *"Tempête sous un crâne"*. Jean VALJEAN, he became mayor, burgomaster! And then there is a convict who is brought back, who is mistaken for Jean VALJEAN. So he thinks. And what does he do? He goes to denounce himself and then he takes advantage of a moment of inattention to run away. Finally, your verdict, he's going to use his memory. He will say that for humanity to endure, we must remember. Never forget Oradour, Birkenau, Kabarondo, because everything can start again one day. And the world must know that it must answer for it. Remember Primo LEVI :

*"You who live in peace and quiet in
your homes
You who come home to find
the table set and faces friendly
Consider if it is a man
That one who toils in the mud,
Who knows no rest,
Who fights for a pittance,*

*Who dies for a yes or a no.
Consider if it is a woman
That she who has lost her name and her hair
And even the strength to remember,
With empty eyes and a cold breast
Like a frog in winter. Do not
forget that it was,
No, do not forget it:
engrave these words in your heart.
Think of them at home, in the street,
When you lie down, when you get up;
Repeat them to your children.
Or your house may fall down; Or
sickness may overwhelm you; Or
your children may turn away from you.*

Well, ladies and gentlemen, because it was and it must not be, you will sentence Octavien NGENZI and Tito BARAHIRA to life imprisonment.

Indictment by Mr Ludovic HERVELIN-SERRE.

Mr. President, assessors, ladies and gentlemen of the jury.

And if we had left it at that, if at the end of that day of 13 April nothing more had happened, when nightfall was about to make all traces of what had happened invisible. If, after that dreadful day, if nothing had happened at the end of these events at the health centre, would we not already have enough evidence to say that nothing happened in Kabarondo? If victims had not begged for a bullet, if nothing had happened at the IGA [11], would we not have enough to say that crimes against humanity occurred in Kabarondo? And if nothing had happened in Cynzovu, in the homes, in the communal office, would we not have enough to declare that Octavien NGENZI and Tito BARAHIRA are already guilty?

The burial of bodies is not in itself a reprehensible act. However, it takes on a special significance in the context in which it takes place, as it is not the performance of a funeral rite but the desire to conceal the bodies from the approaching RPF (this desire is made clear by two witnesses - *whom he names*). When someone has nothing to do with a murder, what interest can he have in hiding the victim's body? The manner in which this burial takes place has something to do with the authority of Octavien NGENZI. This position of authority of Octavien NGENZI over his communal police officers, we do not see why it would suddenly reverse. This day must have been the 16th rather than the 15th. Especially as some of the people involved in this burial will be at the IGA. Behind the contradictions, these events are close in time. There is a perfect continuity in the day between the burial of the bodies and the events at the IGA. Finally, the question is whether all the people who were buried were already dead. We will never know the answer. On the date, I have a hunch. It was certainly not the day after the massacre, and certainly not because NGENZI did not have prefectoral authorisation, but because there was plenty of material to loot. And the victims were numerous. It took time. And then they were thrown into a pit, which made one

witness say: "*It was no ordinary burial*". Which makes us say that if he was a witness, he either refrains from counting them in front of the number; or he was not there. And if he does not spend hours observing the bodies thrown into the pit, it is because he has better things to do and can count on men who carry out his instructions.

There will be another massacre that day, the number will vary. We know that Octavien NGENZI led Tutsi to the Health Centre. All the places where he led Tutsi have closed as traps. Remember Donatille KANGONWA, the woman survivor from the church who crawled to the Health Centre, and who became a survivor of the Centre. This is confirmed by NDOBA, X, Tito BARAHIRA himself, that NGENZI was there. Unfortunately, at the Centre, we are not only going to take care of the wounded. Not only because there is no electricity. Donatille KANGONWA says that the nurse refuses to treat the victims, she has received orders from NGENZI. Marie-Goretti reports that from her room at the Centre she heard that all the people in the health centre were going to be killed. She asked NGENZI for confirmation and he replied fatalistically. And then there is this hole, dug behind the building before the killings that very morning. Félicien KAYINGA talks about 6 or 7 a.m. - he heard the digging of this pit. And then come the people from Rubira. Apart from the Tutsis that were to be buried, it was not only the dead, but also the living who were at the Centre that morning.

The course of this massacre involves Manassé MUZATSINDA who is described by François as "*standing in the centre of the courtyard*". This municipal policeman whom NGENZI took to pick up people for burial, "*he was there to watch over our safety*". Manassé says he was not there. They talk about his wife, a Tutsi, who has been at the health centre for several days. On the 16th, he came to fetch her. A good 'hunch', particularly salvific. The actors of this massacre killed the wounded at the request of Octavien NGENZI. He says he was not there. Octavien NGENZI was present at the Centre and then moved away towards this famous tank on the side of the road. Félicien KAYINGA tells us as precisely as possible how to get back to the Centre to "*clean it up*". It is there that Félicien KAYINGA managed to save his life. Those who died were thrown away, those who were still alive were taken nearby to be executed after being stripped of their clothes and belongings. Félicien KAYINGA describes how the children screamed while the adults mastered their suffering. The fact that Félicien KAYINGA survived by managing to convince people that he was a Hutu shows us how ethnic the massacre was.

NGENZI is close to the tank, 5 metres away. In any case, these measures do not prevent the sound environment. These cries, even at a distance of 40 metres, cannot be ignored. François NZIGIYIMANA says that Manasseh, in the courtyard, could not help but hear the cries. We are in immediate proximity, very close geographically. Therefore Octavien NGENZI cannot be an involuntary witness. He is someone who is not overwhelmed. He is someone who gives orders, who says that the Centre must be cleaned (Félicien says so, the nurse says so). And then on this macabre path, he said: we're going to continue. To the IGA. It was supposed to be the venue for a meeting for the return to peace (Samuel NDOBA, Jean RUZINDANA). Octavien NGENZI says that he is not armed, but everyone says that he is carrying a revolver. The policeman Jean-Baptiste GATABAZI says that NGENZI asks that the policemen accompany him. We are going to kill the Tutsis. Among the victims, an assistant burgomaster, Jean RWIZIBURIRA. The Tutsis, on the basis of a sorting, were victims. Who did the sorting? Jean-Claude REBERO blames RUHUMULIZA, Toto, X, for the sorting of Kabarondo. Another witness, not the most credible, indicates that the sorting was done by CYASA and NGENZI. NGENZI said that when he arrived at the IGA the massacre had already been committed. The problem is that everything started after his arrival. Jean-Baptiste GATABAZI, a

communal policeman, said that NGENZI returned to his vehicle when they started shooting. And when the soldiers said they were going to kill the Tutsis, NGENZI reportedly said: "Ok". This can only be seen as a request for authorisation and verification of his position of authority. CYASA, on the other hand, blames everything on NGENZI who asked for the victims to be shot, and the police killed them along the wall. Other witnesses, J-C REBERO, blame CYASA himself. The most probable is a total convergence of these two actors. The assistant mayor did not survive. X asks: *"What should we do with him?"* NGENZI: *"Nothing. Leave it there.* They were together, NGENZI was not afraid of CYASA.

The hunt for Tutsis continued right up to the homes where a Hutu man and a Tutsi woman met. The first raid was carried out at RUZINDANA's home. He describes the presence of Bienfaiteur, Toto, TURATSINZE. NGENZI says that he is following the group. Then we go to Osée KAREKEZI and the anonymous spouses. At J.B RUZINDANA's, there is no one. NGENZI came before. Marie MUKABARANGA (RUZINDANA's wife) reported that NGENZI had come the evening before to speak with her husband. Her husband is said to have told her: *"If tomorrow we come here and we find a Tutsi, you will only have to take it out on yourself"*. And Marie: *"I don't know if he came to warn us or to check if there were any Tutsis"*. If Marie MUKABARANGA has thus shown her lack of gratitude for Octavien NGENZI, one may wonder about her motives. Furthermore, NGENZI said that he had provided her with a false Hutu identity card, and Marie denied this. She said it was not him. And assuming that NGENZI's approach is altruistic, the help he comes to provide is for the benefit of Marie's husband, who is a Hutu who was convicted of genocide. And this conduct is significant: the evening before, Octavien NGENZI knows that there will be searches in the homes.

Then he goes to Mr. KAREKEZI's house, an event reported by himself, his wife, and their daughter Géraldine. Mrs KAREKEZI says that they arrive *"together by car"*. There are about fifteen participants: *Interahamwe*, soldiers, Bienfaiteur, Toto, TURATSINZE and BARAHIRA. They are armed with weapons and machetes. NGENZI himself is armed. He carries *"a small rifle"* described by Jacqueline and Osée KAREKEZI. If he has her, says Osée, he does not threaten her. Géraldine says he did not use it, except to threaten his little sister. NGENZI sits down next to Mrs KANSORO, wife KAREKEZI, behind the house. NGENZI says that he came to protect them, sitting next to the woman he considers to be his adoptive mother. The testimonies do not confirm the position of a man under duress, forced to obey. Osée KAREKEZI, very shocked that a man he knows so well would behave in this way, tries to be as precise as possible in describing his behaviour: he tries to decipher the relationship between Octavien NGENZI and the other actors. There is a difficulty in discerning the operational leader and the instigator. Especially when the one who is at the origin is careful to be in the background. NGENZI is the one who, not wanting it to be seen that he is the organiser, remains in the background of what he sees. This is the behaviour of someone who is very cunning. For the KAREKEZI, there is a difficulty in admitting what they see. They cannot see him as a protector. Hosea strongly disagrees that NGENZI would have come to warn. Géraldine says that at no time does NGENZI do anything to prevent what is happening. Octavien NGENZI asks where Claire is (Editor's note: the couple's eldest daughter, a teacher, who used to make the children listen to songs by Cécile KAYIREBWA - a Tutsi exile). Mrs KAREKEZI is more precise: *"Did Claire join the Inkotanyi"*? There are the songs she listens to, her boyfriend. What is certain is that he is asking for her. Octavien NGENZI does not deny it, he says he is asking for her safety. For Claire's safety, it is better that

NGENZI did not know where she was. This version of NGENZI that he arrived exactly at the same time as the assailants to protect is not at all convincing. What NGENZI is prepared to do in the homes of people with whom he is very close is revealing.

He then goes to the house of a mixed couple again. The woman is Tutsi. This is an interesting target for NGENZI because they took in refugees on the 7th, who then went to the church. Who are the assailants at the home of the anonymous spouses? Bienfaiteur, Toto, TURATSINZE, NGENZI, X and X. They are mainly *Interahamwe*. The spouses did not see any soldiers or berets. And yet they come armed. Mr X said it, Mrs X said it: Ngenzi has a "pistol" or "small rifle". Everyone says so. Mr X describes the events, how he is ordered to kill his sister-in-law and how he is injured with this sword. Then it is ripped out of him, stabbed into this victim, and then finished off further on. Mr X says that Octavien NGENZI and Benefactor gave him a knife to execute his sister-in-law. NGENZI says that Mr X killed his sister-in-law himself. But when it comes to finishing off the unfortunate victim, we see that it is with a machete, a spear; and the attackers are described from afar as the perpetrators of this massacre by Madame X. She sees them from afar. The initiative of these events is attributed to Octavien NGENZI who accompanies all the actors. He is there when he is killed, says Moïse DUSENGIMANA. He is unambiguously described as the leader of this killing. He is the one who will decide to leave. As for the anonymous husband, for him Bienfaiteur does not appear as someone who gives instructions to Octavien NGENZI. NGENZI did not obey. His participation is not at all that of a subordinate subject to the authority of the military. And even if Moïse, one of the couple's employees, says that the attackers were led by Bienfaiteur, Octavien NGENZI is there as a supervisor. And this is very consistent with everything else. NGENZI does nothing to oppose. Moses says he did not react, did not turn away from the scene of the crime, did not do anything to prevent it. He did not oppose it because he initiated it. It was an ethnic crime, and this is reflected in the oath that he made Madame X take: to have her life saved, but to give birth only to Hutu children. Octavien NGENZI did not have a protective role at any time, nor did he have a protective role in his home.

We heard Mr MPAMBARA and Mr NGENZI's wife. For Mr MPAMBARA (mayor of Rukara at the time of the events), who was well informed, Mr NGENZI's home was a safe place (since he took refuge there), which implies that he had retained his authority. At Octavien NGENZI's home there is the mother of the (Tutsi) woman. She did not take refuge in his home, she came for medical examinations. There is also the half-sister, but her stay has nothing to do with the events. There is Father Papias, a Hutu. There is Alice, who was then 10 years old, whose father is a Hutu. There is Edith, her godmother, and Edith's daughter. Alice comes to thank NGENZI with all her heart for having saved her. But when asked by the court, she confirms that she is a Hutu. It is not a young Tutsi girl who has been saved. Edith and her daughter, yes, are Tutsi. They will be killed. Octavien NGENZI's refuge will only be extremely temporary. And when he proposes that we accompany him in his flight, he will do so to Alice, the little Hutu girl, not to Edith. Of the two Tutsis in his home, none will survive. The refugees will be rounded up as described by GATABAZI. Octavien NGENZI is present, several people are taken away. The soldiers who arrive, how would they have known that Tutsis were there? This leads REBERO to hypothesise that it was NGENZI himself who made this revelation. Mediator UMUTESI thinks that he wanted to set an example. With Oscar KAJANAGE, we can see that he did not save anyone. He did. The accountant of the commune, which he bought, preferably from others, closer to him (Dative, KAJANAGE's wife, his childhood friend), and one may wonder what the reasons are. One wonders what the difference is between them hiding there or him

hiding them - or rather, his wife. It is interesting for him to be able to claim that he is sheltering Tutsis: *'I have nothing against Tutsis, I even have a very good Tutsi friend'*, is his version.

David TANAZIRABA, who protected about 20 people, undoubtedly did a saving act that others wrongly attribute to themselves. CYASA stated that he saved more than 300 people. And even if one saves a victim, this does not make the responsibility disappear. The case of the "killer rescuer" is a case that is taking shape. Francine Uwera says that a Hutu helped her a lot while killing others. But there were few of them, otherwise there would have been fewer deaths. Stéphane AUDOIN-ROUZEAU, GUICHAOUA say that conducting massacres is not incompatible with trying to save. Jacques SEMELIN speaks of *"small gestures"*, of people *"forced to participate in a few murders to save a large number of lives"*. This is not the case with Octavien NGENZI. This is a far cry from someone who does everything he can to save lives. Father Papias shows it. He is at NGENZI's house. He is going to have his life saved after a veritable monetisation led by Octavien NGENZI. It was most certainly on 17 April, according to a note from the bishop, that he came to the bishop's palace to buy the life of Abbé Papias. NGENZI is armed, he has a gun. He does not use it to threaten the abbot, Monsignor Philippe RUKAMBA, but he has it. And he says: *"In my head I only see him"*. Moreover, Innocent RUKAMBA confirms that NGENZI was armed with a gun. Octavien NGENZI came armed with a clear purpose: he wanted money. He said: *"We must redeem this priest, otherwise I will kill him as I have killed others"*. Innocent RUKAMBA says that when he hears this sentence the others are not there. NGENZI's approach is probably not unrelated to the profit motive. For the least we can say is that the account is not fair! 40 or 50,000 Rwandan francs were given by his wife on the evening of the 15th. The accounts are not accurate, but neither is the chronology! The 15th evening is too early. And then there is the evidence behind this request that he is still in charge: he is allowed to move around, he is the one who negotiates the price, he is the one who gets the money. He is not at all the one who is taken hostage, the one who is sidelined. Jean CHATAIN reports this ransom demand from Abbot Papias. And he reports what Papias says: *"The only question that Father Papias still asks himself is how the sharing was done"*, what was the amount of the commission taken by the burgomaster. Would Papias have been killed without the ransom? One can only be struck by the monetisation of life, and see that for genocidaires, one can live with a few saved lives.

As a UMUTESI mediator, she will be allowed to save her life, in a particularly great danger. There are many people in her house, many people. Until 1990, she has a good relationship with Octavien Ngenzi. She describes how Octavien NGENZI changed his behaviour after the RPF attack. And Jacqueline MUGUYENEZA, the other great witness, at the Mediator's house, who was involved in the raid. She is there because she cannot imagine that a communal house was rounded up. They date the attack to the 17th. Médiatrice sees NGENZI, a cigarette in his right hand, a rifle in his left. She asks him if she is going to be killed; he spits and tells her no. He is tired but he is not at all afraid of the military, he is not forced. Many see the gun, Mediatrice is not the only one. The captain with whom he comes is probably Captain Théophile TWAGIRAMUNGU, who was recognised by Augustin NSENGIYUMVA. This Captain TWAGIRAMUNGU, who is not from Kabarondo, how can he know that there are refugees at Médiatrice's house without NGENZI? Now they arrive together. Jacqueline is positive: they parked 10 metres away and approached on foot. In any case, Octavien NGENZI was not under the orders of the captain! It is a form of co-direction. An operational leader, and a supervising authority. But without him the round-up would not have taken place, without him we would not even know where there were people to look for. The day before, Jean-Marie Vianney MUNYANGAJU reported to him that a meeting had taken place in a cabaret.

During this meeting, the refugees at Médiatrice's were discussed. He comes to warn him, but too late, because when Jean-Marie Vianney MUNYANGAJU returns, the soldiers are already there. He still managed to save his family members. For Médiatrice UMUTESI, NGENZI is not someone who is forced by events, as Samuel NDOBA, who was present at the time, also testified. It was Octavien NGENZI who gave the limits. Moreover, after having passed through Kibungo, Rubira, NGENZI is said to have said: *"I have just escaped death, if among you someone hides Tutsis at home, you must denounce them otherwise you will be killed."* This sentence says something very right. Whoever gives up the Tutsis is not killed. Octavien NGENZI was not killed. After the roundup at UMUTESI's house, he did not go directly to Kibungo (and then to Birenga), he prepared another roundup. The communal office, about ten metres away, was another place of refuge. Not only in Kabarondo. People had taken refuge in the Kabarondo communal office. Captain TWAGIRAMUNGU could not have known this. Octavien NGENZI could not have been unaware of it. NGENZI is said to have said, according to NSENGIYUMVA: *"We have to go and take other people from the commune, her name is Dative"*. We know that this will lead them to Birenga. But first to Kibungo, towards which a funeral procession is heading, at the head of which - and this is not anecdotal - is that of NGENZI. The third is CYASA's, which follows the procession that will take victims loaded like oxen (says Jacqueline) to the slaughterhouse. In Birenga the victims are stripped. Jacqueline describes Dative with her baby. The vehicles are sent away and the massacres begin. It is of the same nature as the church massacre. The screams of the children - perhaps the only children, so much so that the adults contain themselves. Except when she hears her sister-in-law Christine screaming for death as her own children are cut up in front of her. Studded clubs, machetes. There is even an axe. Her concern for accuracy leads her to say "a small axe". The police refuse to use their weapons for economic reasons. NGENZI says he was never in Birenga. Jacqueline says, affirms that he was there. She says that she begs him, that he says he can't do anything. She says that he was there when the men were hit in the tendons. Then he leaves. No one stops him from leaving. He leaves to go and negotiate the release of Papias. It is not only Jacqueline who says this, Jean-Baptiste X says that *"Octavien NGENZI has joined us"*. That he told him to accompany him in the direction of Birenga. And what is happening in Birenga is reminiscent of what happened on 13 April at the church. There are atrocious scenes. The same statements from the victims, their pleas to die, the hope of being shot, of being finished off. Jacqueline did not know that she would save her life: *"We are lucky, we will be shot, not cut up,"* she says. After Birenga, she said: *'My God, I beg that no knife finds me, no club, I ask for a bullet or a grenade'*. These events in Birenga alone would have justified an Assize Court for Octavien NGENZI. They give an unambiguous colouring to these events. Go to the end of a logic. Hunt down all the Tutsis, flush them out wherever they are. Soon the Tutsis will be finished. This is nothing more than the execution of a message that is identical to the one that was proclaimed on the field of Cynzovu. After indelibly signing the crime against humanity, Octavien NGENZI dotted the "i" in the word genocide.

The facts that you are judging are unbelievably serious. I know I am right in saying that none of you will ever be confronted in your lives with something worse than what happened between 7 and 20 April in Kabarondo. What is more frightening than the fact that you cannot find worse in reality is that you cannot imagine worse. In Kabarondo, we have reached the worst. This is the source of a disturbing reflection: it is not necessary to be the worst of men to accomplish the worst of crimes.

1. *Gacaca*: Traditional courts in Rwanda, reactivated in 2001 due to the saturation of judicial institutions to try people suspected of murder during the genocide. Composed of people elected for their good reputation, they have a judicial and reconciliatory vocation. See the glossary for more details.
2. Alison DES FORGES, *No Witness Should Survive. Le génocide au Rwanda*, Karthala, Paris, 1999, p. 55-56.
3. President of the Rwandan Republic from 1961 to 5 July 1973, date of the coup d'état of Juvénal HABYARIMANA who was then his Minister of Defence.
4. The term *Akazu*, which appeared openly in 1991, means 'little house' in Kinyarwanda. The *Akazu* is made up of around thirty people, including close or distant members of the family of Agathe KANZIGA, wife of Juvénal HABYARIMANA. Within the *Akazu*, there are high ranking officials of the FAR (Rwandan Armed Forces) as well as civilians who control the army and public services and monopolise the country's wealth and state-owned companies.
5. A term that reflects the ethnic radicalisation of a part of the militants of political movements. From 1993 onwards, most of the political parties broke up into two trends: one extremist, known as "power" (e.g. MDR-POWER; MRND-POWER; PL-POWER, etc.), and the other moderate, which was quickly destroyed.
6. *Interahamwe*: 'Those who work together', a youth movement and militia receiving military training, created in 1992 by MRND, the party of President HABYARIMANA.
7. *Inkotanyi*: RPF fighter (term used from 1990). See 'Glossary'.
8. *Inyenzi*: Cockroach in Kinyarwanda, the name by which Tutsis were referred to in racist propaganda.
9. Colonel RWAGAFILITA was the strong man of the region, the eminence grise of the genocidal power. It was better to benefit from his favours to become mayor... He was among the activists most involved in the massacres around Kibungo where he was originally from. Under the HABYARIMANA regime, he was decorated with the Legion of Honour by France! See the glossary for more details.
10. *Simba Bataliani*: a dangerous armed group made up of former FAR soldiers, already cited by several witnesses for their murderous acts in the Kabarondo region.
11. Municipal Centre for Continuing Education.
12. Alison DES FORGES, *No Witness Should Survive. Le génocide au Rwanda*, Karthala, Paris, 1999, p. 275.

Defence submissions. A selection of Ngenzi's lawyer's arguments 5 July 2016

It is impossible, under the present conditions, to give an account of the defence pleadings of Messrs NGENZI and BARAHIRA. It was Maître MEILHAC who, in the morning, pleaded for BARAHIRA. Just a few highlights from the plea of Maître MATHE, NGENZI's lawyer, which lasted nearly 6 hours.

13. Drawing by Annabelle GIUDICE
14. *"We have heard testimony from criminals who I refuse to call executioners.*

15. *"Mr GUICHAOUA was summoned to the SIMBIKANGWA trial, but it seems that he did not like it"*
(this expert refused to testify because he was summoned by the defence).
16. *"BAGOSORA trial at the ICTR: a kick in the genocide preparation theory".*
17. On the distribution of machetes in Rubira: *"We equip farmers, not killers.*
18. *"I have the impression that there are genocides in Rwanda, not a double genocide, but regional genocides!"*
19. *"RWAGAFILITA, a member of Akazu, but he is not a member of the Compagnons du 5 Juillet. (NDR: no one ever said that RWAGAFILITA was promoted officer in the order of the Legion of Honour in France. Also decorated with the Order of Leopold II in Belgium, promoted to Commander)*
20. On the number of witnesses who came to the hearing: *"It is a strategy of the prosecution which preferred quantity to quality!"*
21. About CYASA, a witness in detention in Nsinda and heard by video conference: *"In Rwanda, CYASA has become a noun. To designate a "liar", or even worse a "mass murderer", we say a "cyasa"!"*
22. About the episode of Titiri's goats: *"Titiri's goats is the mythical sentence of the Apocalypse of BAGOSORA. (NDR: allusion to BAGASORA's sentence, which the lawyer describes as mythical: "I am returning to Kigali to prepare the apocalypse."*
23. *"The accused is entitled to a fair trial. Doubt is at the heart of the criminal trial and I am accused of wanting to distil this doubt?"*
24. *"In 1994, the RPF took power in blood!"*
25. *"In 1994 in Rwanda, more than one million men, women and children were exterminated in three months because they were born Tutsi": Garden of Memory inaugurated by Anne Hidalgo, Mayor of Paris, on 7 April 2016 in the Parc de Choisy.*
26. *"1,000,000 deaths in 100 days! Figures that slam! This is propaganda. And the lawyer minimises the number of victims of the genocide: "There were only 800,000 Tutsis in Rwanda, so there were no more than 600,000 Tutsi deaths and 300 or 400,000 who did not die in the genocide."*
27. *"The variations in the number of deaths by Abbé INCIMATATA are propaganda.*
- 28.
- 29.
30. *"The witnesses live in a country that is an ethnic dictatorship.*
31. Referring to her stay in Rwanda in 1997, she said: *"In the Butare region, I found a dungeon with a smell!"* She had previously spoken about the situation of prisoners in Rwanda's dungeons, who suffer from gangrene from standing up.
32. *"The witnesses (killers and survivors) have constructed a common discourse to enable them to continue to live together.*
33. Or again: *"The killers know that they are on the side of the defeated and they build a common history with the survivors.*
34. *"The witnesses? Coat racks in nice suits put on in the morning. (NDR: many of the witnesses who came from Rwanda wore new suits)*
35. *"INCIMATATA is a character you find in novels!"*
36. *"There are moving characters in every novel.*

37. *"Widows, survivors, that's the political capital in Rwanda!"*
38. *"The exiles who fled Rwanda are also building a history, the history of the defeated!"*
39. *"NGENZI does not deserve the witchcraft trial he is being given... He is neither a Judas nor a traitor!"*
40. *"International justice is not the justice of the victors. There are winners in the civil parties... there are politicians. (CPCR)."*
41. *"The CPCR's fight is a political fight!"*
42. *"Mr GAUTHIER is a driving force" in the conspiracy theory.*
43. Referring to an article in the newspaper L'Humanité which presents the GAUTHIERs as "*genocide hunters*", she adds that "*the GAUTHIERs identify with the KLARSFELDs!*"
44. The president will momentarily interrupt Maître MATHE's pleading, which must not happen very often in a trial, to point out to her that she has already been pleading for 5 hours!
45. And the lawyer asked for the umpteenth time who "*wields influence today in Kabarondo!*"
46. Addressing the jurors: "*You must be careful, cautious, and keep the love of men!*"
47. These few notes are not a report. I don't know if I will have the courage to write a text on the defence pleadings. A few personal comments, however. During her closing arguments, Maître MATHE spent a lot of time giving the jurors **her version of** the history of Rwanda. She could have added her name to the four "experts" she acknowledges above. Nothing, if I remember correctly, about the year 1931, and the creation of identity cards bearing the ethnic mention. But perhaps I had already given up by then and given up taking notes.
48. Concerning the end of the 1950s, referring to the document "The reaction to the Bahutu manifesto" which she likens to the "Protocol of the Wise Men of Zion", to my knowledge, this document was recognised a long time ago as being "a fake". There is no mention in the role played by the Church during this period of Monsignor PERRAUDIN, the Swiss bishop who succeeded in bringing his protégé KAYIBANDA to the presidency of the Republic and who played a central role in the advent of the social revolution.
49. There was very little room in this plea for the facts of which NGENZI was accused, especially when he was swimming in the most complete inconsistencies. We would have liked to have had explanations in particular on NGENZI's schedule on 13 April, the day of the massacres at the church. NGENZI, according to his statements, spent several hours in front of the commune, he "*the accomplice of the RPF*", waiting for a death that would not come. waiting for a death that would not come! Surrounded by soldiers, gendarmes and *Interahamwe* who all hated him! All this to "*save his family*"! It is true that it was better to keep such a schedule under wraps. The same goes for the visit to the bishop's palace where NGENZI went to personally negotiate the ransom for Abbé Papias. The version given by the accused was far from holding water. Bishop Philippe RUKAMBA, who witnessed the scene, saw NGENZI in person, carrying a pistol in his left hand and negotiating with other priests. There too, it was better to pass quickly.
50. And what can I say when, twice, she turns to her client and looks him in the eye for a long time, in a heavy silence, until she herself has tears in her eyes. Did the jurors need to be moved? I personally felt very embarrassed. It is true that an Assize Court is also a theatre where you have to convince but also move. I am not sure that it has the desired effect!

Verdict: life imprisonment

6 July 2016

Tito BARAHIRA and Octavien NGENZI are both found guilty of genocide and crimes against humanity. They are sentenced to life imprisonment.

Decision:

**Cour d'Assises de Paris
statuant en première Instance**

**FEUILLE DE MOTIVATION
Affaire Octavien NGENZI alias Jean-Marie VIANNEY
et Tite BARAHIRWA alias Tito BARAHIRA**

Article 365-1 du Code de procédure pénale

Les principaux éléments ayant convaincu la Cour et le jury sont les suivants :

1. Sur l'existence des crimes de génocide et de crime contre l'humanité dans la commune de KABARONDO (préfecture de KIBUNGO) en avril 1994 :

La Cour considère qu'il résulte de l'ensemble des éléments recueillis au titre des éléments dits de « contexte » dans le cadre des investigations entreprises ainsi que des témoignages formulés au cours des débats s'étant déroulés devant elle :

- que l'appartenance de la population à l'ethnie tutsie est progressivement à compter du mois d'octobre 1990 devenue synonyme d'ennemi intérieur et de complice du Front Patriotique Rwandais (FPR) et est apparue comme étant l'une des principales raisons des crimes commis contre la population de KABARONDO ;
- que la situation s'est dégradée entre 1990 et 1994, de nombreux témoignages évoquant une discrimination quotidienne à l'encontre des membres de l'ethnie tutsie, tension soutenue par la propagande raciste de la Radio Télévision Libre des Mille Collines (RTLM) diffusée dans l'ensemble du pays, y compris dans la commune de KABARONDO, média faisant régulièrement appel aux meurtres de membres de la communauté tutsie ;
- que l'existence d'un plan concerté, au niveau de la commune de KABARONDO, découle de l'organisation et de la tenue de réunions dans le bar d'Anaclet RUHUMULIZA, commerçant, dont l'objectif consistait, selon plusieurs témoignages, en l'attaque de la population tutsie mais également de la distribution d'armes à des groupes d'hommes faisant parties des milices Interahamwe.

La Cour rappelle par ailleurs qu'en tout état de cause, l'existence du crime de génocide commis sur l'ensemble du territoire du RWANDA entre avril et juillet 1994 résulte :

- des analyses menées par l'ensemble des historiens et sociologues ayant examiné la situation au cours de ladite période et notamment de celles développées à l'audience ou dans le cadre des éléments recueillis au cours des investigations entreprises par Stéphane AUDOIN-ROUZEAU, Jacques SEMELIN, ANDRÉ GUICHAOUA et Hélène DUMAS ;
- des conclusions développées par le rapporteur spécial de la Commission des Droits de l'Homme des Nations Unies pour le Rwanda, René DEGNI-SEGUI, dans son rapport en date du 28 juin 1994, selon lesquelles « la qualification de génocide doit d'ores et déjà être retenue en ce qui concerne les Tutsi » ;

La Cour rappelle également l'arrêt rendu par le Tribunal pénal international pour le Rwanda dans l'affaire KAREMERA en date du 16 juin 2006 concernant la procédure de constat judiciaire de faits de notoriété publique telle que prévue par son Règlement de procédure et de preuve. Dans cet arrêt, la chambre d'appel a constaté que le génocide perpétré au RWANDA en 1994 est un fait de notoriété publique, dont elle dresse alors le constat judiciaire.

En ce qui concerne l'existence d'un plan concerté au niveau du RWANDA, la Cour considère qu'il découle du caractère organisé et collectif des exécutions massives et étendues, de l'existence de barrières dans l'ensemble du pays, d'une propagande médiatique visant aux meurtres des Tutsis, et de l'ampleur du nombre de victimes s'élevant à environ 800 000 en l'espace de trois mois.

En conséquence, la Cour considère que le crime de génocide tel que défini par l'article 211-1 du Code pénal, à savoir en l'espèce des atteintes à la vie et des atteintes graves à l'intégrité physique ou psychique des personnes, a été commis en exécution d'un plan concerté tendant à la destruction totale ou partielle du groupe ethnique tutsi dans la commune de KABARONDO en avril 1994, comme plus généralement au RWANDA entre avril et juillet 1994.

La Cour considère en outre qu'il résulte de l'ensemble des éléments recueillis au titre des éléments dits de « contexte » dans le cadre des investigations entreprises ainsi que des témoignages formulés au cours des débats s'étant déroulés devant elle que des exécutions massives et systématiques, inspirées par des motifs politiques ont été organisées en exécution d'un plan concerté - notion retenue en considération des éléments précisés précédemment - à l'encontre d'un groupe de population civile, en l'espèce la population civile hutue dès lors que les personnes concernées étaient vues comme complices des Inkotanyi ou opposantes au régime en place.

Par ailleurs, la Cour est également convaincue, au vu des analyses menées par les historiens mentionnés dans le cas du crime de génocide, que les événements survenus sur l'ensemble du territoire du RWANDA pendant cette période caractérisent le crime contre l'humanité.

A cet égard, la Cour se réfère également aux conclusions du rapporteur spécial de la Commission des Droits de l'Homme des Nations Unies pour le Rwanda, René DEGNI-SEGUI, selon lesquelles « les assassinats et les autres actes inhumains commis contre les populations civiles ainsi que les persécutions pour des motifs politiques en liaison avec les crimes de guerre constituent des crimes contre l'humanité ».

Enfin, le caractère organisé et collectif de massacres généralisés à l'ensemble du territoire du RWANDA, l'existence de barrières et d'une propagande médiatique visant aux meurtres des opposants politiques ainsi qu'à l'ampleur du nombre de victimes s'élevant à environ 800 000 en l'espace de trois mois attestent de l'existence d'un plan concerté.

2. Sur la participation de Tite BARAHIRWA alias Tito BARAHIRA au crime de génocide et au crime contre l'humanité dans la commune de KABARONDO en avril 1994 :

La Cour considère qu'il ressort tant des auditions réalisées dans le cadre de l'information suivie contre Tito BARAHIRA que des témoignages à l'audience que :

- Tito BARAHIRA, avait conservé au moment des faits, plusieurs années après avoir cessé d'exercer ses fonctions de bourgmestre dans le cadre desquelles il était présenté par beaucoup comme autoritaire, une influence certaine au sein de la population de Kabarondo et que les troubles survenus immédiatement après l'attentat dont a été victime le président de la république rwandaise le 6 avril 1994 l'ont conduit à retrouver une activité publique dont il avait été tenu éloigné durant plusieurs années en raison d'éléments restés insuffisamment précisés par les témoins entendus mais qui apparaissent avoir été retenus à son encontre contre son gré ;
- celui-ci a participé aux réunions organisées chez Anaclet RUHUMULIZA, en tant que membre du MRND, parti dont il avait été élu, quelques mois avant le mois d'avril 1994, représentant local ;
- le 12 avril 1994, plusieurs attaques ont été menées à l'encontre de membres de la population tutsie, en présence de Tito BARAHIRA présenté par de nombreux témoignages comme particulièrement actif et moteur à l'occasion de ces attaques, dans le secteur de CYINZOVU et la cellule de RURENGE, l'une d'elle ayant abouti à la mort de François NTIRUSWAMABOKO ;
- Tito BARAHIRA a convoqué et dirigé une réunion sur le terrain de football de CYINZOVU durant laquelle il a ordonné aux personnes présentes d'assurer leur « sécurité » en se livrant à des attaques contre la population tutsie, sans que les témoignages concordants recueillis à propos de cette réunion puissent s'expliquer ainsi que le soutient l'intéressé par un « complot » ourdi par des personnes venant de la même cellule de RUGAZI II ;

La Cour souligne que les déclarations de Tito BARAHIRA qui a soutenu durant l'instruction qu'il ne s'est rendu à KABARONDO qu'en fin d'après-midi pour rapidement repartir n'ont pas la force probante suffisante permettant d'écarter les nombreux témoignages précis et concordants le décrivant présent devant les portes de l'église lorsque les réfugiés ayant survécu à l'attaque des militaires ont été sortis, triés en fonction de leur ethnité et tués s'agissant des tutsis.

Enfin, il est observé que les déclarations formulées à plusieurs reprises par l'intéressé lors des interrogatoires, à tous les stades de l'instruction et relatives aux échanges qu'il a eu verbalement, devant l'église le 13 avril 1994, avec son successeur, n'ont été modifiées qu'à l'occasion des audiences devant la Cour au cours desquels il a soutenu qu'il n'avait pas vu Octavien NGENZI ce jour-là et que les explications selon lesquelles il n'avait pas été compris jusqu'alors, ne bénéficiant pas de l'intervention d'un interprète apparaissent insuffisantes en l'absence de toute difficulté apparue à l'occasion des nombreux interrogatoires ou confrontations organisés en présence de son conseil par les magistrats instructeurs ;

La Cour estime qu'il résulte des témoignages recueillis, avec suffisamment de précision et de cohérence, que Tito BARAHIRA a commis mais également fait commettre des atteintes volontaires à la vie et des atteintes graves à l'intégrité physique ou psychique, en exécution d'un plan concerté tendant à la destruction totale du groupe ethnique tutsi ainsi que participé en qualité de co-auteur aux exécutions sommaires pratiquées de manière systématique et massive en exécution d'un plan concerté au préjudice de population civile et notamment des hutus de l'opposition ;

Les éléments de personnalité dont la Cour a pris connaissance s'agissant de Tito BARAHIRA la conduisent à retenir qu'il a très rapidement et pleinement adhéré au plan concerté à l'exécution duquel il participe activement en animant des réunions incitant la population à se livrer à des

- les forces ayant participé à l'attaque de l'église tout au long de la journée du 13 avril 1994 étaient diverses, comprenant des groupes d'attaquants qualifiés d'Interahamwe par de nombreux témoins, dont des hommes appartenant au SIMBA BATALION, des policiers communaux et notamment Samuel NDOBA et Manasse MUZATSINDA et enfin des membres des forces militaires basées au camp HUYE à KIBUNGO dont l'intervention est présentée par plusieurs témoins comme ayant été sollicitée par Octavien NGENZI qui est allé lui-même les chercher avec le véhicule communal aux alentours de 10 heures ;
- cette attaque du 13 avril 1994 s'est déroulée en plusieurs étapes : un premier assaut lancé par les hommes du SIMBA BATALION contre les réfugiés s'étant rendus à la place du marché vers 7 ou 8 heures puis s'étant repliés dans l'église suivi d'un deuxième assaut soutenu par l'armée à l'aide d'armes lourdes et de grenades contre les réfugiés retranchés dans l'église et enfin d'une troisième et dernière attaque, menée avec des armes traditionnelles telles que machettes et gourdins contre les survivants qui ont été sortis et assis devant les portes de l'église afin qu'il soit procédé à leur tri en fonction de leur appartenance ethnique puis au meurtre de ceux appartenant à l'ethnie tutsie ;
- ces différentes attaques ont causé la mort de centaines de personnes et infligé des blessures physiques et psychologiques graves aux personnes ayant survécu, lesquelles ont non seulement reçu de nombreux coups de machette ou de gourdin mais ont également vu leurs proches mourir devant eux.

La Cour retient qu'ainsi qu'il l'a lui-même décrit de manière constante lors de l'instruction et à l'audience, Octavien NGENZI a fait procéder à l'enfouissement des corps des personnes tuées à l'église par des individus « recrutés » par lui à RUBIRA où il s'est rendu en compagnie d'Anaclet RUHUMULIZA.

Il résulte des témoignages recueillis que :

- ces hommes appartenaient au groupe dit ABARINDA ;
- l'ensemble des hommes réquisitionnés, environ 18 hommes, s'est ensuite rendu à bord de plusieurs véhicules, dont le véhicule communal conduit par Octavien NGENZI et le véhicule appartenant à Anaclet RUHUMULIZA, vers KABARONDO ;
- ils se sont arrêtés en cours de route au CERAI afin de se procurer des armes qui seront utilisées plus tard aux fins de tuer les survivants se trouvant devant l'église, ainsi que ceux qui avaient réussi à se rendre au centre de santé et à l'IGA ;
- Octavien NGENZI a ensuite demandé aux hommes présents de se rendre au centre de santé où se seraient réfugiés des tutsis ayant échappés au massacre de l'église ;

La Cour souligne qu'il apparaît difficile de déterminer de manière exacte la date à laquelle ont eu lieu cet enterrement et les attaques subséquentes au centre de santé et à l'IGA, non seulement en raison du fait qu'il existe une contradiction importante entre le scénario se dégageant des nombreux témoignages recueillis au cours de l'information et les indications fournies par Octavien NGENZI lui-même, mais également parce que les témoignages ne se corroborent pas tous entre eux à cet égard. Mais la Cour considère que les inexactitudes et contradictions entre les témoignages de la part de personnes ayant vécu les faits plus de 20 ans auparavant ne l'empêchent pas de considérer

massacres ainsi qu'en participant lui-même à des attaques meurtrières, dans les secteurs où à l'église de KABARONDO le 13 avril 1994.

3. Sur la participation d'Octavien NGENZI alias Jean-Marie VIANNEY au crime de génocide et de crime contre l'humanité dans la commune de KABARONDO en avril 1994 :

La Cour considère qu'il ressort des débats et de nombreux témoignages recueillis que :

- les bourgmestres, autorités communales nommées à l'époque des faits par le Président de la République sur proposition du Ministre de l'Intérieur, étaient le relais au niveau local de l'autorité gouvernementale et exerçaient leur autorité sur toute personne recrutée par le conseil communal et notamment les policiers communaux ;
- Octavien NGENZI, membre du parti unique MRND jusqu'en 1991 l'est resté à compter de l'instauration du multipartisme ;
- la population rwandaise, y compris dans la préfecture de KIBUNGO, était au moment des faits très respectueuse de l'autorité des responsables locaux, en particulier d'Octavien NGENZI ;
- Octavien NGENZI, a eu progressivement, à compter du mois d'octobre 1990 et de la mise en place peu de temps après du multipartisme au RWANDA, une attitude discriminatoire à l'encontre de la population tutsie de la commune ;
- ces tensions ont connu un point d'orgue au début du mois d'avril 1994 avec les attaques contre la population dans différents secteurs de la commune, qui ont mené à l'exode de nombreux réfugiés à l'église de KABARONDO et à l'organisation d'une réunion de sécurité le 10 avril par Octavien NGENZI dans les bureaux communaux ;
- de manière simultanée, s'est mis en place un cercle de personnalités au niveau préfectoral, proches du pouvoir hutu, club politique dont il a été relevé par un témoin que la promotion et le développement de la commune n'était qu'un « habillage », club dont faisait partie Octavien NGENZI en qualité de bourgmestre mais également le colonel RWAGAFILITA, chef d'état-major adjoint de la gendarmerie à la retraite, avec lequel il entretenait une relation étroite, ainsi que le commerçant Analet RUHUMULIZA dans le bar duquel des réunions étaient organisées, réservées aux hutus ;
- Octavien NGENZI était de fait investi de par ses responsabilités d'une autorité à l'égard des groupes qualifiés d'Interahamwe, qu'il s'agisse du groupe ABARINDA du secteur de RUBIRA ou du SIMBA BATALION du secteur de BISENGA, qui se livraient tous deux à des attaques contre la population de la commune ;

La Cour considère en outre qu'il résulte suffisamment des dépositions recueillies tant par les enquêteurs que par elle-même à l'occasion des audiences que :

- une attaque a été menée le 13 avril 1994 à l'encontre de membres de la population réfugiés à l'église de KABARONDO et qu'Octavien NGENZI était présent lors de cette attaque, avait ce jour-là une position d'autorité et a adopté un comportement actif tout au long de la journée, en dépit de ses déclarations sur ce point ;

La Cour considère également qu'il ressort des débats et témoignages qu'au contraire de ce qu'a déclaré Octavien NGENZI, la raison pour laquelle il aurait procédé à l'enfouissement des corps n'est pas une volonté d'enterrer dignement les habitants de sa commune mais bien de cacher leur existence aux combattants du FPR, ainsi que le rapportent plusieurs témoins parmi les individus réquisitionnés pour procéder à l'enfouissement.

La Cour considère qu'il ressort des débats et témoignages qu'à la suite de l'attaque de l'église, entre le 14 et le 17 avril 1994, Octavien NGENZI, accompagné de militaires, d'Interahamwe, et de policiers communaux, s'est rendu aux domiciles de plusieurs personnes dans le but de rechercher des personnes tutsies qui avaient échappées au massacre de l'église ou bien qui étaient supposées être complices du FPR.

Il ressort également des éléments discutés qu'à la suite de ces perquisitions, un nombre important de personnes appartenant à l'ethnie tutsie a été exécutée à BIRENGA, et que parmi les personnes emmenées là-bas, certains ont reçu des blessures graves lors de l'attaque du groupe à coups de machette et gourdins.

La Cour considère que les déclarations d'Octavien NGENZI lors de l'instruction et de son interrogatoire à l'audience selon lesquelles sa volonté était de protéger les propriétaires des domiciles en les prévenant d'attaques à venir n'ont été corroborées par aucun des témoignages entendus, dont il ressort à l'inverse qu'il manifestait alors une attitude menaçante et discriminatoire à l'encontre des victimes de ces « perquisitions ».

De surcroît, il est apparu à l'occasion des auditions réalisées au cours de l'enquête ou à l'audience que c'est précisément Octavien NGENZI qui a permis, lors de ces perquisitions, la localisation des personnes tutsies, préalable nécessaire à leur acheminement vers le lieu de leur exécution pour certaines d'entre elles.

La Cour estime qu'il résulte des témoignages recueillis, avec suffisamment de précision et de cohérence, qu'Octavien NGENZI a commis mais également fait commettre des atteintes volontaires à la vie et des atteintes graves à l'intégrité physique ou psychique, en exécution d'un plan concerté tendant à la destruction totale du groupe ethnique tutsi ainsi que participé en qualité de co-auteur aux exécutions sommaires pratiquées de manière systématique et massive en exécution d'un plan concerté au préjudice de population civile et notamment des hutus de l'opposition.

Les éléments de personnalité dont la Cour a pris connaissance s'agissant d'Octavien NGENZI la conduisent à retenir qu'il a pleinement adhéré au plan concerté à l'exécution duquel il participé activement en organisant l'attaque de l'église de KABARONDO le 13 avril 1994, mais également les massacres dits du centre de santé et de l'IGA ainsi qu'en participant activement et de manière déterminante aux perquisitions et rafles ayant suivi ces tueries.

Le Premier juré



Le président

