

Deep Delusions, Bitter Truth (The Trial of a Rwandan General)

[A Courtroom Drama in Two Acts]

[COMPILED BY CM/P FROM THE ACTUAL TRIAL TRANSCRIPTS OF 24 & 25 JUNE, 2009]

THE SET: The stage is empty but for a small table with a lectern on it around CS. On the Cyclorama is a large 'Big Brother' screen on which are projected images, still and moving pictures, appropriate to what is being said on stage.

IN BLACK:

FIRST VO [Prosecutor Mr. Van]

Mr. President, if you hate somebody, it's not because you want to live with that person. And we are in a war context. So if you consider that the Tutsi are an enemy, the Hutu, who did not want the Tutsi, and actually hated the Tutsi, logically had to hurriedly exterminate the Tutsi, or else the Tutsi would exterminate them. And that is the situation. When you say that you hate somebody, it is not a joke. Besides, Mr. President, Your Honors, the results are there; the Tutsis were killed. They were massacred, they were exterminated, and there was genocide.

SECOND VO [Thespis]

Yet the Tutsis minority wound up seizing state power and taking over Rwanda from the Hutu majority!

FIRST VO

In the Karemera case, the Appeals Chamber took judicial note of that.

SECOND VO

The order to take 'Judicial Notice' effectively removed from the Prosecution any burden of having to produce evidence to prove the genocide actually took place.

LIGHTS UP:

Alone on stage is Maitre Christopher Black, Defense attorney to Major General Augustin Ndindiliyimana, former Chief of Staff of the Rwandan National Gendarmerie during the troubles of 1993 and 1994, on trial before the International Criminal Tribunal for Rwanda, in Arusha, Tanzania, on charges of Crimes against Humanity unto Genocide.

Mr. Black is just over 60 and very weary from his long travail.

The Judges sit OS DR, the Prosecution is OS UR, and the Defendants are OS UL. After SEVERAL BEATS, Maitre Black speaks:

MR. BLACK:

Mr. Sefon, yesterday, referred to two interesting books. And I find the reference he made--and the fact that he made that reference--that the Prosecution made that reference, very interesting. He referred to Niccolò Machiavelli's book, *The Prince*. Everybody here, I assume, who went to law school has read that at some time. And it's a book written by a man who was forced by a regime, the Medicis at that time, to bow to a dictatorship, and decided to write a book to please his master about how to rule a people who did not want to be ruled by a dictator. And one of Machiavelli's words of wisdom in that book of realpolitik was that deception is one of the ways in which to control a people, deception and fear.

Mr Sefon also made reference to *The Art of War*, by the Chinese military scholar, Sun Tzu. That is also a very important book, studied in all military colleges and by philosophers, because it sets out how wars are really conducted. And Sun Tzu's first lesson in that book, in the opening pages, is about the art of deception, and how the art of deception is the key to winning any conflict.

And I raise that because it's quite clear that the Prosecution in this Tribunal is part and parcel of the grand deception which is being woven--has been woven by the RPF and its neocolonial masters, the United States and the United Kingdom, for the last 15 years.

Why do I say that? I will go into why it's evident that the--the Prosecution here has manipulated this Court since day-one, and how they have tried to cover up the crimes of the RPF, how they, despite the rank hypocrisy expressed by Mr. [Abubacarr] Tambadou and Mr. [Alphonse] Van, that they wish and desire international justice and the erasing of immunity from prosecution for world leaders, when they, in fact, have done nothing but grant those murderers in the RPF immunity from prosecution from the beginning.

And I'm not alone in saying this. I have here a letter which has been sent by 50 world scholars and human rights defenders from universities in Canada, the United States, Britain, from Human Rights Watch, Amnesty International. They include professors from Columbia University, Princeton, the University of California, the University of Antwerp, and on and on. Including the husband

of the late Dr. Alison Des Forges, Professor Roger Des Forges, and including the former expert for the Prosecution, Filip Reyntjens, who refuses to work for the Prosecution any longer.

This letter is addressed to Ban Ki-Moon, President Barack Obama, Prime Minister Gordon Brown, and copied to Hillary Clinton and various other American and British Foreign Ministry officials, because, obviously, they're the ones who control this Tribunal. It is also copied to Judge Dennis Byron, and to Prosecutor Hassan B. Jallow.

It says that Mr. Jallow--that the RPF has committed crimes, and that Mr. Jallow expresses an evident reluctance to prosecute these RPF crimes. And this is clearly the result of intimidation and obstructionism by the RPF, which now rules Rwanda. The Prosecutor, Jallow, has severely compromised his prosecutorial independence and the Tribunal's integrity.

But they conclude with this: "In conclusion, we call on you to ensure that the ICTR prosecutes RPF crimes. This issue should be raised when Prosecutor Jallow addresses the United Nations Security Council about his completion strategy on June 4th, 2009. Unless the Prosecutor acts swiftly, the ICTR will squander not only its last chance to provide accountability for those serious crimes, but also its legitimacy."

It's dated May 31st of this year. Another professor, Dr. Hans Köchler, at the University of Innsbruck in Austria, and who was selected as the Secretary General's personal representative at the Lockerbie trial and still acts in that capacity, wrote a book called *Global Justice and Global Revenge*, about these ad hoc tribunals and, with respect to the ICTR, stated that the Prosecution has engaged in selective prosecution on 'a massive scale,' quote-unquote, 'a massive scale.' Now, why?

I don't think Mr. Jallow is afraid of a little man like Mr. Kagame in Kigali. No. Mr. Jallow is not afraid of that little man. He is controlled by bigger powers than that. And that's why this letter is addressed to those powers. And if my friends over there [the Prosecution] want to sit in service of neocolonialism, shame on them. But I don't think this Court should acquiesce to the planning out of neocolonialism and imperialism in Africa by listening and accepting the manipulations presented to this Court and the argument they pretend to make as evidence.

Let me get to the argument. When Prosecutor Lloyd Strickland stood up and said, correctly, that he had to deal with the challenges raised by the Defense brief in our case, it's quite true. I submit that the argument we presented has built, brick by brick, a wall of reasonable doubt which they cannot ever

penetrate. So what do they do? Instead of trying to refute the argument we made--the written argument we made--they leave it--which I would interpret as their ceding the case to us.

Instead, he gets up and makes a couple of comments about Kansi and Saint André college and then engages in a slanderous attack on General Ndindiliyimana and that he's just a born liar because he's a politician. --I'll refute that later.-- But they make no other argument at all. And I was surprised when the arguments here started. I've never followed the arguments in these cases really. But I expected, even when I was in law school, that--I was taught that when you make a legal argument, you have to deal with the argument that the other person made.

The Prosecution, in its brief, just puts out nothing but RPF propaganda. It's as if they were never at the trial. They ignore their own evidence. They ignore our evidence. And they just repeat the accusations in the indictment and page after page of pure RPF propaganda. And then, when they come to their oral argument, you would expect that they would have something to say to knock--to try and knock out our argument. But no, they don't, because they can't. So they resort to innuendo and slander.

Now, let's look at how they start off with this RPF propaganda campaign, which they've engaged in since this trial began. I agree with Mr. St Laurent that they mischaracterized the history of Rwanda totally. For instance, at their paragraph 41, they say that since 1959 the country has suffered ethnic unrest following the Hutu social revolution.

Well, whose fault was it that there was social unrest in Rwanda? Because the émigrés, the aristocracy, and the King, the King's clan, when they fled, because they were being hunted by the Belgian police for murdering Hutu *bourgmestres* who had been elected, attacked the country many times between 1959 and 1973. And you heard evidence from the UN--from UN documents which agreed that there was no reason for those attacks. They were completely gratuitous. Murdered people right, left, and centre, and they were forced out. And there was no unrest after 1973 and until 1990.

The country was, as everybody knows, considered the Switzerland of Africa. Why? Because it did have social and ethnic cohesion. It was a very poor country--even though it was a poor country, it did have a progressive government, one of the most progressive in Africa. It was a model for African development and third world development.

Then in October 1990 that's all destroyed. And why? For no reason at all except that the Tutsi aristocracy in the Ugandan Army, and President Yoweri Museveni, and their allies, all wanted to conquer Rwanda in order to invade the Congo. And that's the only reason.

Then they say, in paragraph 42, that since then Rwanda has been a time bomb, which went off on April 6th. No, it wasn't. Rwanda was not a time bomb until 1990 when the RPF attacked.

I was going to go through their paragraphs seriatim. It's easier for me to do it that way.

The military, ¶43. They say the military involved in the conflict are the Rwandan Armed Forces [FAR] and the RPF. Well, no. That's not true, either. The attack was made by the Ugandan Army, by Mr. Museveni. But they don't charge him.

Every member of the RPF was a Ugandan Army soldier, every one of them. They used Ugandan military equipment: Trucks, vehicles, weapons, heavy weapons. They all carried their Ugandan NRA identity cards.

The RPF is not a rebel movement. It's a ring within the Ugandan army disguised as a rebel movement. [Tutsi Historian] Antoine Nyetera testified here that many Tutsi businessmen wrote them a letter saying, "We don't want this war. Who are you? You don't represent us. Things are fine here for us. Why are you destroying the country? Destroying everything? For what?"

Paragraph ¶50, they say another false thing: That Augustin Ndindiliyimana was designated as chair of the Crisis Committee. Well, no, he was not. And I--you read in my brief. I'm not going to argue about that too long. But it's quite clear that committee ceased to exist April 8th. It's quite clear that the only reason he took over the meeting on the 7th was that [General Théoneste] Bagosora was trying to take over and that [Leonidas] Rusatira and Ndindiliyimana opposed Bagosora, and, therefore, Ndindiliyimana stepped in to solve the dispute. That's the only reason. General Dallaire confirmed that. Alison Des Forges confirmed that.

They say, at paragraph ¶63, that the Rwandan Patriotic Front is a political and military movement whose adepts were drawn from the Tutsis in the diaspora. As I say, that's not true. They were not drawn from the Tutsis of the diaspora. And, as I said, they were the Ugandan Army.

And Antoine Nyetera said that he was surprised when the RPF columns came down from Mt. Rebero in July, when the FAR had retreated. He was surprised to see that most of them weren't Tutsis at all. They were Eritreans, Ethiopians, Somalis, Tanzanians, and Sudanese. Remember their hair down to their shoulders, dark as pitch, tattoos everywhere: Mercenaries.

This myth that the RPF was some sort of 'People's Liberation Movement' was bought hook, line, and sinker, by many people in the West because of propaganda put out by Des Forges and her acolytes. But nobody buys it anymore.

They say that--at paragraph ¶64--that Prime Minister Sylvestre Nsanzimana's government collapsed. There was no collapse. And then that a Transitional Government was formed on April 16th, 1992. No, it wasn't. A Coalition Government was formed in 1992. Why? Because President Habyarimana had acceded to French and American influence and agreed to a multiparty democracy.

And there were successive governments, all made up of parties which represented the people and with different views. There's the MRND, PSD, PL. And who did they represent, really? The RPF. It was a Coalition Government. It was not 'Habyarimana's Regime.' It ceased to be that in 1991. Habyarimana was just a figurehead. Pro-RPF Prime Ministers were in charge of the country. So there was no reason at all for this war. But the RPF persisted.

They say, at paragraph ¶65, that the United Nations and UNAMIR got involved in the conflict with the aim of resolving it. And that's not true, either. UNAMIR--the UN did not try to resolve this situation. They actively acted on the side of the RPF and ensured their victory. Mr. [Defense attorney Ronnie] McDonald put to General Dallaire questions about many situation reports where General Dallaire was receiving information about the build-up for the offensive launched on April 6. He never passed it on to President Habyarimana or to General Ndindiliyimana or to anybody else. He passed it on to New York. But he kept it secret from the Rwandan government. He said, "Oh, I didn't receive those reports." But it's quite clear he did. They are all addressed to him.

He lied to the French and German ambassadors when they asked him about it. "We hear rumors they're building for an offensive." "Oh, I don't know anything about that." He lied. And it's quite clear he didn't do it on his own. General Dallaire's a very competent officer. He did exactly what he was told to do.

They say that Prime Minister Dismas Nsengiyaremye was against the handing out of--the distribution of weapons to the population by civilian authorities, implying that the Civil Defense was some sort of evil mechanism to kill Tutsis. Well, we all know the reason why Dismas Nsengiyaremye was against that: because he was an active agent for the RPF and didn't want the population to be armed against their attacks. He broke up the intelligence--the civil intelligence service. We heard evidence on that.

They say at paragraph ¶67, that UNAMIR's mandate ended on March 8th, 1996. That's also a lie. UNAMIR II ended in 1996, but UNAMIR I ceased to exist, in all practical terms, by April 17th, 1994, when the Belgians pulled out and the Americans in the Security Council refused the Rwandan government's request for 5,000 more troops be sent in. The Prosecution wants to bury that. You don't want the people to know that the Rwandan government asked for 5,000 more men to be sent in in April. And you don't want the world to know the Americans refused that request and pulled out the UN forces in order to allow the RPF free access to roam around murdering and massacring everybody.

General Ndindiliyimana testified. You say that the Americans brought US weight to bear on the Rwandan conflict. Well, they sure did. Paragraph ¶71. They tried to lure Habyarimana out of the country and keep him in Washington. In October 1990, on the day of the attack, he was with Mr. Museveni. They lured Habyarimana to Washington. Well, Museveni knew his men were going to attack Rwanda. The Americans knew that, and then they offered him sanctuary.

Instead of condemning Museveni, they say, "Well, Mr. Habyarimana, why don't you stay here? It will be fine." And this is the same time when Iraq invaded Kuwait. Iraq invades Kuwait, which they had some claim to, and the Security Council and the United States bring all hell down on Iraq and Saddam Hussein. At the same time, the Rwandan ambassador in the Security Council asked for the United Nations to condemn the attack by Uganda against Rwanda. It doesn't even get on the agenda. That's how Big Power politics are played. In one situation the attack has to be--the aggression has to be condemned. In the other, "Let's just hush it up. It's okay." Because that aggression suits our purposes.

And UNAMIR II only came in--they sent more men in for UNAMIR II after July 1994. Why? It's quite clear: to consolidate RPF power. And once it was consolidated, they left. Now the Americans have three bases in Rwanda, right in the heart of Africa.

Then in paragraph ¶68, they refer to the resolution adopted by the Security Council to create this Tribunal. But they forget to tell the Judges--to remind the Judges that--as I read into the record during

cross examination of one witness--I think it was maybe Des Forges--that Herman Cohen threatened to kill Habyarimana in October 1993, and said, unless he ceded all power to the RPF--ceded all power, not shared power--ceded all power to the RPF, they were going to kill him. And they were then going to set up an international tribunal to try the rest of his crew. And that's exactly what they've done. They killed him, and now we're all here. It's not magic.

Then, again, they go into this strange attack on France. France was Rwanda's friend. Well, that's true. But so was America and Belgium, at the time. Rwandan army officers were trained in the United States and Belgium and Germany. Rwanda also had friends in the Soviet Union--the former Soviet Union, North Korea, West Germany, Canada, Israel. It wasn't just France who supported Rwanda. And who forced the French out? The RPF did, in 1993. The RPF, "We don't want them here," and the French left.

¶72. They talked about the fact that the Organization of African Unity remained inconspicuous. Well, that's no big secret. And why? Because President Museveni was the president of the African Unity Association--OAU, sorry. And Salim Saleh [Museveni's half brother and principal advisor] was the secretary. And, here, Mr. Museveni was in favor of the attack on Rwanda, because Tanzania had designs on Rwanda itself. It's no surprise the OAU said not a word about the aggression by Mr. Museveni against Rwanda--not one word!

And they make a surprise admission in paragraph ¶73. It says, "Some Human Rights NGOs, such as Human Rights Watch, were, because of their public and official stance for peace and against human rights violations in Rwanda, assimilated with the international community"--which is just a euphemism for the United States and its puppets. That's right. Human Rights Watch and the rest of those NGOs are part of the United States and British intelligence services. That's quite clear. Everybody knows that, too. It's no secret outside this courtroom. I don't see why it should be a secret inside this courtroom. Everybody knows who funds those groups and who runs them.

And then it says, "Mostly, the International Community"--which is really, again, a euphemism for the United States and its allies"--is made up of all those people worldwide who had seen the atrocities and were deeply appalled." Well, no. That's not true. The whole world was deeply appalled by what happened in Rwanda, not just the international community, that is, the United States, the UK, and its allies. The whole world was appalled, because the RPF murdered millions of people and is still doing it in the Congo.

In paragraph ¶75, they mention, in respect to the *Interahamwe*, that somehow the *Akazu* [*'Little House' in Kinyirwanda, a group of 'Hutu Extremists' gathered around President Habyarimana and his wife Agathe and supposed by the uninformed to be responsible for planning and instigating the Genocide, even unto assassinating their own leader, the Rwandan President--cm/p*] was involved in the creation of that organization. There's no evidence in this trial about the *Akazu*. I don't know where Mr. Van--who wrote this--but there was no evidence whatsoever about the *Akazu* in this trial. But that's just, again, to inflame you.

They say in ¶77, quite correctly, that the *Interahamwe* president was Robert Kajuga, a young Tutsi businessman. That's correct. As was the (*Witness's official position is redacted here*), 006, you brought here, being protected by western governments. He's also a Tutsi. It's very strange that an organization controlled by Tutsis is supposed to be accused of killing Tutsis.

And yet, apropos of that, I draw your attention back to that video we showed--that my co-counsel Mr. Lurquin showed here, a video of Captain Amadou Deme, a UN officer at the time, giving bulletproof vests and weapons to an *Interahamwe* leader. Now, the ramifications of that are quite extraordinary. We've alleged for some time, and now, because of the disclosure, they finally gave it to us after many years, statements of RPF officers confirming that many of--or, at least some of--or, many of the so-called *Interahamwe* roadblocks in Kigali were actually manned by RPF, and that the RPF infiltrated the *Interahamwe*.

Lt. [Abdul] Ruzibiza, since we're bringing things out--from outside the case in your argument--testified in Military I that they did infiltrate the *Interahamwe*, killed people in order to discredit the government and create chaos behind the government lines. And they were very successful. So that ties in with the video and my submission that the UN forces were involved in helping the RPF.

They actively gave *Interahamwe* leaders bulletproof vests and were joking around with their submachine guns and drinking. This is in--after the so-called massacres have begun. You don't want the world to know about that either. the UN wasn't just negligent. They were actively involved, because the UN, which was the hope of the world in 1945, 1946 . . . "There will be no more war, no more aggression." And if the General Assembly ran things, there wouldn't be. But the Security Council, run by the United States and the United Kingdom, have twisted it and destroyed it until there's nothing left. And now they attack countries and nothing happens, nothing is said, and we have this game going on in the Tribunal where these eminent Judges and us are just wasting our time.

And they say, again, the *Interahamwe* is the armed militia of the MRND. Well, there's no evidence of that. They've got no evidence--no credible evidence they were ever an armed militia.

And I draw the Judges' attention to the fact that the law--Rwandan law stipulated that armed militias were banned--under the penal code they were banned. Yet neither Prime Minister Nsengiyaremye nor Prime Minister Agathe Uwilingiyimana banned the *Interahamwe* or any other group under that code. Why? Because they knew they were not an armed militia. They were just an ordinary youth wing in a political party.

But to discredit the MRND, because that was the party of the majority of the Rwandan people and the so-called Hutu party--even though it had many Tutsis in it, the propaganda was the MRND was the bad party, and they try and equate them, somehow, with Nazis in Germany. They try and discredit that party by attaching that party to the *Interahamwe* youth wing and saying they killed people on a mass scale. So they identify every killer, any bandit, or anybody who killed for any reason whatsoever, and they say that was *Interahamwe*. Even though their witness, their own witness, 006, AOG, the (*Witness's official position is redacted by the Tribunal*), said there were only 1500 *Interahamwe* in the entire country and most of those were in Kigali. You tell me how 1500 people, most of them in Kigali, could do what they say they did.

But as Mr. Ciré Aly Bâ said here--and as they say in here--"Everybody who killed was *Interahamwe*." That's their point of view. Every Hutu is *Interahamwe*; therefore, every Hutu is guilty. It's collective punishment, collective guilt. And this is supposed to be an advance in International Justice.

They say in paragraph ¶80, "October 1st, 1990, the RPF launched an attack against Rwanda from the Kagitumba border post. A surprise attack was a complete success, and the sole garrison of Mutara was overrun." Like the Prosecution is proud of the fact the RPF launched a war of aggression! A surprise attack, a dirty surprise attack, in the midst of negotiations over refugees' return, murdered everybody at that border post, and started a horrible war. And the Prosecution says it was a success. And yet they don't charge the RPF. They actually admit they committed a war crime. Because at the Nuremberg Tribunal, the supreme war crime is committing aggression, because all other crimes follow from that, and if you don't condemn that, there's no point. But they're proud of that.

And then Belgium and France, Mobutu, they decided to send troops to assist the FAR, which was in disarray. Yes, the Rwandan Army were in disarray, because nobody expected to be attacked like that.

The Rwandan Army, 5,000 men, wasn't expecting a sordid, dirty little attack like that, which killed thousands of civilians, mainly Hutus.

And Kagame brags about, "Oh, I--I--I was trying to stop the genocide." What was he doing? Hutus don't count? He kills Hutus, and that's not genocide? Why did he kill those men at that border post? Why? Because he liked them? He obviously hates Hutus, and probably most of the Tutsis inside the country, really, too. But the Prosecutor does nothing. They--they're--they're proud of what their man does.

They say in ¶84 that the peace negotiations culminated in the signing of the Arusha agreements in 1993. Well, that's not true. I mean, it's true that there was--there were the Arusha Accords, but they weren't a peace agreement. They were a ceasefire agreement, while certain things took place politically.

But what the Prosecutor leaves out at paragraph ¶84 is the fact that between October 1990 and the signing of that accord, there are several other ceasefires agreed to by the RPF, and every one of them was broken by the RPF. Every one! Not by the FAR, but by the RPF. And in February 1993, the biggest breach of the ceasefire was when they attacked Ruhengeri and killed, in two weeks, experts say, 40,000 Hutus. Forty thousand! And we had soldiers testify here who saw what they did. They testified how the RPF treated people, cut women open, cut their eyes out, tied their hands behind their backs and hit them with hoes, because that's the iconic symbol of the Hutu peasant. And still the Prosecution is proud of them and does nothing.

Not only did they kill 40,000 people in those 14 days, before they were pushed back by the army, they drove out, because of the fighting, one million, mainly Hutu peasants, driven out of their homes, burned their homes down, drove them down to Kigali to the camp at Nyaconga. So you had around Kigali one million refugees out of population of 8 million. And they took over the breadbasket of Rwanda, which created starvation in the rest of the country.

This is your humanitarian, Kagame. This is your hero. And you blame General Bizimungu. You blame General Ndindiliyimana.

Up to this point the FAR has killed no one! The government, which is a coalition government with pro-RPF people included, has killed no one. RPF. RPF. RPF. RPF. Planting mines, blowing up kids with

land mines. And they placed anti-tank mines on roads. Can you imagine!? Not just anti-personnel mines. Do you know what an anti-tank mine can do?

[VO] MR. PRESIDENT:

Mr. Black, just give me one minute.

MR. BLACK:

Sorry.

[VO] MR. PRESIDENT:

In reference to a Witness 006, AOG, you referred to his official position. I think we should place that under seal.

MR. BLACK:

Oh, sorry about that. Yes. I'm sorry.

[VO] MR. PRESIDENT:

Yeah.

MR. BLACK:

All right. That's all right. You're right.

Why do you--so why does the Prosecution mislead--try to mislead the Court in this argument? Why? Because they are protecting the RPF, and if they don't put out this false story, then the context in which they accuse these men here doesn't make any sense. Because if the world knew that there was not just an explosion on April 6th, there was an ongoing war for four years in which the RPF assassinated people, committed acts of terrorism every day, created millions of refugees and murdered tens and tens of thousands of people, all mainly Hutus, but their attitude is that the only good Hutu is a dead Hutu. That's obviously their attitude.

Then they say, in ¶87, the Arusha Peace Agreements ended the war. No, they didn't. That was just a ceasefire, which was again broken by the RPF on April 6th, when they murdered the president. Who started the massacres on April 6th? The RPF. The first massacre was committed by the RPF. They shot down that plane. Twenty people on that plane, two Hutu presidents. And, including the president killed in Burundi, the Hutu president murdered by them, because the RPF is implicated in that killing,

too, in Burundi, in October, six months before: that's three Hutu presidents murdered in six months or nine months. Still they do nothing.

Louise Arbour orders an investigation into the Habyarimana murder, and you find out--the Prosecution finds out it was the RPF that murdered those people. Michael Hourigan is called to The Hague to talk to Louise Arbour about it, from his affidavit which is filed here, one of your--the only--one of the few people on the Prosecution that's got any courage and integrity. And he went to Louise Arbour and says, "We know who did it. It wasn't the Habyarimana--or the MRND extremists. It was the RPF." And implicating the CIA.

Louise Arbour tells him to burn his notes, and she takes his disks, his CD with all the information. And she kills that investigation. Yet she's a heroine in Canada. And she covered up and protects and is an accessory after the fact to murder, to mass murder.

[Carla] Del Ponte's continued that policy, and Mr. Jallow continues that policy. And they still pretend, "Oh, maybe Hutu extremists shot down their own president." It's laughable. Now you're making a film about Louise Arbour, looks like Dallaire. The propaganda put out is intense. But it doesn't matter a wit, because history will find out that it's not true. It's all nonsense.

And history will absolve all these officers here eventually. And you will be condemned, because you're acting for the neocolonialists and the imperialists, not these men. These men were fighting for majority rule and democracy in Rwanda. They didn't start the war. Your people did.

They mention, paragraph ¶88, about Operation Clean Corridor, supervised by the MINUAR. Well, yes. Also the Coalition Government and the Gendarmerie. Remember the letter Colonel Marchal sent commending General Ndindiliyimana and the gendarmes for helping bring the RPF into the CND, which got General Ndindiliyimana a lot of flack because many people saw this as a traitorous move, helping the RPF put a battalion of their own men right in the centre of the capital. The critics turned out to be correct. It was a Trojan horse. But his hope at that time was that this was going to lead to peace. Everybody believed that, in the government and the FAR.

Ambassador Swinnen said the Rwandan army supported the Arusha Peace Accords. Colonel Marchal said that, too. Colonel André Vincent, who later became deputy head of Belgian Army Intelligence, said the Rwandan army always supported the peace accords. It was the RPF who opposed them all the time. They put up one obstruction after another--not the government, not the FAR. And why? Because

if the accords were fulfilled and the transitional government was actually installed and then elections were held, the RPF knew it was going to lose everything. It would lose all power, because the majority of the people would still vote for the MRND or its allied parties. They would control a minority in the government, and they would have gained nothing after four years of war. That's why they hit the plane on April 6th, because they don't believe in democracy. They believe in minority rule.

And they want to restore exactly that. They laugh at me in here by saying, "Oh, the Hutus say the RPF wanted to restore the oppression of the pre-revolution days." That's true. That's exactly what they've done. There's no Hutu mass party in Rwanda now. Anybody who tries to start one, they're put in jail or killed or disappear. It's like Chile.

Paragraph ¶89. [Heckling] No. That's okay. . . . They say that the president of the republic took the oath of office on 5th January, but other institutions were never set up, as all attempts to do so remain fruitless. Well, why? Again, the attempts were fruitless because the RPF put up roadblocks at every step.

President Habyarimana was sworn in on January the 5th in the morning, but the swearing-in ceremonies for the Deputies in the afternoon were cancelled. Not by these men here [and the accused]. Not by the FAR. Not by the MRND. It was cancelled by Prime Minister Agathe Uwilingiyimana, whose letter we've filed here, but which the world had never seen. She sent a letter saying, "Afternoon ceremonies cancelled"--with no reason given and no further date given. She cancelled it because the RPF wanted it cancelled. Because you could have had a coalition government, a transitional government on January the 5th. There was no obstruction whatsoever, except that she cancelled the swearing-in ceremony.

Because soon after that, in March--they called for elections in March. The MRND and its allied parties would have won, and the RPF would have been sitting out there with no excuse for the war anymore. So they cancelled it. Colonel Claeys, of the Belgian army, who was called by the Prosecution--this is their evidence, your evidence--said that on January the 8th, when they tried to swear in some Deputies for the pro-RPF parties, when President Habyarimana was out of the country, in his absence, he said that that could be construed as an attempted coup d'état. Luckily, Roger Booh-Booh wouldn't take part in it, so the ceremony couldn't take place.

So on January the 5th, they cancelled the swearing in ceremonies of all the Deputies. January the 8th, the president's out of the country. They try to swear in their own Deputies to take over the government. But Roger Booh-Booh, the UN representative, said no way.

And even your witness said there was an attempted coup d'état. It's not my evidence. It's your evidence.

Then going down to paragraph ¶90. Evening of April 6, President Habyarimana has his plane shot down. Well, yeah. By whom? The RPF. Do you charge them with murder or a war crime? No. And you make up some cockamamie story about, "We don't have jurisdiction." But it's quite clear you do. It's quite clear you found out who did it. You've known since at least 1997 who shot down that plane.

And the RPF immediately began hitting everybody else in that city they wanted to eliminate. The troops left the CND that night. We had a report from a Belgian sergeant, Tabour, I think, an intelligence report in which--from Lieutenant Nees, including a statement from this officer--or this Mr. Tabour--saying, he received instructions from his commanding officers that you can expect an RPF column from the CND to cross your point to attack Camp Kanombe--I mean, to attack, yeah, Camp Kanombe, I think it was. "Do not resist it. Do not oppose that movement." And he said that they crossed. But they were stopped. The attack on Camp Kanombe on the night of the 6th was stopped by the FAR.

So this line that Kagame puts out--that, "We only attacked when killings began. We wanted to save the world"--is just nonsense. And even Alison Des Forges stated that the myth put out by Kagame that he started the war, or let his troops loose to stop it--I'll find it later--to stop the killings was false. That's a myth. She said he never cared about people. He only wanted to take power by force of arms. That's in the testimony of Mme. Des Forges. And that's your witness. You're stuck with that evidence. It's not my evidence. It's yours.

Kagame couldn't care less about people's lives. And Ruzibiza, in Military I, testified that he left--and many RPF officers left--because they felt betrayed. They actually believed the RPF was a liberation movement. And they were hoodwinked. And when they asked Kagame's permission to go on the streets, because they had more men in Kigali than the FAR, and control bandits and '*Interahamwe*,' if you will, Kagame refused to let them do it, because he wanted people killed, because that gave him support from the International Community, because then they could say it was a genocide. And it created chaos behind the Rwandan lines. Any support this government had in the International

Community was totally--it just evaporated with all his propoganda, and that's why many of the RPF officers fled and left, in bitter disillusionment, and came here to testify.

Then they say, in ¶94 again, the Crisis Committee, they, in total disregard of the provisions of the Arusha Peace Agreements, formed an exclusive Hutu government. Well, I'm not--you can read my brief --I'm not going to repeat all that again. It's quite clear that the Crisis Committee, from your witnesses, Des Forges and Dallaire--not just General Dallaire, but General Ndingilijimana and the FAR officers who testified here--it's quite clear that that Committee was set up only to ensure security for the continued working of the civilian government, because they'd been--the prime--because the President's been assassinated. The army Chief of Staff is murdered.

There is a security vacuum. So the Army and the Gendarmerie and the UN--because General Dallaire and Colonel Marchal show up at those meetings together--so they try it: "How are we going to control security so the civilians--so we can try and pull back the Arusha Peace Accords somehow." So it was not in total disregard. It was in exact accordance.

Despite the fact that it's clear the RPF broke the Accords, they were a dead letter. They just burned them in the ashes of that plane. Men like General Ndingilijimana and others--with his help and at his invitation--others like General Dallaire, Marchal, Booh-Booh--all tried to pull the Accords back from the ashes. They asked the RPF, "Stop fighting. Stop your fighting. For with the ceasefire we'll just keep the--we'll just get new people in the government and keep going."

They refused because, obviously, they didn't want to. They've attacked. They've got the advantage, a surprise attack--in the sense that they've got 10 to 14,000 men in that city--maybe twice as many as the FAR probably have at that time.

And yet the FAR, in my view, were naive enough to still believe that it is possible to talk to these people. "Ask for a ceasefire." They're pleading with Dallaire, "Ask for a ceasefire. Ask for a ceasefire. Ask for a ceasefire. We can't do anything. We don't want a war."

Dallaire comes up--comes back and replies like the RPF--arrogant, obstinate, "No. No. No." And even on April 12th, when several senior FAR officers actually offer the RPF an unconditional surrender, "We give up. Unconditional surrender. It's over. You won."

What does the RPF do? They refuse that. Why? The killing could have stopped on April 12th. But they don't want the killing to stop. They don't want the war to stop. Why? Because if they--if they agree to a ceasefire then, they would have to negotiate with the government. They would have to agree to things. They would not get all power. They would have to share power.

And the FAR would still exist. They would still have to integrate their forces with the FAR. And my friends over there [*ind the Prosecution*] talked about, "Oh, the FAR was against the Accords because a lot of men were going to lose their jobs and positions in the Army."

But that was also true of the RPF. Most of the RPF would have to be demobilized, and all the RPF officers would be out of jobs. Don't they have a motivation to break the Accords? If you can argue that way against the FAR officers, it applies equally to the RPF. What were those men going to do? Roam around the streets in Kigali? Go back to Uganda? What? They're not farmers. They're soldiers. But no. The RPF disappears in the Prosecution's entire theory. In their argument there's no mention of the RPF.

¶96: They say some--oh, ¶95, an astonishing statement--General Ndindiliyimana and Colonel Bagosora's Crisis Committee had just buried the Arusha Peace Agreements. I mean, come on! You've got to be kidding me. RPF shoot down the plane. They attack. They won't agree to a ceasefire. But these men want to continue the Accords. And you say they're the ones buried it when they invite the UN in and say, "How can we keep it going?" And that's your own witnesses talking.

What surprises me and what the public doesn't know--or realize--is that this is their case. This is not my case. General Dallaire said that. Dr. Des Forges, this celebrated expert, said that here. And I'm going to read some excerpts later about how she talked about General Ndindiliyimana doing all he could to keep the peace accords going. Ambassador Swinnen who--you name it.

And yet they put this lie in their brief. It's as if they were never at this trial. Or that the purpose of the brief is not to make an argument but, again, to be distributed to the press here, to Hirondelle and their allies everywhere, and just to put out a propaganda tract. That's all it is. It's not an argument about the evidence in the case.

It, in fact, ignores everything that Dallaire and Des Forges say. Nowhere in their argument do they refer to their main witnesses, Des Forges and Dallaire, except in passing. Why do they suppress that? Two of the most important witnesses ever to testify at this Tribunal, and it just disappears from the argument

totally, which again supports my opening remarks that they--they're just working for the RPF and those--the people behind them.

I want to make a gratuitous remark that Mr. Van made also, that from 1973 on, the Rwandan government was laced with military officers. Well, so what? That's not relevant to anything.

The United States, which controls your office completely, is heavily infiltrated or 'laced' with the American military--ex-military officers, present military officers: General Colin Powell, General Eisenhower, Alexander Haig, Brent Scowcroft. I can go on and on with a list of American military officers holding high places in government. It's nothing new in the world. Many other countries have military officers in government positions. So what?

And what was the RPF? It was a--you say it was a political/military organization. Well, if it's okay for the RPF, your heroes, to be a political/military organization, what's your problem with the Rwandan government?

Paragraph ¶100. Talking about the attack of October 1990, they say--they admit that--that Rwanda was attacked from Uganda--which makes it an international war, by the way, not an internal war. They say the RPF talked mainly of the return of refugees and democratic reform. That's false also, because we heard testimony from many witnesses, experts and UN documents, that in late September there was an agreement between the UNHCR, the OAU, the UN, Uganda, the RPF wing of the Ugandan army, and the government in Rwanda that there would be a mass- . . .--they would allow, finally, a mass return of refugees into Rwanda, which is difficult because it is such a small country.

And the agreement was that the Tutsi refugees who wanted to return would send a delegation to Kigali to discuss the mechanics and logistics. Like where are they going to put these people? What are they going to live on? Who's going to house them? And the government was expecting that delegation to come. Instead, what do they get? Machine gun bullets and murder!

Because once that agreement was signed, the excuse for the existence of the RPF ceased to be. Their excuse was, "Oh, we want to come back to Rwanda." Well--and it's quite clear that individual Tutsis could always go back to Rwanda at any time they chose and many--and we had people testify they came back. There's no prohibition with Tutsis coming back if they wanted to, singly or as families. But it always was a concern for the government that 30, 40, 50,000 people come back, because they had a problem with that before. And no country could absorb that many people without problems.

And talk of a democracy. That also was a figment of their imagination, because what happened in 1991? *Aggiornamento*. (Not sure I pronounced that right.)

The French president and the Americans put heavy pressure on Habyarimana, after the collapse of the Soviet Union, to allow multiparty democracy. Did he resist? No. He changed the constitution, and Rwanda was changed from a semi-socialist one-party state into a multiparty Western-style democracy. Even during a war--the country is now at war--and he still did it--which is amazing! No other country would have done that in the middle of a war. Changed their entire constitution and allowed parties to be set up which were obviously fronts for the enemy. But he did, because he's bending over backwards to stop the war and take away every excuse from the RPF to keep conducting that war. But still they press--they press--they press for more--for more--for more. And they never stop, because they were not interested in democracy. They wanted to take all power. And finally, with Herman Cohen's threat and its realization, they took all power, and they have it now.

They say on October 4th, 1990, in paragraph ¶101, the Rwandan Government Army staged a fake attack on Kigali. That's also a lie. The evidence was that this fake attack was conducted by RPF agents inside Kigali, as a feint, F-E-I-N-T, a diversion, to draw the Rwandan army away from the Northern Front, where they were facing the RPF, in order to give the RPF an advantage.

But the FAR did not fall into that trap. They did not withdraw from the front, as they hoped to counter a threat in the capital. And the Americans were implicated in that too, because it was--the information was put out by an official of the American Embassy in Rusatira. It was a deliberate Black Op, Black Operation, to try and allow the RPF to win right there and then. You can read the evidence on that. I won't go into it in detail. And then they complain about 10,000 people being arrested. Yes. Well, the country is at war. There is a feigned attack, machine gun fire all over the capital at night and nobody knows who's firing. And they arrest people.

What do the Americans do after 911? Arrested tens of thousands of people. Some are still being held indefinitely, ten years--nine years later--eight years later. What country wouldn't protect its own security and wouldn't arrest suspects?

What amazes me is that those people were all released in six months. In the middle of a war--and there's no doubt some of them were involved, and I think there were charges laid that some of them were involved--they released them! The Americans didn't do that.

Look what happened to the Japanese after their surprise attack on Hawaii. Every Japanese citizen in the United States was put in a concentration camp and kept there for the entire length of the war. No proof they were involved in anything whatsoever. Property seized. They never got those properties back. Some compensation came, like, 50 years later.

But you complain that this government under--in the face of an enemy attack, takes reasonable security measures to protect itself. And that's a--that's a sign of an anti-Tutsi bias. I mean, its crazy!

In paragraph ¶105 they say that, while the Rwandan government was talking peace with the RPF on one hand, on the other it was preparing for war and a final solution to the Tutsi problem in Rwanda. Well, no. It's interesting they incorporate the Nazi German reference to the Jews, "Final Solution". It's all very dramatic, like Mr. Tumbadou's fake histrionics yesterday, where he tried to tear at our heart strings because he has no facts to base his argument on.

No. Colonel Vincent and Colonel Marchal went in and testified quite clearly that the fight at the--the talk-and-fight strategy was the strategy of the RPF. They would talk, get you to agree to a ceasefire, make some concessions, and then after that they would attack again, push you to the wall. Get some more concessions. Another ceasefire, attack again. This is totally false, and it's against the evidence in this trial. And, again, it's as if the people who wrote this--I don't know who wrote this. I suspect some of these lawyers, they didn't write this. Somebody else did. Because nobody in this trial could have--no one who was here could have written that and be honest.

It was the RPF that engaged in the--in the fight-and-talk strategy, and they were the ones preparing for a final solution. I referred in cross-examination to a letter sent to the UN in 1999 by--I think it was a Captain. Not sure if it was a Captain, but . . . Christophe Hakizimana, an ex-RPF officer. He wrote a letter to the UN at the time the UN was doing an internal investigation on what went wrong.

And he said, you--"The UN is investigating the wrong people." He said, "We killed 2 million Hutus in those 12 weeks." Two million and still continuing. And he gave a very detailed outline of the RPF strategy and tactics up to that point: Destabilization; Black Operations; False Flag Operations; sabotage; assassinations, which they blamed on the government; feeding false information to NGOs; planting people inside the government and NGOs; economic destabilization; starting newspapers to create ethnic tension. The RPF were the ones that started that strategy to divide the people, not the government, not the FAR. And yet, despite that letter, which the Prosecution I'm sure has--and they

have evidence of this--they claim--they don't mention dead Hutus. Every dead person is a dead Tutsi or a moderate Hutu.

It's like the Americans used to do in Vietnam. Every Vietnamese they killed in their bombings was a dead Vietcong, every one of them, millions.

And the Prosecution doesn't prosecute. I remind the Judges that on your Rule 68 decision, when they were forced to give us disclosure, they had found 3,000 more pages. We found in these statements from RPF officers, where they received officers from Kagame personally.

I will give you two examples. "We have thousands of civilians, Hutu civilians, in Byumba stadium. What do we do with them?" Order: "Kill them." "We have thousands of civilians in Gitarama stadium, including former government officials. What do we do with them?" His orders, "Kill them all." This is in May. In June. "Kill them all!"

They've had those statements for over ten years. And that's why they didn't disclose them, because they don't want to charge the RPF, even though they committed massacres on a mass scale.

I refer to the Gersony report. They hid that from us. At least we found his preliminary report which was sent to the UNHRC in October 1994 where he said to the UNHCR, "I have done a study and it's my conclusion that the RPF engaged in systematic and planned widespread massacres against the unarmed and defenseless Hutu population." And they were continuing to do so!

Now, after that preliminary report, he made a final report, which the UN is still hiding. But we referred to it in another document. And, I forget the document now, but you may recall it. In a UN report, another situation report, it referred to Gersony's full report. And it referred to a meeting between Robert Gersony, who, we remember, is a USAID man, now working in Baghdad. He was so incensed. He demanded a meeting with Paul Kagame and presented him with the findings of the report, that he found in just three *préfectures*, in those weeks in '94, the RPF had murdered 300,000 Hutus, and that he assumed--he concluded that they had done the same in the other eight remaining *préfectures*. And he accused Kagame of committing genocide. Kagame kicked him out of his office, and then the UN buried that report.

Gersony was taken off that file, and the report has been buried ever since. They even denied it existed. So who are the dead in Rwanda? That's what I would like to know. Who are the people at Gisozi?

I will come back to that. Let's take a break.

[VO] MR. PRESIDENT:

Court is adjourned for 15 minutes.

END OF ACT I

ACT II

IN BLACK:

[VO] PROSECUTOR MR. VAN:

Let me give you a number of examples, Mr. President.

First of all, this is what you said:

"The positions of the Accused, Bizimungu, Ndindiliyimana, and Nzuwonemeye, as Chief of Staff of the Rwandan Army, Chief of Staff of Gendarmerie Nationale, and the Commander of Reconnaissance Battalion, respectively, and the fact that the institutions under their command and control engaged in various activities that facilitated the mass killing of Tutsis on account of their ethnic identification."

Secondly: "In 1991, following the invasion of Rwanda by rebels of the Rwandan Patriotic Front, RPF, the previous year, the government of President Habyarimana commissioned a report which defined the enemy as Tutsi. This definition was widely disseminated among elements of the Rwandan armed forces, with a view to their indoctrination."

Thirdly, you said, Mr. President: "The Accused Bizimungu participated in various meetings between 1991 and 1994 to discuss the identity of the enemy and how to combat it. These meetings identified the Tutsi as the enemy, and acquitted members of that ethnic group to the *Igusura*" I-G-U-S-U-R-A "the *Igusura* plan that needed to be emanated."

Quatrièmement... -- je ne veux pas citer tous les 15 exemples, Monsieur le Président, mais je prends ceux qui me paraissent importants. Quatrièmement -- dis-je: "Bizimungu and Ndindiliyimana made remarks after 6 April, 1994, which arguably could be interpreted as a threat of exhortation to kill Tutsi civilians."

*Cinquièmement -- ce sera l'avant-dernier: "Ndindiliyimana and Nzuwonemeye both attended the meeting held at the army headquarters in Kigali on the night of 6 April 1994, soon after the president of the country was killed in a plane crash [dir: **Warp and echo this***

term]. At another meeting held at the *École supérieure militaire*, ESM, the following day, they established a Crisis Committee composed of senior military figures under the chairmanship of Ndindiliyimana. The committee was responsible for the formation of a new interim civilian administration dominated by Hutu."

And, lastly: "Soon after the president's death in early April 1994, several opposition politicians and moderate Hutus were assassinated by members of the Rwandan army forces, including the Presidential Guard and Recon Battalion."

LIGHTS UP: The stage is as in ACT I.

[VO] MR. PRESIDENT:

Yes, Mr. Black. Court has resumed. You can continue.

MR. BLACK:

Thank you.

They talked in paragraph ¶109--I'm just going to go on my diatribe about the history just a bit more, and then I will go on to the actual argument by Mr. Strickland briefly. They say that in order to defeat the enemy politically, the MRND launched a systematic campaign of violence against moderate opposition politicians resulting in the deaths of some of them, such as Félicien Gatabazi, Emmanuel Gapyisi. Well, I really fail to understand how they could say that when the evidence in this trial clearly was--and in every other--in Military I and other trials--that the RPF murdered Félicien Gatabazi, the RPF murdered Bucyana, the RPF murdered Gapyisi. It's well known now. Guichaoua wrote about that. I mean, everybody--every expert now recognizes the RPF murdered those people to try and discredit the government by saying they did it, and pass it out to the whole world that the regime is an anti-Tutsi regime, an anti-democratic regime. And when they murdered Gatabazi, by the way, remember, he just came from a meeting with [PM Faustin] Twagiramungu. He had a gendarme escort. And they were all shot, too.

So why is the Prosecution deliberately writing material in their argument which they know to be false? Why? Unless they take us all for fools! I don't know. Or, as I said, this is not meant to be an argument. It is just meant to be a propaganda tract. That's it.

Now, on page--paragraph ¶115, they say, from April 7th, the massacres of Tutsi started in Kigali. That's not true, either. The evidence is, from many witnesses, that Hutus and Tutsis manned the barricades together until about April 13th or so. And on April 13th, most of the Tutsis left the barricades, and then everybody began wondering what's going on. And it's then that some killings took place.

Though I just read in the book last night--this is not evidence, so you don't have to take it. But Alan Cooperman wrote a study for the Pentagon, analysing a timeline for deaths. And he said, by April 15th--there's no killings between 7th and 6th--6th, 7th, 8th and 9th. They started on the 11th, 12th, 13th, 14th, 15th, and ended by the 15th, 16th. But he is wrong on many things, so don't take that for anything.

And then, finally, ¶116, between April and July, hundreds of thousands of Tutsis were killed. Well, where is the proof of that? Are we going to be content with just this mythology -- this myth? If this Tribunal, which is mandated to investigate and charge people with war crimes in Rwanda in 1994, cannot present to the world one scintilla of evidence about how many Tutsis were killed, then what are we doing here? What are we doing here?

There is no proof whatsoever that hundreds of thousands of Tutsis were killed! It may be so. I don't know. But they've never established how many Tutsis were killed.

We filed the census figures from 1991. For Kigali alone--I may be off on the numbers, but I'm approximating, I remember the population of Kigali is around 250 to 300,000 people or so. Maybe a bit more. The number of Tutsis in Kigali is around 40,000 or so. General Dallaire states in his book that 14--he saw a column of 14,000 Tutsis being taken out by the RPF on around April 14th or so.

Bernard Kouchner, in the letter we filed, dated May 20th, on his visit to Kigali, states in this letter to the UN that 20,000 Tutsis were still alive in the city after the killings in Kigali had stopped, except for the fighting between the armies. That leaves you--that's 34,000. We are missing 6,000--and many people fled.

So who are--whose skulls are those at Gisozi? Two hundred and fifty thousand skulls, supposedly killed in Kigali. That would be the ENTIRE population of Kigali. We have an inkling of who they might be, because Antoine Nyetera said that when the RPF took the city, they rounded up all the--the entire population of different districts. In his district, over 100,000 people put in the Nyamirambo stadium. And the RPF--he said he saw thousands of Tutsis in that stadium with him. And Antoine Nyetera, remember, is a Tutsi, a very elegant man, famous artist trained in Paris, famous for designing the national stamps

for Rwanda, related to the monarchy, a Prince. And he said he was in Kigali and he never saw what they say happened. He said he never saw the army killing people.

He said that when the RPF took the city, they rounded the people up, put them in the stadium. He saw thousands of people--Tutsis in the stadium with him. And then the RPF began pulling out of line the Hutus and just shooting them. Bang, bang, bang. And I asked him, what would happen if a Tutsi had complained about this. He said, "They'd shoot them, too."

I remember Rose. I won't tell you her last name. This was a person who came here, a journalist, testified about going--about fleeing on the first few days of the war in April to Amahoro stadium, where General Dallaire's headquarters were based. And the refugees fled there. Mainly Hutus. And that on the stadium grounds--part of the stadium floor was occupied by, I think, Bangladeshi troops. I'm not sure. The UN troops were there. And that Dallaire, from time to time, walked through the stadium. And she testified quite graphically about how the RPF pulled people out of that stadium and shot them. Her husband was shot by the RPF, by a sniper, while he was walking in the stadium. They fired at her and wounded her foot.

She says her two sons--she attributes the suicides of her two sons to that experience. They committed suicide just last year. Twenty years old, hanged themselves because they can't take the injustice of the world.

And she said she approached him--and other refugees approached General Dallaire and said: "When are you going to stop the RPF from murdering Hutus in the stadium--right in front of your eyes?" He just said nothing and walked away.

So who are the dead people? Where are the hundreds of thousands of bodies? Where are the photographs? Where are the mass graves? Where are the lists of the dead? Why does the RPF refuse to conduct a census to find out what the true survival rate of the population was and who survived and who was killed?

Because, if Christophe Hakizimana and Abdul Ruzibiza are correct--and I don't know, but this is what they say--then two million Hutus were killed. Davenport and Stam at the University of Maryland put out a study based on Prosecution figures they took, and RPF figures they were given to do a study for the Prosecution. They came to the conclusion that only 250,000 people were killed. And for every Tutsi, there were two dead Hutus. A two to one ratio. Their contract with the Prosecutor's office was then

cancelled. But they say that's what their figures revealed, based on reports they got from each village, each site, from the Prosecution's office and the RPF government.

So it's in between there and there. Two hundred and fifty thousand and two million. Nobody knows because nobody wants to find out. Or they do know, but don't want to tell us. And we have Gersony saying 300,000 dead Hutus, in three *préfectures* alone, in those 12 weeks. But the Prosecution doesn't charge anybody in that government. Not one single person!

And by encouraging Kagame in his impunity from prosecution, this Prosecution service is allowing him, encouraging him, giving him carte blanche to go into Congo and kill 10 million more people. We heard what they did to the Hutu refugees in eastern Congo, forced into the forest. Four thousand kilometers, they're pushed into the forest. Hunted down like animals every day. You heard those stories. It will make you cry.

And we heard Rose ask: "Where is the justice for the Hutus?" Obviously there is none.

All right. I am now going to go to the Definition of the Enemy Document. I think my friends before me addressed that very well, and the brief, I think, just totally refutes their false argument on that. They do mention in their brief, here, that the Belgian War College thesis that General Ndindiliyimana wrote in 1974, when he was a young cadet at the Belgian War School, somehow spawned the Definition of Enemy Document. First of all, Military I said that document is fine. It doesn't say Tutsis were the enemy. It's quite clear. Their actual indictment says it correctly. Tutsi extremists who want to take power by force of arms were the enemy, and that would be true in any state. But those who want to change the government by democratic means are not the enemy. That's quite clear.

But somehow they use a thesis which he wrote and which was approved by the Belgian War School as correct, and then buried in their archives, somehow that influenced the Definition of the Enemy Document, without any proof whatsoever that anybody even knew about that thesis he wrote as a young cadet. It was never produced and circulated among the army. "Oh, that's great. We'll use that as a template for our argument." I mean, it's just absurd what they are trying to argue here.

And it doesn't even mention the Tutsis being the enemy in his thesis. But, if he is guilty of that, then the Belgian government is too.

Para ¶525, they state that the Accused were against the Arusha Accords. Well, I'm going to read some excerpts from some testimony which indicates that the FAR--and Ambassador Swinnen struck me very strongly on this, the Belgian ambassador. He said, the FAR were quite clearly in favor of the Accords--the Rwandan army. And it was the RPF who were the obstructionists.

And in that--in his testimony, we filed the report by the Tanzanian Foreign Minister who was acting as go-between for the negotiations between the RPF and everybody else. The Tanzanian Foreign Minister complained to the UN that it was the RPF who were the obstructionists. And when the issue about the CDR party being involved or not in the transitional government, when finally everybody agreed that they could take part, and the CDR agreed--acceded to the Arusha Accords--he said, it was the RPF who still refused to go ahead with the Arusha Accords. They were the ones opposing everything.

All right. I think I'll--there are a couple of things in this argument which also struck me as odd. This is our legal issue. It's a minor point in a way, but it's important for your considerations because, as I said at the beginning, I think--I submit that we have, brick by brick, built a wall so solid of Reasonable Doubt that they could never penetrate that wall.

There is Reasonable Doubt on every issue. And I think, in fact, we have gone beyond that and proven that General Ndindiliyimana is completely innocent--something we don't need to do!

They say the notion of Reasonable Doubt, at paragraph ¶1344, is related to the credibility of the evidence adduced. That's false. That's not true in law.

Reasonable Doubt is not just based on credibility. It's based on the totality of the evidence. And whether the Prosecution's proven its case on the facts and on the evidence. Credibility is just one issue in assessing that evidence. So they don't even know what the law is on Reasonable Doubt. They misstate it!

And in--the following paragraph reveals their attitude completely in this case--in ¶1345, they say something astonishing. But, unconsciously or not, they represent their true point of view. They say, "After the presentation by the parties of their evidence, the Prosecution observes that the Defense has not established at any point in time the innocence of the Accused."

That shows exactly what their mindset is, and why they don't back up any of their charges. They make charges and bring no evidence. They charge that he should be in control of RTLM,

General Ndindiliyimana, but they brought no proof that he had any legal responsibility over RTLM. They brought no expert to say so, no member of RTLM to say so, nobody in the RPF to say so, no expert in law and media to say so. No one. They just say, "He is responsible." And, "You got a response to that, Mr. Black?" That is their attitude.

We demolished that case anyway, because I know the thinking over there.

They did it again when they alleged he could have done more to save lives. They didn't bring one military police expert here--which they could easily have done--to say, based on the resources he had at this time, based on what was going on on the ground and the dynamics of the situation, he could have done this, he could have done that, and he could have done the other, or he should have done this, he should have done that. He didn't. And he didn't do it for bad reasons. So negligence is not enough. They've got to prove he didn't do something with intent to assist in the killing.

They just made the accusation: He didn't do enough. And they could have brought an RPF officer here. "I was in Kigali at that time fighting. I knew what they had. I knew they could have done that and done that." They could have brought General Dallaire to say so. They didn't do it. They could have hired any sort of military expert from all their military colleges in Britain and the United States to come and do a study. They didn't.

Major Nsanzimfura, who is their case manager in this case, because he is a G4, logistics officer. Major Nsanzimfura was aware of all the capabilities of the Gendarmerie: Number of men available, weapons, food supplies. He knew everything that General Ndindiliyimana had at his disposal, and he sits back there--he's not called as a witness to say, "General Ndindiliyimana is wrong. He could have done this and done that. We complained, and he wouldn't do anything." But they don't call Major Nsanzimfura because Major Nsanzimfura would not agree with them.

And I go back just briefly to the charges they raised at the beginning of the case, the horrible charges laid against General Ndindiliyimana and no evidence whatsoever supported those charges. They were just withdrawn, because they laid those charges to manipulate the Judges and to make him look bad.

Now, the big attack on General Ndindiliyimana was made by Mr. Strickland, who said that he is a liar. Plain and simple. Without establishing any reason why he should be considered a liar, he just says he is a liar.

So--and why is he a liar? Because--well, he is a General, and he is a politician. He is a Hutu. Their attitude is: All Hutus are liars. So, why have a trial? If no witness can be believed here because he is a Hutu, why have these trials at all? It's a farce.

Since I'm forced into this exercise, let's spend some time establishing that Mr. Strickland's statements were totally groundless and slanderous.

I read from my brief--I wasn't going to do this because I don't think I need to, but I am forced to now. Paragraph ¶17, page 10. Colonel Vincent says, in support of General Ndindiliyimana's testimony, quote, "I am persuaded that the General--the General was in favor of implementing the Arusha Accords. And the Gendarmerie cooperated fully with UNAMIR in the implementation of the Accords, fully, indeed."

Further he stated, "At no time did we have any perception of General Ndindiliyimana's being in any way implicated or involved in any of the massacres."

Page 15. Dr. Des Forges, I asked her--I put this question to her: "Question: In April--" and I'm reading to her from her book. "In April, General Ndindiliyimana and Colonel Gatsinzi and Rusatira summoned Gahigi of RTLM and Jean François Nsengiyumva of Radio Rwanda to the Military School in Kigali. The officers supposedly told them that the radios must stop calling for violence against Tutsi and discrediting military officers opposed to genocide. Another RTLM announcer incited militia to attack Ndindiliyimana, reporting that he was transporting RPF soldiers in his vehicle, for which the license plate number was given, when he was trying to help Tutsi escape.' You wrote those word, did you not?" She said, "Yes, I did."

Colonel Vincent, on page 19, in talking about the General's cooperation with UNAMIR, said, "At the level of the negotiations for the KW--the Weapons Secure Area Agreement, he played a role which I may refer to as an important role." And Colonel Marchal confirmed that.

And Colonel Marchal, to add to my last point, goes on to say that--explaining the negotiations, he said, "I would say the Rwandan government forces"--now, Colonel Marchal is the head of the Belgian UN contingent to Kigali. He said, "I would say that Rwandan Government Forces and the Gendarmerie did not give me major problems. There were problems. but quite understandable, and that can be explained in the context at the time.

"However, on the RPF side, it was a permanent struggle to have them comply with the requirements of the Agreement, the Protocol. And when I say constant struggle, I say it because--with a great deal of conviction, because at the time I kept a private journal and would often send reports on my activities to my general staff in Brussels. And it is true, when I reread through that period, I see that sometimes I had serious problems with the military component of the RPF at the CND."

With respect, specifically to the credibility of, and the sincerity of General Ndindiliyimana at page 20, paragraph ¶36, I asked him--he said this--however, he said this, and I quote him. He said, "In regard to the Gendarmerie, Colonel Marchal testified he did not have problems with them. And he had noted at the time very clear orders from General Ndindiliyimana to all gendarme units to comply with the agreement. Further, Colonel Marchal assigned observers to see if the general had kept his word or was playing a double game." That is, he put he tailed him. He had him followed to see if he was playing straight.

This is what he says: "So I assigned observers, so I can tell you" this is a quote. Quote, "So I can tell you that if there was any need for General Ndindiliyimana to play a double game, so to speak. We would have been able to see through it, given the circumstances, particularly in view of what we experienced. It is through these observations that I became more trusting, and I found the chief of staff of the Gendarmerie to be a credible person."

So where does Mr. Strickland get off to saying he is lying? Where? Based on what?

[FREEZE]

[VO] MR. STRICKLAND:

I'm about to read from Mr. Van's cross-examination of your client in this case where this very state--this testimony is put to him. June 23rd, 2008. "Question: General, with regard to the information provided to you by your collaborators -- you made mention of this in the *Bagambiki* case. During the hearing of 17th of February 2003, when you were testifying on behalf of *Préfet* Bagambiki,

This is Mr. Van. "I have before me an excerpt of the transcript of Monday, the 17th of February 2003. And Counsel Lurquin put to you the following question: 'Before the 6th of April 1994, when you were chief of staff of the Gendarmerie, were you regularly informed of the security situation in the Cyangugu *préfecture*?' To which you answered, 'Yes, Counsel. In

my capacity as chief of staff with a full department of employees, we would regularly receive from all the Gendarmerie units, including Cyangugu, information on the situation that prevailed in the *préfecture* where we had our units. Question: After the 6th of April, would you still receive such reports? Answer: Yes, Counsel. Question: Witness, were the reports made on a regular basis? Answer: The reports were indeed made on a regular basis. There is what we call information reports that are given every day, and we receive them at the general staff. Question: Who would send reports to you from the Cyangugu *préfecture*? Answer: From Cyangugu, as from other *préfectures*, we had the Gendarmerie. It is the commander of the Gendarmerie unit that would send the report to us.' End of quote."

Now, I invite the Chambers to read General Ndindiliyimana's response. I don't want to go on too long. But what's interesting here is that, before that Trial Chamber in the *Bagambiki* case, Ndindiliyimana wanted to stress the extent of his knowledge of events in Cyangugu and never did he suggest--never--I've read the transcript --never did he suggest that his intelligence was incomplete or ever incorrect. Never. But, in this case, it is the--almost the first point he brings to the floor, that the information we received is incomplete or sometimes false, because here he wants to make it appear that he was largely in the dark with respect to the killings throughout Rwanda and largely in the dark about the actions of his own officers.

Mr. President, on April 6th and 7th, 1994, the political survival skills, techniques, of General Ndindiliyimana came to the fore. He occupied a central position in the military-led Crisis Committee, which initially took the reins of power in the aftermath of the president's death.

General Dallaire testified that at times he was under the impression that General Ndindiliyimana was acquiescing to General Bagosora's agenda, and, at other times, Ndindiliyimana expressed concern and a desire to stop the massacres and the killings.

Well, Mr. President, after hearing all the evidence, Prosecutor wants to make our position crystal clear. We are not confused, like Dallaire was. It is our position that Ndindiliyimana was wholly insincere in his dealings with Dallaire. He simply told General Dallaire whatever he thought the UN wanted to hear.

[MR. BLACK BACK LIVE]

MR. BLACK

General Dallaire said, "In the case of the Gendarmerie, I have absolutely no reports of any maneuvering outside the KWSA rules. He was cooperative in trying to maintain order within the limited resources he had."

Ambassador Swinnen said, page 25, . . . the Belgium ambassador said, "I knew him when he assumed his responsibilities and when he went to the National Gendarmerie. He showed a determination to work and cooperate with Belgium and with the Belgians. And I had a very favorable view of Ndindiliyimana." And this despite the fact there was some tension between Belgium and Rwandan at the time. But he was able to transcend this tension. "I saw someone who really wanted to work, who really demonstrated his will to make process--processes work."

And he remembers that General Ndindiliyimana had a conversation with the Chief of Staff of the Belgian Army, the armed forces, Admiral Ver Hurst. It's V-E-R, H-U-R-S-T. Admiral Ver Hurst, he said--he told Admiral Ver Hurst that he was in favor of a stronger exercise of the mandate of the United Nations. He said that Admiral Ver Hurst. And I was given that as one of the examples of what we believed to be a sincere commitment to peace. And Belgium, in line with the General's wish, thought that that should work.

And General Dallaire, paragraph ¶53, I asked him, "Oh"--he's talking here about the cooperation with Ndindiliyimana and UNAMIR. He said--I asked him, "Oh, so you regarded him as the most cooperative officer on either side, RGF or RPF?" His answer was, what? "Absolutely." Absolutely.

They attack him by saying that--Van attacked him by saying that the Crisis Committee was some sort of Machiavellian plot to take over the government. Des Forges says this about that meeting: "With Gatsinzi at least nominally in command of the armed forces, he, Rusatira, and Ndindiliyimana sought to rest control from Bagosora. And the Crisis Committee met on the evening of April 7th. They refused to allow Bagosora to run the meeting. He insulted others, particularly Rusatira, and boycotted the rest of the meeting. The others made some plans for bringing the Presidential Guard under control and setting up the government based on the Arusha Accords." You wrote those words? "That sounds familiar." That's fine.

This is their witness, not my witness. This is their case, not my case. How can they come here and deny their own case and just put out lies when their witnesses said the crisis committee did not have

that purpose and General Ndindiliyimana's role was not as they say it was? And that's why they suppressed all mention of Des Forges and Dallaire in their argument--because they're dishonest.

A dishonest lawyer would say, "Dallaire and Des Forge said this, but we think . . ." They don't even try to argue their way out of it. Just drop it out of the picture entirely.

And Des Forges goes on: "In the early days of April, it appears that General Ndindiliyimana made efforts to organize some sort of opposition in--meetings with opposition to Bagosora and, in addition, made efforts to save lives"--despite what Mr. Van says. He didn't save anybody?! Mr. Van has the temerity to say he didn't save anybody! And yet he saved 37 Tutsi orphans and two priests at his house in April. He had his armored car taken away from him because they thought maybe he was working for the RPF.

And then she wrote this: "The senior officers opposed to Bagosora" because he--Mr. Van mentioned something about international support for the so-called moderates, which is a false dichotomy, but she said, "The senior officers opposed to Bagosora either could not bring themselves to join forces with the longstanding enemy or do not believe that they could lead a substantial number of soldiers into such an arrangement. They looked instead to the International Community for support.

"Dallaire would have liked what he saw as a new army, but he was blocked by the narrow interpretation of the mandate, . . ." and so on. "Ndindiliyimana explored the possibility of foreign support with the Belgian ambassador, Johan Swinnen, the evening of April 7th. No one had resources to offer dissenters who hoped to oust Bagosora and stop the slaughter of Rwandans." "You wrote that, did you not?" She says, "Yes, I believe I wrote that."

And Dallaire, who was at the meeting of the Crisis Committee, says--I say to him: "Question: I believe you classified someone like Ndindiliyimana and somebody like Rusatira as so-called moderates." He said, "Yes."

Now, I don't like that false dichotomy, and other officers here don't like that dichotomy. It's a false dichotomy. But those are the terms they used.

And Colonel Marchal, who was at the meeting of the military officers on April 6th, 7th, at the ESM, invited by General Ndindiliyimana, and General Dallaire was present, invited by General Ndindiliyimana. Colonel Marchal says this: "Another aspect of this part of the meeting which seems essential to me, is that everyone, everyone in the FAR was of the decision to put in place, as soon as possible, the transitional institutions and help manage the crisis and to hand over authority as rapidly as possible to

the politicians. And the soldiers present did not raise any objection to this. The soldiers said, 'It's not our role to manage. We help. It's the politicians who need to manager the crisis.'"

This was a great concern. And he confirms that General Ndindiliyimana supported that initiative. In fact, he was the one that broached it first.

Then we have--to support his credibility--the telephone call of Johan Swinnen, the night of the 7th and 8th. I won't read the entire transcript here, but the second paragraph on page 44 is important. The general phones Ambassador Swinnen and says, "Don't leave us. Belgians will be killed. Soldiers will be killed. Don't leave Rwanda. We need you here or else it's just going to deteriorate and get worse. Please stay." It's a long conversation, 3 o'clock in the morning.

Mr. Strickland says he is a liar. Well, Ambassador Swinnen said, "That was a very emotional conversation. And I think that at that time I could not have thought that he was just pretending or acting. I think that he was acting lucidly and seriously. Unfortunately, I had to tell him, 'We have not yet taken a decision.' And I had the feeling that I was talking to someone who was very disappointed and still wanted to make an effort to see to it that the Belgians do not--are not compelled to take a decision to leave."

And Dr. Des Forges, their witness, confirmed in her remarks on this conversation. She said, "So I think it does reveal, probably--no, I think it does reveal, certainly--on the part of Ndindiliyimana--a sincere desire for the international forces to remain there." This is their witness.

I can go on. Colonel Marchal confirms that the gendarmes could do no more than the blue berets, that the blue berets who were guarding the so-called moderate politicians were overwhelmed by the Presidential Guard attacking their unit. Four or five men were attacked by twenty. He said, "Our men couldn't resist the Presidential Guard and the Gendarmerie couldn't do anything better." So that also corroborates the General's testimony.

They laughed at the fact that he says, "Oh, I didn't have resources and I couldn't control the events." "You could have done SOMETHING!" They forget the argument in my brief about the consequences of the RPF attack on the refugee camp at Nyacyonga. Remember there is, north of the city, one million people, one million living in tents, forced there by the RPF.

April 10th and 11th, they begin bombarding that camp with heavy, heavy--high explosive shells. How

many thousands of people were killed in Nyacyonga? How many? That's a war crime, to attack a refugee camp with heavy artillery, hour upon hour, over two days. Why did they do that? Because they wanted to force that mass of people into the city to create chaos. They just flooded the city. The army couldn't even function. You got a million people blocking roads, swarming everywhere, running away from that shelling. And many of them were killed by civilians in Kigali who thought they might be RPF infiltrators. Many innocent people died because of that. And whose fault is that? Not General Bizimungu's, General Nindiliyimana's. It's General Kagame's fault! He shelled that camp. And you people don't even charge him. And you know he did that. I mean, can you imagine attacking one million people--living in tents--with heavy artillery. And not a word is said about it.

Again, on page 72, Colonel Marchal repeats, "I would say that what was true as far as the UNAMIR was concerned was true as far as the Gendarmerie was concerned. The gendarmerie was not numerous enough to face a normal situation. You must realize that after the crash, the plane, very quickly, the gendarmes' means were frozen--well, frozen. I say they were nailed to their camps because of the RPF action." Because all the camps were attacked. All the gendarme camps were attacked. Remera camp was overrun and eliminated. Attacked his headquarters. Just bombed it. What was he supposed to do? Run a police operation? And police stations are being bombed and overrun.

And they, even in their brief, question the validity or the veracity of his statement that he lost most of his command. Colonel Vincent stated, page 72, "So any Gendarmerie unit within that sector, operational sector, falls under the operational command of the commander of that sector." And General Dallaire said, when I asked him did General Nindiliyimana have a command left, he said, "Well, I recall him explaining it to me, and we had a couple of meetings during that time. And he explained that the Gendarmerie was reverting to the command of the Army. And so, essentially, he didn't have a command left." That's their evidence.

"He didn't have a command left. And the way I saw it at the time, and certainly the Minister of Defense never negated that." So, in fact, he was sort of like a floater. He had no job. And, witnesses said, in the entire country, 200 men were left to his command: 100 in Kigali, which he placed to try and protect Tutsis as best he could with that small amount of men. And they confuse, misconstrue our argument. Our argument is not that gendarmes specifically--where he gave orders to gendarmes to do certain things, he didn't have command over them. Of course he did--that's obvious.

Our argument about command responsibility is about capacity. He lost most of his command. Therefore, he could not do more than he did.

Now, they say he did not support the communiqué of April 12th to the RPF offering a surrender. Well, General Dallaire confirms that Ndindiliyimana supported the communiqué. And Dr. Des Forges also confirmed that he was part of that group of officers.

[FREEZE]

[VO] Mr Strickland:

In this context we see the best example of Ndindiliyimana's talent for duplicity and self-serving overtures. Chambers will recall that there was discussion of a surrender communiqué that was released by several high-ranking Rwandan officers on April 12th, 1994. General Dallaire heard of this surrender communiqué, this overture of peace, and he wondered why Ndindiliyimana--whom he considered a moderate Hutu--why he had failed to sign that document. He asked the General for an explanation. In response Ndindiliyimana told General Dallaire that he had failed to sign a surrender communiqué of April 12th, 1994, because he was busy saving Tutsis in Butare. That--that was an utter lie! It was an utter lie!

Because, as General Ndindiliyimana made clear, himself, when he testified, himself, he told us this: He didn't visit Butare until April 15th. So here it is. Here we see the real General Ndindiliyimana. This is a concise example of the tenor and tone of his testimony before this Tribunal. It was disingenuous, dishonest, self-serving, insincere. He claims to have supported a surrender communiqué. For some reason he didn't sign it. He held himself up as a saviour of Tutsi refugees. He wasn't even in Butare before the 15th. How could he be busy there saving refugees?

[MR. BLACK BACK LIVE]

MR. BLACK:

And Dr. Des Forges says that Gatsinzi--I asked her in cross-examination about Gatsinzi. Mr. Strickland said that he never--he told General Dallaire--General Ndindiliyimana told General Dallaire he was off in Butare saving Tutsis. Well, he was down south saving Tutsis. Because Antoine, the hotelier--remember him?--he was a very interesting character, the Tutsi hotel owner. He came here to testify for us. A very interesting character. You can't forget him.

And he testified that General Ndindiliyimana, with his gendarmes, the few he had left, on a mission

down there, went to the hotel, found out they were being threatened by so-called *Interahamwe* and left his unit--his close-protection unit--some of it, right there to protect the Tutsis in that hotel--who included several Tutsi businessmen and their families. And they survived the war. And those gendarmes stayed with those Tutsi families throughout the war until they left in late or early June.

And Dr. Des Forges confirmed, when I put to her General Gatsinzi's letter--we referred to a letter by General Gatsinzi in which he confirms that General Ndindiliyimana supported the April 12th communiqué, but he couldn't sign it because he said he was in the south saving Tutsis. And she said, "That's correct." That's their witness, not mine. That's the Minister of Defence from Rwanda.

I don't know why they charged General Ndindiliyimana, and I would really like to know why. Maybe in their rebuttal they can tell me why he has spent the last nine years in prison for no reason.

I put several questions to Dr. Des Forges about Gatsinzi, Rusatira, Ndindiliyimana, trying to get control from Bagosora, trying to stop the killings, trying to keep the Peace Accords going. There are many references to that. And in each one of them, I put to her this question--at page 75: "Well, I'm going to press. Aren't those actions consistent with someone who opposes any killing of Tutsi civilians and any plan to do so? Aren't they consistent with a man who opposed that, those actions in themselves?" And she replied, "Those actions in and of themselves do appear to be consistent with that, yes."

That's their case. He is not guilty. They raise reasonable doubt--and more of it in their own case! And they did that with their very first indictment. My Honourable Judges, here, were not here at that time. But when the first indictment came down against him, in the indictment itself, in the sections they wrote, they actually put in evidence which clears him of the very charges they charged him with in the preceding paragraph. It was bizarre. It was quite clear they just concocted--rapidly--an indictment in order to keep him in prison for some reason. To testify against Bagosora, that was their main objective, I think.

And at page 76, regarding, again, Gatsinzi's letter stating that Ndindiliyimana was in favor of the April 12th telegram, Des Forges says, "If you recall yesterday I said that the actions which I knew about concerning Ndindiliyimana seem to me a period when he was not in favor of genocide." She never negates the contents of the letter.

And we have General Mahundi, the Tanzanian Inspector General of police who testified for General Ndindiliyimana. And General Mahundi was not only the Inspector General of police at the time,

in 1993, he was also the vice president of Interpol. And he states that General Ndindiliyimana spoke to him and talked about the fact that the political leaders in Rwanda are likely to come to an agreement, and they would like to integrate our forces. So we would like to get training in your country so we can more easily integrate the forces together. And he was more concerned with the crime and tranquility, generally.

And, page 78, his point of view was, he was expecting the two sides politically, the two sides to--

[VO] THE ENGLISH INTERPRETER:

Mr. President, could counsel give the interpreters time to find the reference that he has given.

MR. BLACK:

It's page 78 in our brief. I'm sorry.

So he was expecting the two sides to negotiate their conflict and find a solution to their conflict. He was very much hopeful that that negotiation there would be likely to end up successfully.

I think that puts 'paid' to Mr. Strickland's arguments that--I can make some other references here. I haven't got much time left.

Mr. Strickland attacked me about his witness, GCB, about the so-called massacre at Saint André. We state, based on the evidence, there was nobody killed there at all. Period. And he mocks my argument by saying, "Mr. Black, this man said he was wounded in the hand, shot in hand, and Mr. Black mocked him because he had no wounds--no bullet wounds." Well, it's true. Read the transcripts. That witness, remember, came and said he was forced on the ground and laid down, his hands covering his head like that, and a gendarme, he said--he alleged, fired a high-powered automatic rifle five times at his head, and not only did his head not explode from the first round or second, third, fourth or fifth, but he only lost one finger. And I put it to him that that finger was probably lost some other way.

There was no bullet wound from a high-powered automatic--high-velocity round. That would have blown his head apart the first time.

And with respect to "you can't use DH91 and DH90," well, I used it in cross-examination. That's the evidence. Read the brief. There was no killing at Saint André College.

They go on and say, this is not an international armed conflict. Well, I said that the Ugandan Army was heavily involved, as was Museveni. There is some evidence that Burundi also invaded from the South. And it's quite clear, General Nindiliyimana testified that he received intelligence reports from the field, Kibungo especially, that an American C130 Hercules was seen dropping men by parachute behind RPF lines. That's an act of war by the United States. So--and everything confirms that--because now, Rwanda is nothing but an American military base.

Now, I just want to end with--I haven't much time left, so a few minor things--like communications. General Nindiliyimana's ability to know and react. I think our chronology is very well done. And I thank Ms. Tipton for doing a large part of it. And that quite clearly shows what he knew when and what he did in reaction to that.

And he testified that the Alcatel system was bombarded, was destroyed. His jeep, which had communication equipment in it, was destroyed by a bomb. He did have information coming in. He explained quite clearly, and in a detailed manner, what type of information and how he reacted to it. And he went further than that. He said that he sent teams out into the field to try to find out what was going on.

So it's not--we are not saying we didn't have information. He searched for information. But he never received any information that the gendarmes were hurting anybody. Only that they were trying to protect people.

And this ridiculous remark that they made about--oh, I can't find it. But, anyway, Mr. Strickland said something about the gendarmes in his house, the General said, walked 12 miles and made a report from Butare. That's not what he said. He said, in a general answer about the context of his communications--he gave an example. He said, "It was so bad. For instance, the men guarding my house, if they had wanted to make a report to me, had to walk 12 kilometres to make such a report." He didn't say they made a report.

So--yeah, I've got the quote here. It's page--June 18th, 2008, page 49. So, he said, "So we had these small operational detachments. That's how the gendarmes worked. We send out small teams. For instance, the team that was in my place in Nyaruhengeri, if I had a minor problem, the gentlemen would need to walk or trek some 12 kilometres to Butare to report. So there weren't really any means of communication between those small units operating on the ground and the command post."

It's the opposite of what Mr. Strickland said. And Mr. Strickland knew that when he said it. And I found the quotes--just very quick--where--this is Des Forges, said that she--the claim by Kagame that he started--he loosed "the dogs of war" on the 7th or 8th--his claim to save Tutsis is wrong. She said this, page 18, October 11th, 2006, she says, "I had concluded previously, and I believe the evidence is solid, that the RPF gave priority to winning a military victory and not to saving the lives of civilians, including, particularly, Tutsi civilians in the country. I have said that on a number of occasions, and I believe that the evidence supports that conclusion."

Give me five more minutes. I'm going to close with--

I refer you to--because I have only got three or four minutes on this. But I want to refer you to the assessment of--remarks by Colonel Marchal at the end of my brief, remarks by Ambassador Swinnen about the character of General Ndindiliyimana and how they saw him, and that he was viewed in a very positive way, and then I will sit down.

So I think--I don't like to hit them over the head with these things, but it's true. If I can find it--excuse me. Oh, here we go.

First of all, at page 243, Alain De Brouwer said, "I briefly remind you of the very well-known role occupied by General Ndindiliyimana in Kinshira in 1993, where he saved the Arusha Accords by giving a solution to the military aspect." And talking about the telex sent by Willy Claes, the Belgian Foreign Minister, in regard--with respect to General Ndindiliyimana, he says, "We knew that the person of General Ndindiliyimana, we had somebody who would bring a great deal of collaboration in the search for the truth as to the events which occurred in Rwanda." The truth. And he praises him.

The Belgian ambassador, Mr. Swinnen, read the telex sent by Willy Claes, and Willy Claes was then the Belgian Foreign Minister, and became later the Secretary General of NATO. And his telex says, in instructing the Belgian ambassador to Kinshasa to give him a visa, "The person concerned has always proven to be of service to proper conduct towards Belgium. Similarly, during a recent period of violence in Rwanda, the person concerned showed that he was a friend of Belgium. Furthermore, he helped many Rwandans. He helped many Rwandans to find a safe shelter or to find safety, and helped many Rwandans to escape a certain death and obvious death."

Then the ambassador continued: "I want to say a lot of things because we are dealing with a case which, to my book, deserves very special attention. I consider General Ndindiliyimana as a positive

person. I do not have all the details about his movement during the genocide, not even about the period preceding the genocide, but I have given you the basis upon which I have always and I still take General Ndindiliyimana seriously. I have not had any signals or got any statements from him which make it possible for me to create any doubt about his commitment to reconciliation." And he goes on.

One minor thing--and I am going to conclude--about Nyaruhengeri and Kansi. I think our brief is very complete on that. There is one thing you should also consider. They say, "Well, the gendarmes could have heard shots," and then, "You should have gone and helped people." Well, no test was done to see if shots could have been heard several kilometers away. That's just speculation. And sometimes a shot could be heard that far. It depends on atmospheric conditions, wind direction, all sorts of things. It's equally possible he didn't hear a damn thing. Excuse my language. I retract that. He didn't hear a thing.

But, in any case, on the 21st of April, you remember, the same day Radio Muhabura--I believe it was Muhabura, RPF propaganda hate radio--put out a message that General Ndindiliyimana had been killed by northern officers trying to create chaos in the ranks, I suppose. Why would the gendarmes--Marie, his wife, allow gendarmes--there are several gendarmes there, three or four gendarmes there--to leave her when she heard on the radio that her husband had been assassinated? Do you think those gendarmes assigned to protect her by Charles Kabeza, the burgomaster, would have left the family they were loyal to to run down the road, some possible shots being fired 3 kilometers away, knowing their chief had been murdered? It doesn't fly.

I'm going to conclude with--I think of my friend and comrade *Maître* Lurquin, who can't be with us today because he has been elected, happily, to the European Parliament. And I would like to read those remarks, because *Maître* Lurquin wrote the last two pages of this brief. I translated from French into English. He approved of my translation, so I think it's ok.

At page 247, paragraph ¶615--and I read this because I submit that it's true based on the evidence. "General Ndindiliyimana is a man who is more than just his function. The Prosecutor's strategy appears to be to charge those who occupied the highest functions of the state in Rwanda, Ministers, *préfets*, Chiefs of Staff and intellectuals, who appear to have been arrested, not because of what they did but because of their position.

"The trial is a nightmare for the Prosecutor because behind the veil of his function was the reality of the man, with his weaknesses, perhaps, but also a man with strengths and commitment, a man that no witness, either for the Defense or the Prosecution, ever accused of being an extremist in his politics or

with respect to ethnicity.

“On the contrary, he was portrayed as a man who is tolerant, good, respectful of and respected by all, no matter what their social rank, a man who could have remained”--like Nsanzuwera, who works for you--”who could have remained, like so many others, a spectator fleeing the violence, rather than a man who tried to fulfill his responsibilities, a man who could have been among those who pretend to judge instead of a man being judged. But to have been among those who fled their responsibilities, he would have had to surrender his humanity and the lives of all those he saved, a man whose heart made him steadfast in his commitment to the people of Rwanda. And perhaps that's why he is really accused, because he did not abandon the people he is proud to be proud of. And that is not a crime.”

Now, I have been on this case for ten almost ten years. When I came here, I believed everything I read in the press about the so-called genocide. And the entire case to me has been frustrating, depressing, distressing and shocking. I once believed in International Justice. I no longer do. I believe in you Judges, and I am sure you believe in International Justice. I would like to.

But the maneuvers of the Prosecution in imprisoning this man without an indictment for four years, and then, one month before the trial starts, handing down a totally different indictment with a totally different theory of what the facts said, and forcing us on to trial, and then not backing up most of their charges at all, making accusations, hiding disclosures, manipulating the Judges, lying, cheating, I've never seen anything like it in my life. I've never even heard of anything like this in history.

And many other people are distressed by what they see going on here. I am lucky, I think, because, Mr. President, we had some struggles early on in the case, and that may be a reflection of what you and I both read when we first came here. But I am confident now that after you've heard the evidence and you've had all the hot debates about procedure and evidence that you have, I believe, sincerely you have been listening. And, therefore, I really hope and urge you, on the evidence, to acquit General Ndindiliyimana of all the charges. Because the Prosecution has not proven its case beyond a reasonable doubt--on any charge whatsoever! And if this man is convicted--if General Ndindiliyimana is convicted, there is no hope for national reconciliation in Rwanda--ever. Ever. The Hutus are going to feel condemned and hated just because of the fact they are Hutus--forever. And it is going to create more ethnic tension in Rwanda and lead to more violence in the future. And we don't want that.

But I want this man to go home to see his wife and children.

Thank you. Unless you have any questions for me, those are my submissions.

END OF PLAY