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Virginia Hamilton

Koula Papanicolas

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Genocide in Rwanda:
Documentation of Two Massacres
during April 1994

November 1994

This report is based on a U.S. Committee for Refugees site visit to Rwanda in August-September 1994. The documentation was gathered, and this report was written, by David Hawk, an expert on documentation of genocide. Hawk is former U.S. Executive Director of Amnesty International, and Associate of the Center for the Study of Human Rights at Columbia University. He has had years of experience documenting Khmer Rouge massacres of civilians in Cambodia, and has led efforts to bring those responsible to justice. He was assisted by Joan Kakwinzere, professor of history at Makerere University, a human rights professional, and long-term member of Uganda's Commission of Inquiry into Human Rights Abuse.

This report was edited by Virginia Hamilton and produced by Koula Papanicolas of the U.S. Committee for Refugees.

Preface

How do you massacre a million people in three weeks? Rwanda gives a real life answer. Those in authority plan and oversee. Those in the ranks butcher. Both together are guilty of a nationwide matrix of nearly simultaneous local Hutu actions to exterminate their Tutsi neighbors and compatriots in April 1994.

I saw the results of genocide up close, in numerous locations such as Nyamata and Musaza. I've seen a lot in my professional life; I've never seen anything that remotely looks like this.

The UN, the United States, the entire world failed Rwanda and Rwandans in their most fateful hour. To this very moment, many continue to whitewash what happened in the most effective genocide since the Holocaust. To this very moment, the world stands back from the victims and survivors while pouring aid into the hands of refugee camp leaders who are the criminal perpetrators of genocide, pledged to return to Rwanda to finish the job.

The international machinery for holding at least some accountable, to break the cycle of impunity that has infected Rwanda, is now beginning to creak into operation. The jury is still out on the seriousness of the effort. In the world's eyes, Rwanda is not a very important place.

This report attempts in a small way to summarize the dynamics of genocide in two specific locations. It names names. It is illustrative of the kind of documentation that needs to be produced at sites all over Rwanda. It is the only way to retain an accurate moral compass, to clarify the victims and the victimizers.

Every young soldier in Rwanda's new army has seen the genocide up close. Most have lost all or most of their own families. If there is ever to be a coherent Rwanda again, this kind of documentation must be acted on, and all those found guilty punished. If this does not happen soon, vigilante justice will reign, repatriation of the innocent will be impossible, and additional, perhaps regional, war will be inevitable.

Roger P. Winter, Director
U.S. Committee for Refugees

INTRODUCTION

The U.S. Committee for Refugees (USCR) has long monitored the situation of Rwandan refugees and reported on the explosive political situation in Rwanda that threatened even larger refugee outflows.¹ Following the post-April 6 eruption of massive and systematic massacres against the Tutsi ethnic minority in Rwanda, USCR published a series of advocacy Action Alerts on the Rwanda crisis.

The second Action Alert, on June 27, 1994, stressed the importance of imposing accountability for the massacres. That Alert noted that "thorough documentation of the atrocities in Rwanda is required to begin the difficult process of healing Rwandan society and to educate the world that genocide occurred while the world watched." That report warned that "failure to impose accountability in a public manner will allow many culpable military, political, and militia leaders to escape and will send a dangerous signal worldwide—particularly to Burundi, where the potential for organized violence remains high" and recommended that the "international community should accelerate efforts to document the massacres and identify the main planners and leaders of the killings in order to bring them to justice."

Subsequent USCR testimony to the Senate Foreign Relations Committee Subcommittee on African Affairs again stressed the urgency of documenting the Rwandan genocide in order to bring guilty individuals to justice and send a warning that such acts will be punished by the world community. That testimony noted Administration support for a tribunal to prosecute the perpetrators of genocide in Rwanda, and urged U.S. officials to assist this process by providing immediate diplomatic, financial, and logistical support to human rights investigators.²

To contribute to international accountability for those responsible for the Rwandan genocide, USCR sent two human rights experts

to Rwanda in August and September to undertake an in depth documentation of two massacre sites and to assess the adequacy of measures being taken to monitor human rights and initiate legal proceedings at the international level for those responsible for the Rwanda genocide and other grave violations of international humanitarian law.

The main difficulty encountered by USCR researchers was in deciding which victim and survivor accounts to record. The killings took place throughout the country and everywhere there were witnesses and/or survivors. Behind the front-lines in the civil war between the Rwandan government and the rebel Rwandan Patriotic Front (RPF), political killings and massive slaughters against members of Rwanda Tutsi ethnic minority were carried out by army units, civilian police, and mobs or militia organized by the government. These killings took place in neighborhoods throughout Rwanda, as government-directed militiamen attacked the homes of Tutsi residents. Killings took place at police- and militia-manned roadside checkpoints where ethnicity-specific, state-issued identity cards were used to identify minority groups members. Larger scale massacres took place at public buildings (churches, stadiums, hotels) to which the Tutsi had fled in hopes of finding safety and protection. This USCR report describes the sequence of events at two different churches, chosen virtually at random, to which neighborhood Tutsi had sought sanctuary: one in the capital of Kigali and another in a rural area in eastern Rwanda.

These investigations were conducted under difficult logistical circumstances. Neither the capital city of Kigali nor the provincial towns or villages visited by USCR had electricity, telephones, or running water. Securing transportation, finding food, were time consuming and remarkably expensive. Once the inves-



tigators located the survivor of a particular massacre, he or she would identify another witness who could be interviewed. But it took days, and often several trips, to track down and locate that witness.

All witnesses were interviewed separately. Other than examining the consistency of multiple sources of information for the same event, USCR investigators had no way to verify independently the information provided by the survivors and eye witnesses interviewed. Nor was our purpose to undertake the kind of investigations required of a national or international prosecutor. The massacres we are reporting on will undoubtedly appear as one-line or one-sentences items, along with hundreds of other massacres, in official account-

ings of the Rwandan genocide

Our purpose, rather, is to publish the stories these survivors, none of whom spoke English, told us. Their narratives show that these killings were conducted openly, in broad daylight, by Rwandans who had been organized by the State to kill their neighbors. As a result, we have frequently included the names of perpetrators recognized and identified by their intended victims.

This report describes the measures currently underway to bring remedy and redress for these terrible crimes, and the still urgent necessity for ongoing monitoring of the human rights situation in Rwanda—one of the measures necessary to enable the vast numbers of new Rwandan refugees to return home.



Victims of the massacre at Gahini, a few miles from Rukara parish, where the USCR team did documentation. The photograph was taken only days after the massacre.

Photo: Father Oswald Rudakemwa



I. THE APRIL MASSACRES IN GIKONDO CHURCH, KIGALI

The June 28, 1994, Report of the UN Commission on Human Rights Special Rapporteur on Rwanda, Mr. Degni-Séqui, cited a massacre outside the parish church at Gikondo, an industrial section of the capital of Kigali, where "the street was covered with corpses the length of a kilometer."³

Those bodies were the results of the killings of Tutsi residing in several "hills," also called "cells" (*cellules*)⁴ that comprise the Gikondo "sector" of one of the three "communes" that make up Rwanda's capital city of Kigali. According to the testimony of survivors at Gikondo, the killings were committed by politically organized mobs operating under the direction of an elite military unit of the armed forces of the former Rwandan government called the Presidential Guard.

Near the crest of the hill, next to the road cited by the UN Special Rapporteur as having been littered with corpses, is a barbed wire fence with several metal gates enclosing an ecclesiastical "mission station" run by the Pallotine missionary order of the Catholic church. The Pallotine mission, staffed by a dozen Polish priests and nuns, is a small, self-contained campus with a large church capable of holding up to 2,000 thousand worshippers, a small chapel suitable for private prayers, a cultural or community center, a large print shop with an adjoining warehouse, an administrative building, and several separate housing quarters for resident priests and nuns.

The following is an account of the massacre inside the mission. This massacre, while small compared with the more extensive killings in the general neighborhood, is a particularly appropriate and useful potential body of evidence in the event of national or international legal proceedings against those responsible for these killings. Gikondo demonstrates the determination of the perpetrators to thoroughly eliminate the targeted minority group. Further, the easily attainable evidence includes Rwandan survivor accounts, UN and other foreign eyewitness accounts, photographs of some of the wounded and dead taken by a UN eyewitness, and an on-site mass grave.

A Survivor's Account

According to Mr. Emmanuel Musonera, a 37-year-old Tutsi, one of the two known survivors of the massacre inside the church, the situation in Gikondo sector was already tense prior to the April 6 plane crash that killed Rwandan President Habyarimana. Several weeks earlier, there had been random killings of Tutsi in Gikondo following the assassination of M. Bucyana, a leader of the extremist Hutu political party, the Coalition for the Defense of the Republic (CDR).

Following the airplane crash of April 6, Musonera, who was residing with his family in Kigarama cell, one of the hills in Gikondo sector, heard shootings all night long, but he did not yet know what was going on. The following morning, April 7, Musonera saw several Presidential Guards in his neighborhood. He asked an officer what was happening. The officer replied that he didn't know either, but told Musonera to wait there. A corporal in the Presidential Guard, not knowing Musonera's ethnicity, told him that it was time to kill Tutsi.⁵

A military taxi arrived and took the soldiers away. But as the Presidential Guards departed, a mob of *Impusamugmi* militiamen⁶ arrived in his neighborhood, evidently knowing which residents were Tutsi. Musonera saw the mob attack and kill a Tutsi neighbor named Gervais and his family. So Musonera and his family quickly hid nearby in a primary school compound, from where he could observe a group of *Impusamugmi* enter and ransack his home.

After the mob left, Musonera and his family emerged from hiding. He pretended that his child was sick, and set off to seek shelter and protection at the Gikondo church. He passed numerous roadblocks manned by gendarmes, the local police force, along the way. Not recognizable as a Tutsi, he was able to convince the police that he was taking his sick child to the Gikondo mission infirmary. When he arrived at the church, late morning on Thursday, April 7, several score of Tutsi from Gikondo sector were already there. More would come during the next two days. Several hundred Tutsi were sheltered in various buildings on the church grounds, some more securely hidden in "crawl spaces" beneath floors or roofs, others more simply, inside various buildings.

Gikondo demonstrates the determination of the perpetrators to thoroughly eliminate the targeted minority group.



Emmanuel Musonera, one of two known survivors of the massacre in Gikondo Church, Kigali.
Photo: USCR/D. Hawk

On Saturday, April 9, around 9:00 a.m., the priests asked the approximately 500 Tutsi gathered in the compound--many, if not most of whom were regular or frequent congregates or worshipers at this church--to gather in the main chapel for a worship service. During the mass, the worshipers heard shootings, grenade explosions, and a commotion outside the church. These were probably the killings of sector residents who had been rounded up from the neighborhood and brought to the road outside the church grounds for execution and whose bodies were observed the next day "littering the street."

After the mass, the worshipers remained inside the church.⁷ The next thing they knew, four officers (two Presidential Guard and two local police) entered the church, followed by some hundred or more *Interhamwe* militiamen⁸ armed with machetes and clubs. The militiamen began slashing away--hacking at the arms, legs, genitals, breasts, faces and necks--at the unarmed, terrorized and panic-stricken worshipers trapped inside the church. Some were killed inside the church. Others were dragged outside and beaten to death in the small courtyard in front of the church. In the confusion and melee of the bloodletting, an unquantifiable number of the Tutsi were also able to run out of the church and hide elsewhere on the church

compound. The murders went on for two hours, as the militiamen circulated among the wounded to finish them off.

Musonera was robbed of his money and shoes, then slashed on his ear, face, and head. The deep cut across his mouth and cheek bled profusely. At first, he feigned death. Later, he was able to run outside and hide behind some bushes across from the entrance to the church. From their uniforms, he could identify two of the officers as Presidential guards and two local police.

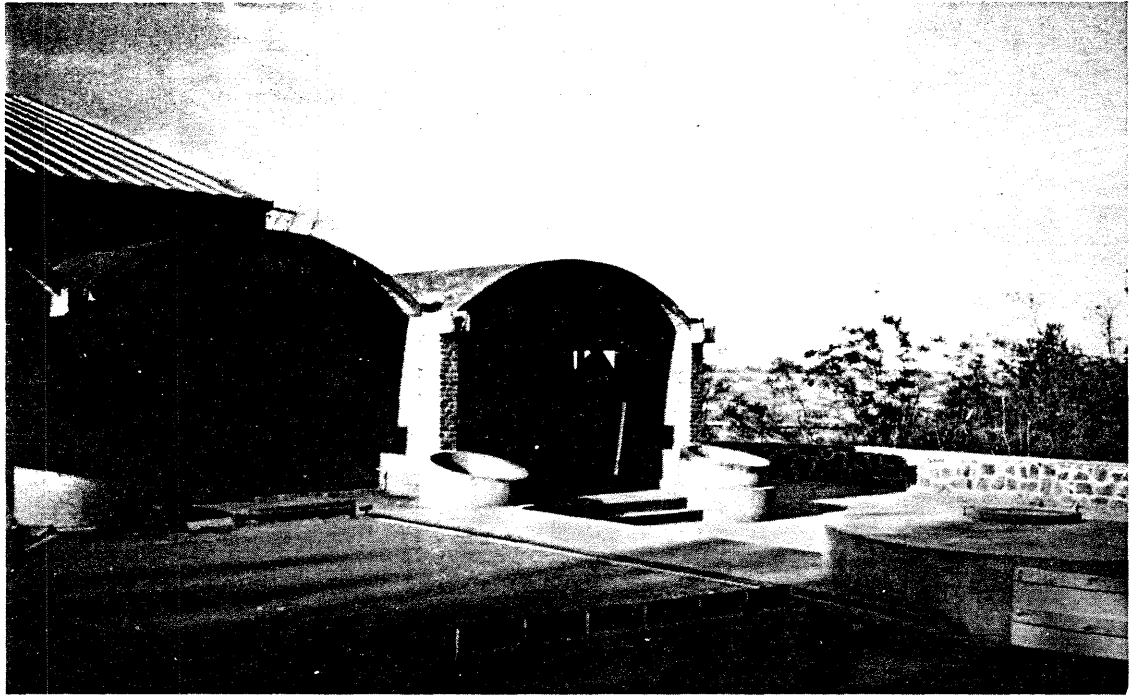
Musonera also recognized several of the killers. The mob was lead by Jean Ntawutagirpfa, also known as "Congolais," the head of the Gikondo sector *Interhamwe*. Musonera also recognized Bernard Rwajekare, whom he knew to be a CDR member, and Alphonse Kakizimana, a Hutu who had come from Byumba and who had worked as a gardener at Gikondo church.

Eyewitness and Corroborating Accounts

Some of the killings described by Musonera were witnessed by two officers of the UN peacekeeping operation for Rwanda, Major Jerzy Macza and Major Chudy Ryszard.⁹ To share the company of

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Based on his own observations, Maczka saw clear cooperation and, in fact, a division of labor between the local police and the militia in the Gikondo church. The police searched for the Tutsi and used their authority to gain entrance and open the door for the mobs who did the actual killing.



The court yard and front door of the church at Gikondo. This is the location where Major Maczka observed killings. Photo: USCR/D. Hawk

the Polish priests and nuns at the Gikondo mission, the two Polish UNAMIR officers resided at the church while off duty. Coincidentally, they were on the church grounds when the killings began, and they saw some of what happened before they were ordered to leave the church grounds and return to UNAMIR headquarters on April 10.

Also present, of course, were the foreign priest and nuns, the members of the Pallotine religious order, who ran the mission complex at Gikondo. Following yet another massacre at Gikondo church on April 12, UNAMIR came with armored personnel carriers and evacuated the Pallotines on April 13. Father Filipek Stanislas, one of the priests present during the killings on April 9, organized the digging of the mass grave on April 10, and was also on the church grounds during the subsequent April 12 killings at the Chapel. By the time of the USCR mission to Rwanda in August, Father Stanislas had returned to Kigali. While he did not personally see the actual murders themselves, his testimony amplifies, in important ways, the accounts of Major Maczka and Emmanuel Musonera.¹⁰

According to Father Stanislas, on the morning of April 9, a group of local police first entered the church grounds. They killed a person at the door of the church, claiming that the

person had a grenade. The priest came over to talk to the local police, who claimed further that the church and church grounds were harboring *Inkotanyi*, Tutsi supporters of the Rwanda Patriotic Front, and that they had to search for them.

The priests claimed that those present were Christian worshipers, but the local police continued to insist that they search the premises and examine the identity papers of the Rwandans present at the church. Some of the police remained at the main church itself, while others left the area directly in front of the church. Then the militia appeared, threatened and pushed the priests away, entered the church, and began the beatings and killings, which Father Stanislas said went on for two hours.

UNAMIR Major Maczka was about 70 meters from the main church. He saw the local police begin to enter the various buildings in the mission complex. He saw a group of about 60 militia armed with machetes, clubs, and what appeared to be one Kalishnikov climb over the fence surrounding the church complex and swarm over the area. For 10 or 15 minutes, he saw people being pulled out of the church and clubbed and slashed in front of the church.¹¹ After 15 minutes, the militia came back outside the church and clubbed the wounded there to death.

During the massacres, Major Maczka attempted to contact UNAMIR headquarters on his walkie-talkie, but because the channels were occupied, he could not get through. After the carnage, and after the militia and local police had withdrawn from the church, Majors Maczka and Ryszard helped the priests care for the wounded. Maczka had a camera with several frames left on the roll of film inside. He photographed two of the wounded, Musonera, whose face was badly gouged and swollen, and another woman, Mrs. Theodosie. Several other photographs showed a score of bodies strewn in front of the church. The following day, Major Maczka was ordered back to UNAMIR headquarters.

Based on his own observations, Maczka saw clear cooperation and, in fact, a division of labor between the local police and the militia in the Gikondo church. The police searched for the Tutsi and used their authority to gain entrance and open the door for the mobs who did the actual killing.

According to Father Stanislas, the murders were prepared and premeditated. They were also vicious and cruel. From the wounds on the dead bodies, it was apparent that the ears and mouths had been particularly slashed; clothes were pulled off and genitals mutilated on both men and women.

The priests tended the wounded and helped some of the survivors escape the premises through a small gate at the back of the mission complex away from the front and side roads. They tried to persuade the survivors to leave because the priests could not protect them. Some did. About 20 others did not, preferring to continue to hide under floor boards, in crawl spaces between ceilings and roofs, and in the small, private chapel.

Musonera was evacuated by Medecins Sans Frontiers (MSF) staff, who took him to the hospital at Giterama. He again feared for his life as they passed several highway road blocks manned by *Interhamwe*, but MSF managed to get him through.

According to Major Moczka, the Red Cross came that afternoon, but said there were too many bodies to take them away. The priests dug a large but shallow hole in an area adjacent to the courtyard in front of the church and buried most of the dead. Seventy-seven bodies were buried that Saturday, including those of

eleven children. Father Stanislas also saw garbage trucks pull up outside the church, and prisoners from the city jail loading the bodies on the road just outside the church. According to Major Moczka, another 25 bodies that were found at various places on the mission ground were buried the next day. Many of the identity cards of the dead had been taken by the local police when they first entered the church. They were strewn about amidst other paper and piles of rubble from the carnage. The identity cards were not collected again or preserved by the priests. There is no way now to determine the names of the dead.

Worse, the killing had not ended. The priests tried to persuade the survivors of Saturday's massacre to leave the mission grounds because they were unable to guarantee their security. But one mother with children said to the priests, "Father, if we must die, let us die here." And so they did. Roughly 20 persons remained on the mission grounds, 10 or 12 were housed in the small, one-room brick chapel, about 50 yards from the main church. The priests quietly brought food to them during the night, hoping no one would know that people were still hidden there. But somehow, word got out. According to Father Stanislas, Radio RTL, the extremist radio station run by members of former President Habyarimana's political party, announced that the church was still harboring the *Inkotanyi* (supporters of the RPF).

Four days later, on the afternoon of April 12, approximately 100 *Interhamwe* entered the church grounds and demanded the keys to the chapel. The metal door to the chapel had been locked from the inside, and according to Father Stanislas, the priests did not have keys. The *Interhamwe* tried without success to shoot the lock and otherwise break down the door. Failing that, the mob broke the narrow windows, poured gasoline into the roughly 12' by 12' room, threw in grenades, the explosion of which caused fires, burning to death the 10 to 12 people who had locked themselves inside.

The mob went through the other building on the mission ground, and beat seven persons who were found hiding in the building adjacent to the print shop. Four died immediately. Three more were heavily wounded. The priests brought water and tried to treat their wounds. But they died the following morning.

The next morning, April 13, *Interhamwe*

The burnt interior of the little chapel at Gikondo where 12 people burned to death.

Photo: USCR/D. Hawk



also returned. They saw the bloodstained clothes on the priest who had treated the wounded and threateningly accused the priests of sheltering and assisting the Tutsi who were supposed to be killed. Angered, the mob set fires to cars on the church grounds and began ransacking and robbing the health and community center, saying that there were still *Inkotanyi* inside. Now fearing for their lives, the priests contacted UNAMIR, and at 5:00 p.m., the UN peacekeepers evacuated the priests and nuns. The church buildings were further damaged by warfare when the RPF captured Kigali. Following the end of the war, some of the priests returned from Poland, and began to reopen the mission. In August, when the U.S. Committee for Refugees mission initially investigated this particular massacre, the acrid stench of death remained, as did some skeletal remains in the chapel's antechamber.

Concluding Note

In its essentials, the Gikondo church massacre does not differ from scores of such massacres that took place throughout Rwanda in April 1994, including the one described below at Rukara parish. Even so, the April 9-12 killings at the Pallotine mission station at Gikondo should be a prime case in any international legal proceedings that might be instituted for the

Rwandan genocide: first, in making the legal case that acts of genocide were committed, and second, regarding any individual indictments that might be brought against the identifiable and recognizable leaders of the Gikondo sector *Interhamwe*. (Father Stanislas is certain he could recognize some of the *Interhamwe* leaders of the Gikondo sector.)

At Gikondo, there is an articulate, credible survivor, Mr. Musonera, whose wounds were photographed by a UN official. Perhaps, with more time, the prosecutors can locate the other photographed wounded survivor, Mrs. Theodosie. According to Musonera, the daughter of Charles Karera witnessed and survived the killings on the road outside the fence. The USCR mission of August-September could not locate her. But reportedly, she continues to reside in Gikondo sector, and probably she can be found and can clarify those events. There were the two UNAMIR eyewitnesses, who photographed some of the wounded and dead within hours of the killings. There were an ample number of foreign priests and nuns, who did not witness the killings, but who were present on the mission grounds during the massacres and treated the wounded and buried the dead. Only one of these had returned to Kigali at the time of the USCR investigation. But the others are easy to locate in Poland. Should forensic pathologists need to exhume remains, the mass grave exists next to the church.

Almost certainly there were employment records of the local police--the *gendarmes* who opened the doors for the militia--for Gikondo sector; whether these records can be found is an open question. The identifiable killers are either living elsewhere in Rwanda, perhaps with an assumed name, or more probably in one of the refugee camps outside Rwanda still under the control of the former government. Whether indictments or arrest warrants could ever be drawn up or served is a matter for future prosecutors to determine.

But the murders at Gikondo church are clearly genocidal massacres, not simply political killings. Like elsewhere in Rwanda, the Tutsi of Gikondo sector fled to the church to escape the eruption of house to house killings in their neighborhoods--thinking they could find safety in the religious places where they had formerly worshiped with their Hutu neighbors until the killing spree had passed, as had previously happened during earlier outbreaks of ethnic violence against the Tutsi minority group.

That was not to be the case this time. From the testimony of Rwandan survivors and foreign eyewitnesses, it is clear that the politically organized mob that carried out the killings (which were not without ritualized and brutal mutilation, as well as petty thievery) was working in concert, indeed guided by, military and police agents acting under the authority of the Rwandan state. That neither the police initially or the *Interhamwe* mobs subsequently could be dissuaded by the foreign priests from carrying out their work shows how clear and firm their orders must have been.

That the Gikondo sector militiamen repeatedly returned again to search the premises to make sure they had left no Tutsi still alive indicates the intention to destroy in whole, and not even in part--literally, to finish off physically--the ethnically Tutsi residents of that area. All of this was done in broad daylight, without any attempt whatsoever to disguise the identity of the perpetrators, indicating that there was absolutely no perceived moral, legal, or political sanction against what they were doing.



The mass grave at Gikondo Church. Photo: USCR/D. Hawk

In between sprees of murder, the killers paused to chat with their victims, kill and roast the cows the Tutsi cattlemen had brought with them, and regularly retreat for rest.

II. THE MASSACRES AT RUKARA PARISH CHURCH, KIBUNGO PREFECTURE

In contrast to the killings at Gikondo described above, the massacres at Rukara, a rural commune and sector in Kibungo *Prefecture* (province) were much larger, more drawn out, and more complex--initially irresolute, even haphazard, yet in the end, even more savage and grotesque. Again, militia attacks on Tutsi in their homes along the hillsides immediately following the downing of President Habyarimana's plane drove several thousand Tutsi, most of whom were farmers or cattlemen, to a sprawling, isolated mission complex on a high plateau above one of the fingers of Lake Muhazi. Some of the cattle traders brought their small herds with them. The Tutsi from Rukara commune first encamped, then hid, in a dozen different buildings within the church complex, where they had previously worshiped and gone to school with their Hutu neighbors. On at least four occasions, the Hutu Burgmeister (the local mayor), sometimes accompanied by the local Member of Parliament from this area, came to the church to talk to the Tutsi who had sought sanctuary there.

After robbing the homes of the fleeing Tutsi, the local *Interhamwe* mobs repeatedly came to Rukara parish church where they took ten days to kill off most of their former Tutsi neighbors. In between sprees of murder, the killers paused to chat with their victims, kill and roast the cows the Tutsi cattlemen had brought with them, and regularly retreat for rest. The mob taunted the richest Tutsi by name as they hid inside church buildings, argued over which Tutsi, if any, should be spared, and frequently left the church compound to get more ammunition or soldiers to assist them before returning, singing and whistling, for another round of mass murder.

The foreign priests and nuns at Rukara parish were evacuated a third of the way through the April killings. As of August, they had not returned except for one visit by the former head priest, and were not available at the time of the USCR mission to provide non-Rwandan corroboration. The slaughter of Rukara commune's Tutsi population ended when the Rwanda Patriotic Front (RPF) captured the area on April 16. The bodies of the

dead were collected and cremated, reportedly inside the church buildings, but not before foreign journalists had visited the scene and photographed some of the carnage. But there is now no way to verify independently the number of deaths. And some elements of this story do not entirely hang together. However, the survivor accounts are remarkably consistent. The executioners knew many of their victims. And the survivors readily identify those who led the killings and many who participated. Following is a summary reconstruction of their accounts.

Rukara commune¹² is located in Kibungo *prefecture*,¹³ roughly an hour and fifteen minutes by car due east and slightly north of the capital of Kigali. Most of the way, the road is paved. But at Lake Muhazi, a laterite road goes up a considerable hill, past a large hospital complex at Gahini. From there, one lane, dirt roads extend deeper into an agricultural plateau. Rukara has a town square with detached houses stretching around a green the size of a soccer field. But like the rest of Rwanda, there are not what people often consider to be rural villages, a cluster of huts or houses centering around a church or school or public building. As in the rest of Rwanda, the Rukara commune is composed of *cellules* (cells), in reality, one among many rolling "hills" on which houses are scattered, surrounded by very small plots of land for farming (mostly bananas and beans) or small plots of grass or scrub land suitable for grazing small herds of cattle. People get around mostly on foot or by bicycle, with occasional cars or pick-up trucks.

Ten or fifteen minutes by car from the hospital complex at Gahini is exactly what one might visualize as a European mission station in central Africa: *Paroisse*, or Parish, Rukara. The unenclosed mission stretches along a road, perhaps a half-mile in length, perpendicular to two other roads. At the intersection of one of the perpendicular roads there are quarters for the nuns and a cemetery. At the other end, there is a dispensary, or medical facility. Along the road that runs in between, there are several school buildings, a three-room maternity facility, a church and adjoining office building, a nearby one-room building used as a recreation room, and several other scattered buildings. Behind the recreation hall, is a small rabbit hutch.

According to Sister Veneranda Murekatete, a thirty-year-old Rwandan who was



Bodies outside of Rukara parish. Photo: Cathy Watson

born at Rukara and who spent four years as a nun at Rukara Parish, the mission complex was run by the Spanish-based Missionary Order of the Sacred Heart of Jesus and Mary. The chief priests were Father Santos and Father Melchior. The head nuns were Sister Maria-Louisa Ariaga and Sister Terese Canavese. The Spanish nuns and priests were evacuated to Barcelona, but Sister Veneranda believes that some of them may now be in the refugee camps in Zaire or Tanzania.

The Trouble Starts

Mr. Gerald Gasherebuka, a 54-year-old Tutsi school teacher who had been living in Rukara for 27 years, says that the Hutu and Tutsi had lived together in that area "without problems." Before December 1993, people lived amicably and "shared beer." After that, though, he noticed Hutu youth withdrawing, drinking beer by themselves. Some of the youth wings of the Hutu political parties were learning how to shoot, and separated themselves from others in the community. And in March, a Hutu friend named Rukul asked him, oddly he thought, if the Tutsi of Muzizi cell were planning to kill the Hutu of Kinunga cell.

Others were more suspicious. Andrew Kabarira, a Tutsi, moved back to Rukara in early March 1994 because political unrest in Kigali had resulted in the closing of the factory where he worked. But it wasn't secure in Rukara either. According to Kabarira, the youth wings of the MNRD and the CDR had come into Rukara by bus to hold political rallies where they would speak against the Tutsi and against the moderate Hutu political opposition such as the Liberal Party and the Social Democratic Party. After these rallies, the youth would rough up some Tutsi (including himself, Kabarira relates) and other Hutu whom they would see wearing the distinctive hats of the opposition parties.

Sister Veneranda also expected trouble. Ever since the political parties began, she had noticed Hutu beginning to keep a distance from their former Tutsi friends. There was murmuring about the killing of Tutsi. Sister Veneranda now believes that the Hutu had been informed that they would have to kill the Tutsi, but they didn't know when. Indeed, some Hutu would openly say that "the government had delayed giving the orders to kill the Tutsi." But, according to her, "the Tutsi didn't believe" that there could be such orders.

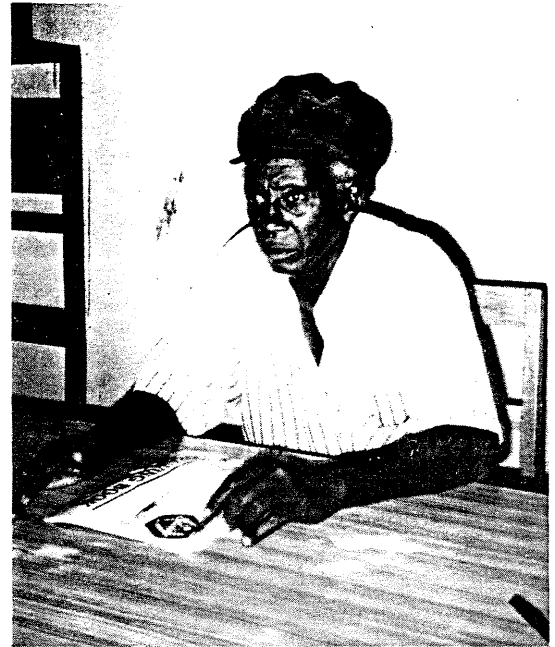
Sometime around April 6 or 7, some-



body gave the orders. The murderous search for Tutsi in Ruwara commune began the day following the attack on President Habyarimana's plane. That day, a Hutu police officer in Rukara told nurse Immaculate Muakmurigo that the attack on the plane never would have happened if they had finished off the Tutsi earlier. And as elsewhere in Rwanda, it began with militiamen of the two ruling Hutu extremist parties searching through the neighborhoods, looking for Tutsi in their homes. On Wednesday night, Andrew Kabarira saw smoke and fires on the hillsides in the direction of Murambi. Mid-day on Thursday, April 7, Kabarira saw two of his neighbors at Mitundo cell, Mr. Senturo Viateur and a Mr. Nkeramugaba, killed by a group of about 30 militiamen.¹⁴ Kabarira told his wife and children to run to Rukara parish, two or three kilometers away, while he packed some clothes. When he started to leave, he saw that his neighborhood was surrounded by militiamen, so he hid in thick bushes near his home. From there, he could see the militiamen who killed his neighbors, and other bands of militia looting and taking the metal roofs off of houses from which Tutsi had fled. His neighbors took off his roof and doors, then knocked his house down. (After Kibirira hid for two days in these bushes, a friendly *Responsible*--the title of the leading local public official for a cell--Mr. Gakwisi of Buyonza cell, saw him, gave him water, and urged him to go to Rukara parish at 5:00 a.m. the next day, where he was able to re-join his family.)

On Thursday, the day after the plane crash, Mr. John Mari-Vienney Butera, a 41-year-old cattle herdsman, saw people, including wounded people, fleeing from the direction of Mirambe. These people told him that Tutsi had been attacked all night long. Butera feared the pattern of killing would reach his house. He wanted to flee to the forests, but was afraid that *Interhamwe* had the roads to the forests covered. So he went to Rukara parish, bringing his cattle with him, as others did. Ms. Angelique Jolie Umurungi, a 22-year-old, lived only a kilometer from the church. On Thursday, April 7, around 5:00 p.m., she saw a group of militia headed in the direction of her house, so she hid all night in the bushes. On Friday, she ran to the parish recreation room, where she had often gone before to watch videos. Another 22-year-old, Ms. Chantal Kayisinga went to the maternity ward

Father Santos was overwhelmed because some of his most important parishioners--catechists, choir members, lay officials--were killing their neighbors and former fellow-worshippers at his, and their, church.



Gerald Gashebebuka, a survivor of the massacres at Rukara parish.

Photo: USCR/D. Hawk

because her aunt was a midwife there.

Other survivors described their flight to the parish on Friday. Mr. Gerald Gashebebuka says the killings started at Gahini sector on April 7. On Friday, April 8, many Tutsi from Rukara sector and Kawangire sector arrived at Rukara parish. He also saw people coming from Rwinkuba cell, where he could see houses burning. On Friday, Sister Veneranda took a parish car and traveled to her family's house in Rukara. Her Tutsi neighbors, Mr. and Mrs. Manuel and their five children, had been killed. So Sister Veneranda took her own family back to the parish, where she put them in the maternity ward. Nurse Immaculee Rukamurigo was already at the parish dispensary. On Friday afternoon, she was already treating the wounded, transferring the worst cases to the hospital at Gahini. Her family joined her at Rukara parish, as large numbers of others began to arrive as well.

Many of the Tutsi who came to Rukara parish were worshippers there. Others were Protestants. And some, according to Sister Veneranda, were nonworshippers. Irrespective of what was happening in the cells and sectors from which they had fled, by all accounts, they thought they would be safe at the church. The Tutsi from around Rukara commune camped out around

the sprawling mission station. They even thought that the responsible Rwandan officials for the commune would provide for their protection. Nonetheless, sensing themselves to be several thousand in number, some of the men vowed they would resist, should the *Interhamwe* come there to attack them.

The most immediate concern of some of those present was the well-being of the several hundred or more cattle that some of the Tutsi had brought with them. The cows had not been watered or fed, and were becoming restless and noisy. Reportedly, the Burgmeister, the highest commune level official, had already come to Rukara parish on Friday. They asked him about water for their cattle, but he belittled their concern. "The question of the cows is no question at all," he told them. That was certainly the case, as the course of events unfolded.

A band of *Interhamwe* militia came to Rukara parish between 2:00 p.m. and 3:00 p.m. on Saturday afternoon. The Tutsi men, some carrying the spears and clubs they had brought with them, came out of the buildings on the road, stood their ground, and faced off the militia. The militiamen retreated--or, rather, they left to get weapons, and came back in larger number around 5:00 p.m., this time with grenades in hand. Using their grenades, the *Interhamwe* attacked, killing eleven. They drove the Tutsi defenders into the church buildings. According to Gasherebuka, those who threw the grenades included Paul Mujiyambere and John Bosco Rukundo.

The militia then drove away the cattle. According to virtually all the survivor accounts, the *Interhamwe* then feasted for two days on the Tutsi's cows,¹⁵ and did not return to the parish grounds on Sunday or Monday. During this time, Father Santos and others present at the parish, including Andrew Kabarira, buried the eleven in the cemetery at the mission complex.

Nothing happened during the day on Monday, other than consultations between Father Santos and the Burgmeister at the Bukara commune headquarters. In any event, those at the Parish related that Father Santos came and told them that the Burgmeister had said he would send police to guard the people at the parish. A policeman did come around 3:00 p.m. to deliver a message that people should go home and that nothing would happen to them. But



Andrew Kabarira, a survivor of the Rukara parish massacres. Photo: USCR/D. Hawk

they were not convinced, and preferred to remain at the parish.

Around 6:00 p.m., a large group of *Interhamwe* came and attacked them, again using grenades, and again forcing people to retreat inside the church buildings. Those at the church itself barricaded the doors and windows so that the *Interhamwe* could not get in. According to Kabarira, a pick-up truck belonging to the commune and driven by a Member of Parliament, Mr. Karibwende, delivered a truck load of stones. The *Interhamwe* managed to break some of the church windows and attempted throughout the night to throw stones and grenades through the broken windows. The attacks continued until dawn. Those inside the church counted 35 dead, mostly from the grenades tossed in through the small openings in the broken windows. At daybreak, the *Interhamwe* shouted out that, after getting some rest, they would come back to finish the attack.

Those inside the church buildings came outside and tried to cook breakfast for the children. Early Tuesday morning, a distraught Father Santos went to see the Prefect (the equivalent of a governor) at Kibungo, not to return until months later. According to Sister Veneranda, Father Santos was overwhelmed because some of his most important parishioners--catechists, choir members, lay officials--were



John Marie-Vienney Butera, survivor of the Rukera parish massacre.

Photo: USCR/D. Hawk

All of the survivors from Rukara interviewed by USCR were convinced that the Burgmeister and government soldiers were working hand in hand with, and in fact were directing, the Interhamwe militiamen.

killing their neighbors and former fellow-worshippers at his, and their, church.¹⁶

The *Interhamwe* did return at around 11:00 a.m. and, true to their word, renewed the attack, which continued sporadically until late that afternoon. The dead inside the church, mostly killed by exploding grenades, were now so many that the survivors stopped counting. And at that point, those who had barricaded themselves inside the main church lost contact with the other groups of people around the parish.

Late Tuesday afternoon, the Burgmeister returned to the parish, accompanied by government soldiers. He tried to convince those barricaded inside the church building and recreation hall that he had no authority or control over the *Interhamwe*. He told people to leave and find other places for their security. No one believed him, and the hidden people called out to him to provide for their protection. The Burgmeister left. All of the survivors from Rukara interviewed by USCR were convinced that the Burgmeister and government soldiers were working hand in hand with, and in fact were directing, the *Interhamwe* militiamen.

Early Tuesday evening, the militia returned, but this time concentrated on the recreation hall just down the road, where they committed a terrible massacre. But that was not

quick or easy either. Like the main church, the recreation building was a one-story, brick structure with a few small windows and a small metal door. The militia pried away a portion of the metal sheet roofing. They threw in grenades, killing many inside. On the outside, they continued to try to break the door. In the middle of the night, they succeeded in breaking through the bricks on one side of the door frame,¹⁷ and thus were able to open the door. According to Ms. Angelique Umurungi's testimony, about 30 *Interhamwe* entered the room and proceeded to slaughter nearly one thousand persons, while those outside shouted the names of those who should be killed--mostly the wealthier Tutsi.

Because of the grenades exploding inside the enclosed space, those hiding inside were too terrified to react, according to Ms. Umurungi. The killers moved about, hacking and beating people to death. They then poured gasoline about and started fires. Those who then tried to run outside through the now open door to escape the fires were killed outside. Umurungi claims that of a thousand persons hiding in the recreation building, only ten survived: those who, like herself, had smeared themselves with blood and crawled under corpses.

One thousand is a very approximate round number. If there were that many in the recreation room, it was extremely crowded. But much more important in terms of evidence of genocide, and far worse than the actual number, whatever it was, is the mutilation that Angelique testifies to have personally witnessed: her mother's head beaten so savagely it came off her neck, after which her killers--a Mr. Rukundo and a Mr. Minani--kicked the decapitated head, remarking that the woman had not even cried out.

After spending much of Monday night attacking the main church building, renewing the fight there on Tuesday during the day, and attacking the recreation hall throughout much of Tuesday night, on Wednesday the *Interhamwe* moved to the other end of the mission complex and attacked the small maternity ward, where Ms. Chantal Kayisinga, the 22-year-old student at Kayonza, had been hiding with her extended family since April 7. After the arduous struggles at the church and the recreation hall, the 50 persons hiding in the little three-room maternity ward where her aunt had been a mid-



Chantal Kayisinga, whose family was killed at the maternity ward at Rukara Parish.

Photo: USCR/D. Hawk

wife were easily massacred. From morning until mid-day, the militia pulled many people out of the crowded rooms and hacked them with machetes. Her father, Sostain Musominare, a retired agricultural teacher, was cut on the knees and beaten to death. Of her immediate family members, only Chantal and her younger sister survived.¹⁸ That Chantal survived is a miracle. When we interviewed her five months later, she was still at the hospital at Gahini. They had hacked her ankles with a machete, so she wouldn't be able to walk. Five months later, the deep, ugly cuts were still healing. Once she was on the ground, they beat her with a heavy club, and she lost consciousness. They slashed the back of her neck, obviously intending to finish her off. Five months later, she still had an inch-deep wound in her neck several inches wide. Astonishingly, her spinal cord had not been severed.

The experience of Mrs. Immaculate Mukamurigo, the 49-year-old nurse at the dispensary, was quite different. She thinks that only on Wednesday had the decision been made that all the Tutsi at the parish had to be killed. At least up to then, that had not been clear to her. She had remained at the dispensary, tending the wounded, hiding in the dispensary toilet when the singing and whistling of the

Interhamwe warned her that they were again approaching the parish. Up to this point, whenever they came, people were wounded and killed. But then the militiamen would withdraw. And up to then, the Burgmeister, the local Member of Parliament, various police and soldiers would also come to the parish and talk with the gathered Tutsi. Up to Wednesday, April 13, seven days after the killings in Rukara began, there were still numbers of Tutsi ensconced at the parish mission station. And there was still something of a stand-off between the *Interhamwe* and the resisting Tutsi in the main church building.

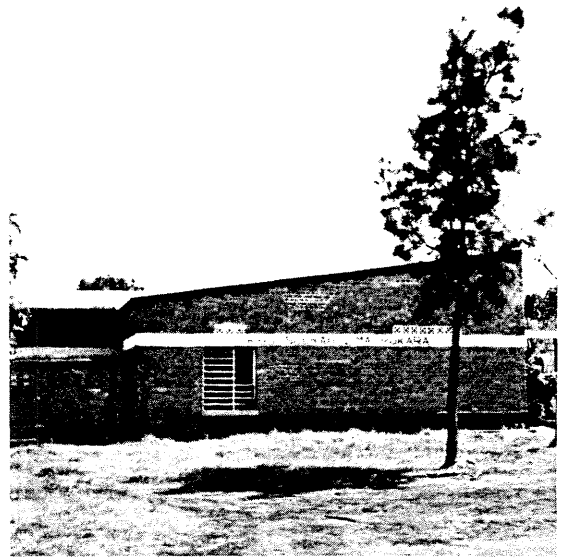
Nurse Mukamurigo thinks that only then was there renewed determination in Rukara that all Tutsi at the parish had to be killed off completely. Her reason for thinking this is the heated debate that took place among *Interhamwe* members in front of her and her son. He, like Angelique Umurungi, had been hiding among the dead and wounded at the recreation hall. During that massacre, he had been found and recognized by former classmates who were now *Interhamwe*. They pulled him out of the rec room, but whether or not it was to save him or to use him to find his mother was not yet clear. In any event, they took him to the dispensary, which was at the other end of the mission station from the recreation hall, and had him call out to his mother, who was then hiding in a dispensary toilet. When she recognized his voice, she came out of hiding. He was covered in blood, and at first sight she thought that her son was terribly wounded. But he assured her that he was all right.

There then followed the bizarre argument between *Interhamwe* members, in front of the mother and son, about whether these two Tutsi had to be killed. Some said it had to be done. They asked the son if they should kill him or his mother. The son replied that if that was their thinking, they should better kill them both. Other *Interhamwe* objected. "This woman has nursed us all our lives when we were sick," one explained. "What is the sin for which she must die?" he asked. Mrs. Mukamurigo's defenders prevailed. They took her and her son back to her home. But her home had been destroyed. So they put her up with a kindly Hutu, Mr. Mbonye-Muvunyi, who agreed to shelter them.¹⁹

Nurse Mukamurigo's theory about the

They asked the son if they should kill him or his mother. The son replied that if that was their thinking, they should better kill them both.

The soldiers finally pried away a section of metal roofing directly above the door, and began shooting down at those inside.



Angelique Umurungi, survivor of the recreation room massacres at Rukara parish. Above, Rukara dispensary. Photo: USCR/D. Hawk

recent decision that all the Tutsi at the parish had to be killed may be correct. On Thursday, April 14, when *Interhamwe* returned to renew the attack against the Tutsi in the main church building, they brought with them a larger group of better armed soldiers, reportedly from Mirambi. The soldiers used their rifles to try to shoot through the metal door. A few bullets did penetrate the door, killing those who were holding the door in place from inside. But still the door held. They then tried to cut through the door with an ax. Finally, the metal gave out, and the ax slashed through the door. But those inside grabbed the ax head from inside the door and pulled the ax into the church. They shoved a spear out the slash hole that had been created by the ax, ramming it through one of the surprised attackers. The fighting grew even more desperate.

Soldiers climbed on top of the roof and began shooting down through the roof into the area where the defenders were guarding the door. Now, the soldiers threw many grenades through the windows, and the defenders died in large numbers. The soldiers finally pried away a section of metal roofing directly above the door, and began shooting down at those inside. The people in the church thought that finally they were finished. But the soldiers ran out of

ammunition, having blindly shot so many times into the door and through the roof.²⁰ When the soldiers left around 2:00 p.m., the militia withdrew from the church, as well.

On Friday, the *Interhamwe* mob and the soldiers returned. But now, on Friday, April 15, the sounds of serious warfare between the government army and the RPF were audible at Rukara parish. The *Interhamwe* now asked those inside to open the door and talk. Perhaps surprisingly, after some discussion, the Tutsi agreed to open the door. And while they were talking, other government troops came by to collect the soldiers that were at the parish with the local *Interhamwe* mob so that the army units could flee together to escape before the advancing troops of the RPF. At that point, deserted by the soldiers, the local militiamen threw their remaining stones and spears at the church, and then ran away, too.²¹

The massacre of Tutsi at the Rukara parish was over. When the RPF arrived the next day,²² they found bodies strewn about in front of the church buildings, and inside the various buildings. Many people were still hiding about. Indeed, many of the survivors were reluctant to come out, at first believing that the soldiers were from the government, coming to finish them off. According to the new, RPF-installed Burgmeister for Rukara, Mr. Jean-Pierre Dusingizemungu, they

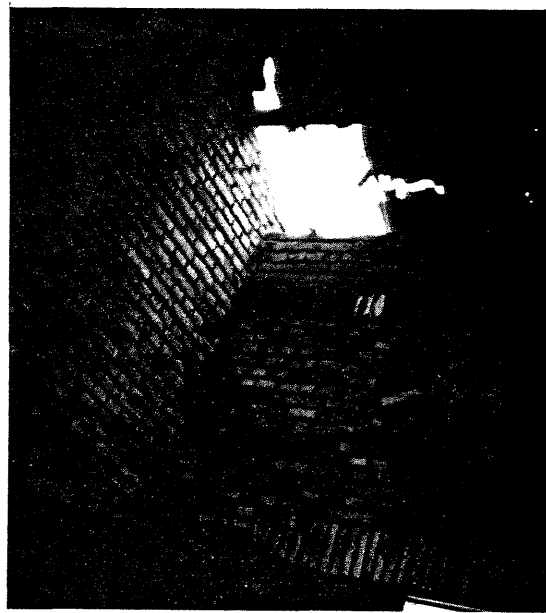
did not have the capacity to prepare graves for the dead, so they brought soldiers from Gahini barracks, gathered the bodies into various piles, and cremated the decomposing corpses.

The survivors interviewed in August-September 1994 speak of two to three thousand deaths at Rukara parish, with only about two hundred survivors, most of whom were among those still left alive inside the main church.²³ Foreign journalists do have additional photographs of the bodies sprawled around the church grounds in late April. It would be possible to interview another score of survivors whose accounts could fill in more details of the events at Rukara parish. It should also be possible to obtain the confirmations of the foreign priests and nuns who were present during the beginning parts of the massacres. One would like even more to interrogate Burgmeister Jean Mpambara, who minimally would have a lot of explaining to do. But the outlines of what happened at Rukara are far beyond doubt. While some killings were done during the night, many were done in broad daylight by killers who knew their victims. There are many survivors who easily and repeatedly can identify far more individual killers than are ever likely to be held responsible for their crimes.

The events at Rukara parish certainly conform to what a leading genocide scholar has recently characterized as the genocidal paradigm:

- *There is a sustained attack, or continuity of attacks, by the perpetrator to physically destroy group members.*
- *The perpetrator is a collective or organized actor or a commander of organized actors. (Genocide is distinguishable from homicide empirically by the fact that it is never an act of a single individual.)*
- *The victims are selected because they are members of a group.*
- *The victims are defenseless or are killed regardless of whether they surrendered or resisted.*
- *The destruction of group members is undertaken with intent to kill and the murder is sanctioned by the perpetrators.²⁴*

The course of events at Rukara parish exemplifies the findings of the UN Security Council's Commission of Experts for Rwanda that "mass exterminations of Tutsis were carried out by Hutu elements in a concerted, planned, systematic, and methodical way."²⁵



At left, the Rukara parish door, with axe gashes, bullet holes, and blood stains. Above, interior of church, where the roof was pried up to allow soldiers to shoot down at those inside.
Photo: USCR/D. Hawk

III. POSTSCRIPT: PROBLEMS OF PREVENTION, REMEDY, AND REDRESS

In 1948, the United Nations promulgated the *Convention on the Prevention and Punishment of the Crime of Genocide*. The Convention was formulated in response to the opinion of the judges at the post-World War II Nuremberg tribunals that terrible crimes against humanity not committed in time of war were not previously illegal under international law. The Genocide Convention defines "acts of genocide" and "crimes of genocide." The Convention requires that signatory States incorporate laws on the prevention and punishment of genocide into their domestic criminal codes. The Convention establishes a potential avenue for the prevention or suppression of genocide, and it posits the legal obligation that those responsible for committing genocide should be brought to justice and punished either in the state in which the crime occurred, or in a competent international penal tribunal.

Non-Prevention and Non-Suppression in Rwanda

Under Article VIII of the Genocide Convention, the procedure for preventing or suppressing genocide is that "Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate."

Even before the urgent need in April 1994 for concerted international action to halt the Rwandan genocide, the situation in Rwanda was already a matter of concern in the UN Security Council, the UN's most "competent organ." The Council had already dispatched peacekeeping forces known as the United Nations Assistance Mission in Rwanda, (UNAMIR) to oversee the implementation of the 1992 internationally brokered "Arusha" peace accord between the Rwandan government and the rebel Rwandan Patriotic Front. (RPF)²⁶

However, rather than building on the established UNAMIR presence to "prevent or suppress" the genocide, the chain of events in Rwanda that accompanied the outbreak of the post-April 6 massacres also led to UNAMIR's²⁷ breakdown and its almost complete withdrawal

from Rwanda.²⁸ Tragically, the fifteen UN Member States on the Security Council failed to redefine, rebuild, or redeploy a UN peacekeeping presence to make a necessary "show of force" that could have saved tens of thousands of lives by deterring government-instigated mobs from carrying out many of the massacres.²⁹

Thus, it was not concerted international action that deterred or suppressed massacres in Rwanda; rather, it was the military victory of the RPF in the renewed warfare after the breakdown of the cease fire and the mass killings by supporters of the old government that followed President Habyarimanas fatal plane crash. The RPF victory led to one of the largest refugee flows ever recorded. Leaders of the defeated government took roughly two million Hutu Rwandans with them into regionally destabilizing exile in neighboring Tanzania and Zaire. Widely televised images of death and disease in refugee camps sparked the massive international humanitarian intervention that had been so tragically absent from the victims and survivors in Rwanda itself. But despite a continuing international presence, the refugees camped in Zaire and Tanzania are controlled by the same political leaders and forces now in those camps who perpetrated the genocide, and who today use the refugees, and the prospect of their repatriation to Rwanda, as a bargaining chip in a quest for amnesty and a return to political power. These factors set the international political context for dealing with the aftermath of the Rwandan genocide.

Breaking the Cycles of Impunity and Deterring Revenge

For literally a generation, from the 1959-60 revolution that brought the Hutu to power and led to the initial, partial expulsion of Tutsi to Uganda, Burundi, and elsewhere, elements of the Hutu majority population, with complete and total impunity, periodically massacred members of the Tutsi minority group who remained in Rwanda. No one was ever brought to justice or punished for these killings. There were no sanctions, or even the idea that there should be sanctions, against such murders. This key factor, cited by UN reports and many Rwandans alike, enabled the Rwandan genocide.

The refugees camped in Zaire and Tanzania are controlled by the same political leaders and forces now in those camps who perpetrated the genocide.

Thus, in April 1994, when a crisis exploded over the unwillingness of the governing Hutu political parties to implement the power-sharing provisions of the Arusha peace accords, and when the decisions were made and implemented to physically eliminate the Tutsi minority group, as such, the killings were done in broad daylight. The killers made no attempt to disguise or hide their identity. These were ethnically motivated murders, not punishments for murder. These were murders sanctioned by state and political authorities, who indeed had gone to great lengths to organize, prepare, and motivate elements of the population to take these actions.

The new Rwandan government argues, with compelling logic and passion, that there is one way to deter future ethnically motivated political killings: end the generation-long pattern of such killings by holding accountable and bringing to justice those responsible for criminal acts under international and Rwandan domestic law. The Rwandan government also argues that only legal action against those responsible for these murders can deter aggrieved Rwandan citizens, including members of the new Rwandan armed forces, from taking the law into their own hands in the form of revenge killings.³⁰

UN officials working to create an international tribunal also emphasize the centrality of establishing the principle of accountability for grave violations of international humanitarian law, including genocide, as a deterrent to future violations. Acts of genocide, war crimes, and crimes against humanity have all been committed since the founding of the UN and the signing of the Genocide Convention. Despite that fact, no international criminal proceedings have occurred since the Nuremberg and Tokyo trials following World War II. The *Convention on the Prevention and Punishment of the Crime of Genocide* has never been used or implemented to bring to justice those responsible for these crimes. Up to the present, in real life, the Convention remains moribund. Thus, the world has no measure of the extent to which international prosecutions would actually deter future political authorities from resolving their internal political difficulties through the attempted destruction of unwanted, despised or problematic ethnic, racial, religious or national groups. On the other hand, the converse is perfectly obvious: the suspension or non-application of legal principles and procedures to hold accountable those who have committed

such crimes is no deterrent whatsoever.

It is hard to imagine a situation where acts of genocide will be so massive, clear, and both legally and politically unambiguous as they were in Rwanda. The international community failed to prevent or suppress the Rwandan genocide while it was going on. If it fails now to hold accountable and bring to justice those responsible for the genocide, the grave ramifications will reach far beyond the situation in Rwanda.

Genocide is an international crime that should, by its own definition, be punished under international law. Beyond that, there are three reasons why it is important for Rwanda that international proceedings be initiated for the crimes committed there, in addition to any criminal proceedings that might take place at the national level in a rebuilt Rwandan judicial system. First, ending the cycles of impunity—without which a genuine process of national reconciliation will be unlikely—requires that the ethnic majority in Rwanda not perceive the punishment of those responsible for the former government's mass murder of ethnic minorities as "victor's justice" or state-sponsored revenge. "World-sanctioned," not "Rwandan-victors" justice will result if an international community tribunal determines that genocide and other terrible crimes were committed and prosecutes those most responsible. By the same token, the new government and the Tutsi minority at the grass roots level need to know that in the eyes of the world and in the conscience of mankind, terrible crimes were committed in Rwanda and that those who committed them will be indicted and prosecuted by an international tribunal.

Second, the former Rwandan government officials most responsible for the genocidal acts and crimes against humanity committed in Rwanda have fled the country and remain outside the territory and jurisdiction of the Rwanda state, beyond the reach of Rwandan law. The countries in which those most responsible now reside will more likely respond to, and cooperate with, an international tribunal convened under the jurisdiction of the UN Security Council, than to Rwandan national courts. Thus, it is more likely that an international tribunal can successfully indict and prosecute those who planned, organized, and ordered the massacres. Operating in isolation, Rwandan law will only reach, and a reconstituted Rwandan justice

"...only legal action against those responsible for these murders can deter aggrieved Rwandan citizens, including members of the new Rwandan armed forces, from taking the law into their own hands..."

Operating in isolation, Rwandan law will only reach...those who did not flee, and those who are at the very bottom of the former government's murderous chain of command.

system will only prosecute, those who did not flee, and those who are at the very bottom of the former government's murderous chain of command: the pathetic small fry--some confessing guilt, some protesting innocence--now under detention in Rwandan jails.

Third, it is probably easier and faster to convene an international tribunal than to rebuild the Rwandan judicial system under prevailing conditions in Rwanda.

Achieving Accountability

Two major impediments hinder efforts to bring to justice those responsible for the Rwandan genocide. First, the international and national courts necessary to initiate legal proceedings do not yet exist and have to be created or re-created. Second, is the sheer number of participants in the killings--as noted above, far more than can possibly be brought fully to justice under any conceivable circumstances. Thus, if, or when, an international criminal tribunal is convened, and if, or when, the Rwandan judicial system is reconstituted and rebuilt, coordinated judgments must be made about priorities for prosecution at both the national and international levels.

Steps Toward Convening an International Tribunal

In contrast to the UN Security Council's floundering inability to prevent, deter, or suppress the Rwandan genocide while the massacres were taking place, the UN Security Council actions most essential for creating an international tribunal for grave violations of international humanitarian law in Rwanda are moving forward. But they are enveloped by other critical and long-overdue UN human rights monitoring efforts in Rwanda that remain mired in intra-UN bureaucratic confusion and delay.

On June 28, a 19-page report³¹ by a UN Commission on Human Rights-appointed "Special Rapporteur," Mr. R. Degni-Segui,³² examined the nature of the human rights violations in Rwanda with specific reference to the provisions of the Genocide Convention. Degni-Segui concluded that acts of genocide had been committed in Rwanda, along with additional violations of human rights conventions that are

"binding on the Rwandan State" and other grave violations of international humanitarian law. The report recommended the establishment of a reinforced team of human rights observers in Rwanda, and that:

Pending the establishment of a permanent international criminal court, the United Nations should establish an ad hoc international tribunal to hear the evidence and judge the guilty parties or, alternatively, should extend the jurisdiction of the international tribunal on war crimes committed in the former Yugoslavia.³³

Only the UN Security Council itself, acting under Chapter 7 of the UN Charter, can establish an international tribunal whose determinations are binding on all UN Member States. Immediately after the Special Rapporteur's Reports were published, on July 1, 1994, the Security Council passed Resolution 935 urging the UN Secretary-General to appoint an impartial Commission of Experts on Rwanda. The action followed a precedent established when the UN created an ad hoc tribunal for the former Yugoslavia. The Commission was charged with examining the facts and legalities of the Rwandan situation, and to provide the Secretary General with its conclusions regarding the evidence and perpetration of grave violations of international humanitarian law, including genocide.

The Secretary-General's Report to the Security Council of July 26,³⁴ which appointed the Expert Commissioners (Mr. Atsu-Koffi Amega, a former President of the Supreme Court of Togo; Mrs. Habi Dieng, a former Attorney General of Guinea; and Mr. Salifu Fomba, a law professor in Mali who is a member of the UN International Law Commission) further mandated the Commission of Experts to review and update information available from all sources, carry out its own investigations in Rwanda, draw its own conclusions on the evidence of violations of international humanitarian law including genocide, and determine whether and to what extent individuals may be held responsible for having committed such violations.

The Commission of Experts convened in Geneva and began its work in mid-August. Its final report is to be submitted by November 30. The Commission of Experts urgently issued a preliminary report on September 29, to facili-

tate earlier Security Council consideration of establishing a tribunal for Rwanda. The Commissioners reviewed a wide variety of reporting, from the Special Rapporteur, UN Member States, UN agencies, other intergovernmental bodies, NGOs,³⁵ and from both sides in the armed conflict. The Commissioners visited Rwanda, Zaire, and Tanzania from late August to mid-September, prior to the September 29 publication of its Preliminary Report.

The 35-page Preliminary Report discussed the "concerted, planned, systematic and methodical nature of the criminal acts," committed by the Rwandan Government soldiers and Hutu militia against the Tutsi of Rwanda.³⁶ (The Commission of Experts Preliminary Report has a one sentence notation of the massacre at Rukara, described in some detail above in this USCR investigation.³⁷) The Report also states that grounds exist for concluding that Tutsi elements committed acts against Hutu individuals that, while not amounting to genocide, included assassinations, summary executions, breaches of international humanitarian law, and crimes against humanity.³⁸ The Commission noted that it had just received reports of Rwanda Patriotic Front violations of the right to life committed during August and September 1994, and that the Secretary General had asked the Commission to further investigate these reports.³⁹

The Preliminary Report devoted eleven pages to an analysis of individual responsibility in international law as applied to the situation in Rwanda: particularly violations of Common Article 3 of the 1949 Geneva Conventions and the 1977 additional Protocol II to the Geneva Conventions relating to violations against the civilian population in time of armed conflict; crimes against humanity; and genocide. Regarding genocide, the Preliminary Report noted that,

The Commission of Experts has determined that there are ample grounds to conclude that every provision laid out in Article III of the Genocide Convention [genocide crimes include the killings themselves; conspiracy to commit genocide; incitement to commit genocide, the attempt to commit genocide, and complicity in genocide] have been violated in Rwanda in the period 6 April to 15 July in respect of a specific ethnic group as such.⁴⁰

The Report considers the relative merits of "municipal" prosecutions, i.e. Rwandan courts for international crimes, versus international prosecutions for international crimes. It finds that international prosecutions are preferable, citing independence, objectivity, and impartiality and the perception (both in Rwanda and abroad) that convictions will have been fairly reached. The Commissioners also stressed that the gravity of the Rwandan violations extend beyond Rwanda, and that as a matter of peace and security affecting the international community as a whole,

the development of international criminal law to better deter such crimes from being perpetrated in the future not only in Rwanda, but anywhere, would be best fostered by international prosecution rather than by domestic courts.⁴¹

The Commission of Experts strongly recommends to the Security Council that it

take all necessary and effective action to ensure that the individuals responsible for the serious violations of human rights in Rwanda during the armed conflict triggered on 6 April 1994 are brought to justice before an independent and impartial international criminal tribunal."⁴²

The Commission of Experts offers three reasons for expanding the competence and jurisdiction of the recently created International Tribunal for the Former Yugoslavia to handle prosecution of Rwandan cases, rather than to create a separate ad hoc tribunal for Rwanda:⁴³ (1) administrative efficiency, (2) the deterrent value of the development of international criminal justice, and (3) the consistency of interpretation and application of international law. On this matter, the Commission of Experts for Rwanda concurs with concerns raised by the United States. From the time of the UN's founding up to just a year ago when the Yugoslav Tribunal was created, the UN had not been able to bring into being an international criminal tribunal as part of the international order. Thus, no experience or precedents exists for determining how to conduct such trials or how to interpret or apply various international laws. If two separate, independent tribunals



were to come into operation simultaneously, a considerable risk exists that different prosecutorial standards and procedures and differing interpretation and applications of international law would result from two unrelated sets of prosecutors and judges.

There are other practical matters. The Commission of Experts for Yugoslavia took nearly two years to figure out the structure and rules of procedure that determine how such a criminal court would work. Appointing judges and finding a chief Prosecutor was another lengthy UN process. But these elements are now in place. The Dutch government has provided court rooms in the Hague and built a prison for the Yugoslav tribunal. A separate tribunal for Rwanda would duplicate these efforts, at considerable time and expense.⁴⁴ Even while the Commission of Experts for Rwanda recommends that the Yugoslav Tribunal, about to get underway in Holland, be expanded to handle Rwandan cases as well, the Commission notes that, even if the legal framework, structure, and personnel of the Yugoslav tribunal are used for Rwanda, the competence and jurisdiction of the tribunal are a different issue from the site where trials could be held. While this would be a matter for the Court itself to decide, if and when the Security Council creates such a tribunal, the Commission of Experts explicitly notes that

*no inconsistency would in any way exist between having cases brought under the jurisdiction of an international criminal tribunal and between having the trials conducted by this tribunal in the territory of Rwanda...."*⁴⁵

A very strong case can be made that some trials should be conducted and verdicts announced in Rwanda. However, reportedly, it may be the case that elements of the new Rwandan government prefer that a completely separate tribunal be brought into being and located entirely within Rwanda.⁴⁶ (Elements of the Rwandan government may also have reservations about the projected time frame for the jurisdiction of an international tribunal. Rwanda continues to sit on the Security Council of the UN, where the decisions on these matters will be made (as the former government did when the UN was stymied in its response to the genocide that was occurring.)

Meanwhile, the Commission of Experts is continuing to investigate the Rwandan violations, in preparation of its final report of November 30. That report will be a much more thorough factual and legal analysis than was possible for the September 29 Preliminary Report. At least a dozen persons seconded to the Commission of Experts from UN Member States are now conducting investigations inside Rwanda.

In early September, as a permanent member of the Security Council, the United States began circulating draft amendments to the Statutes of the Tribunal for the former Yugoslavia (which the Security Council had approved in Resolutions 808 and 827). It also circulated a draft resolution on Rwanda that would enable the international prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda, or by Rwandans in the territory of neighboring States, since April 1, 1994. That resolution would allow the Secretary General to arrange urgently for a prosecutorial staff for the Rwandan cases and to prepare for the election of additional judges. The draft resolution urges Member States and intergovernmental and non-governmental organizations to contribute funds, equipment, and services to the International Tribunal. And the draft resolution would "decide," under the UN's Chapter 7 powers, that States

shall cooperate fully with the International Tribunal...and take any measure necessary under their domestic law to implement the provisions of the present resolution and the Statute.

This important provision fairly mandates the States to which those individuals most responsible for the Rwandan genocide have fled to cooperate with the Tribunal in arresting and extraditing indicted suspects.

If the Security Council does choose to expand the tribunal previously created for Yugoslavia, whose structure and rules of procedure already exists, it is possible to envision how the process would work for Rwanda. The Yugoslav Tribunal has two trial chambers of three judges each, an appeals chamber with five judges, a court staff called the "registry," and a prosecutorial staff headed by a Chief Prosecutor and Deputy Prosecutor that would operate fairly independently of the judges. The U.S. proposal

would add an additional two trial chambers with another three judges each. The UN General Assembly elects the judges based on the candidates suggested by the Security Council. The Prosecutorial staff, the Court Registry, and the Tribunal budget⁴⁷ would be enlarged to handle the tribunal's caseload. Because the Rwandan cases derive from Francophone Africa, geographic balance, regional representation, and appropriate language and legal qualifications would be factors in adding judges and prosecutorial staff. The United States has proposed slight alterations in the Tribunal's legal mandate to ensure that the Courts' handling of war crimes and crimes against humanity take into account the Rwandan situation.

If the mandate of the former Yugoslavia tribunal is expanded, international legal proceedings against the perpetrators of the Rwanda genocide could begin fairly quickly.⁴⁸ Consultations could begin right away between the international Prosecutor's office and Rwandan authorities regarding the priority targets for criminal indictments and the cases of prisoners

presently detained in Rwandan prisons.

More important, the process could begin for indicting those former higher-echelon Rwandan officials who led the massacres, and the highest level political leaders who planned and ordered the killings but who fled Rwanda, and who now reside outside Rwanda's territory and jurisdiction. If the Judges of the International Tribunal concur with the September 29 Report⁴⁹ of the Commission of Experts for Rwanda that not only were acts of genocide committed in Rwanda, but also that provisions prohibiting conspiracy to commit genocide, public incitement to commit genocide, the attempt to commit genocide, and complicity in genocide were all violated as well in Rwanda between April 6 and July 15 in respect to a specific ethnic group, then the international tribunal would be able to indict for "conspiracy" to commit genocide the political leaders who planned the massacres and gave the orders to carry out the massacres. The directors and broadcasters of Radio Mille Collenes, which broadcast admonitions to the public to fill the



The massacre at Gahini. Photo: Father Oswald Rudakemwa

graves, should be indictable for "incitement" to commit genocide. And the leaders of the *Interhamwe* mobs that wielded the machetes and clubs should be indictable for the "attempt" to commit genocide.

The President of the Yugoslav Tribunal has already explained how the indictment process would work.⁵⁰ First, the Chief Prosecutor prepares an indictment. Second, a judge from one of the Trial Chambers confirms the indictment and issues an arrest warrant. (The details of every indictment will be made public). Third, the arrest warrant will be sent to the State in which the accused was last known to be present. (That State is required to notify the Tribunal if it is unable to execute the warrant.) Fourth, if the state fails to execute the warrant promptly, the Tribunal will attempt to inform the accused of the indictment by putting notices in appropriate newspapers. Fifth, if at that point, the accused person still does not come into the custody of the Tribunal, the indictment and all of its supporting evidence will be submitted in full to one of the three judge Trial Chambers. If the Judges determine that a prima facie case exists, an international arrest warrant will be issued to all member states.

The Tribunal is to report to the Security Council if the noncooperation of a Member State hinders an arrest warrant. The Security Council has already prepared the groundwork for possible sanctions against noncooperating

states, which could be important if Zaire, for example, would not cooperate in arresting potentially indicted persons residing in the huge Rwandan refugee camps there.

Thus, while the Tribunal will not conduct trials *in absentia*, international criminalization can occur, in effect, even if the indicted persons cannot be tried. According to the President of the Tribunal:

...the steps we have included, and which we are prepared to implement, will go a long way towards bringing those persons to justice or effectively imprisoning them within the borders of a State which will be regarded as a pariah among nations.⁵¹

Obviously, many steps are necessary to reach this endpoint.

* * *

In reviewing the problems and prospects for the war crimes Tribunal for the former Yugoslavia, Helsinki Watch concluded,

The international community has lacked the will to bring about a cessation of war crimes and crimes against humanity in Croatia and Bosnia; the least it can do is to bring the criminals to justice.⁵²

The same can certainly be said about Rwanda, as well.

Footnotes

¹ See *Exile From Rwanda: Background to an Invasion*, USCR Issue Paper, February 1991. See also, U.S. Committee for Refugees, *Human Rights in Uganda: the Reasons for Refugees*, August 1985; *Human Rights in Uganda: A Season of Hope for its Refugees and Displaced Persons*, 1986. *Refugees in Uganda and Rwanda: The Banyarwanda Tragedy*, 1983.

² Testimony of Jeff Drumtra, Africa Policy Analyst for the U.S. Committee for Refugees, on the "U.S. Response to the Crisis in Rwanda/Central Africa," before the Senate Foreign Relations Subcommittee on African Affairs, July 26, 1994, pp. 12-13.

³ UN Doc. E/CN.4/1995/7, p. 6.

⁴ A "cell" (*cellule* in French) is the basic political administrative unit in Rwanda, roughly equivalent to an American urban precinct or, in rural areas, a village. A "cell" is also called a "hill" because it, literally, is a hill. Due to its

topography, Rwanda is known as the "land of a thousand hills." The Rwandan capital of Kigali is rather like an unbuilt-up San Francisco, an undulating cluster of steep hills.

⁵ Musonera is short (roughly 5' 5") and has a rounded nose. In legend and mythology, and to a lesser extent in reality, the archetypical Tutsi is tall and slender, with an aquiline or long nose, while supposedly Hutu are short, stocky, and with a flat or more rounded nose. In reality, ethnic designation in Rwanda is as much a function of "class" as it is "tribe." Many Rwandans cannot be recognized as either Hutu or Tutsi, which is why the government retained the use of "tribal specific" identity cards.

⁶ Formally, *Impusamugambii* "those who have the same goal," or *Interhamwe*, "those who act together," were the "youth wing" or "militia" of President Habyarimana's political party, the National Revolutionary Movement for Democracy and Development (MRND). They were generally uneducated, unemployed or semi-employed young men, armed by the extremist parties, around a core of

poorly paid local thugs. The normal use of the word "militia" connotes far too much organization, discipline, or training for these young men. *Interhamwe* has also acquired generic usage as a "Tutsi-attacking mob." Throughout this report, the terms "*Interhamwe*," "militia," and "mob" refer to this MRND "youth wing." The *Interhamwe* had two bosses, the Presidential Guard (when they were around) or local political leaders. It is clear from the descriptions of the survivors that the *Interhamwe* functioned like mobs. Ten armed UN soldiers posted as guards at either of these sites could surely have stopped the killing entirely. These vagabond teenagers with machetes and clubs would not have challenged uniformed men with blue hats and guns.

⁷ Survivors interviewed in both of the case studies presented in this report gave several reasons for staying inside the parish grounds and buildings, even when they knew they would be attacked. First, the streets and roads outside were even more dangerous. With or without Tutsi ID cards, they would have surely been killed outside the churches. They cited, as well, their hope for safety in numbers, and thought that their best hope lay in remaining inside the parish property, on holy ground and with foreign priests to protect them.

⁸ See footnote 4.

⁹ The United Nations Assistance Mission in Rwanda (UNAMIR), which had been earlier sent to Rwanda by the UN Security Council to observe the implementation of the Arusha peace accord between the Rwandan government and the rebel force known as the Rwandan Patriotic Front (RPF). Major Ryszard subsequently returned to Poland. This account is from the testimony of Major Maczka, who remains on duty with UNAMIR.

¹⁰ The only discrepancy between Musonera's account and those of the two foreign observers cited here is in the numbers of participants in these events, both with respect to victims and perpetrators.

¹¹ The original negatives were sent back to Poland for processing. The only pictures mailed to Kigali were given to UN human rights officials who took them to Geneva for duplication.

¹² "Commune" is the Rwandan administrative equivalent of a "county" in the United States.

¹³ "Prefecture" is the Rwandan administrative equivalent of a "state" in the United States.

¹⁴ According to Kabarira, this group of militiamen was led by Francois Nyirahuku, a teacher and local president of the extremist CDR party; Mr. Rukundo, headmaster of a local primary school; Paul Mujambere, a carpenter; Mr. Magoro, the *Responsible* of Kinunga cell; Mr. Nkurayiga, an accountant at the Rukara Commune office; and a peasant farmer known as Munyagihe.

¹⁵ USCR did not ask how the survivors actually knew that the militiamen ate steak and roast beef for two days.

The more salient fact is that, after killing eleven and driving off the cattle, the mob did not return for two days to continue the killings.

¹⁶ According to Sister Veneranda, important parishioners who led the *Interhamwe* attacks at the church included: Jean Tpaumbara, Jean Bosco Rukundo, Mr. Ruriburundi, Mr. Ngbonziza, Paul Thujiambere, Francois Nyiraluku, Jean Claud Nkuruyija, Mr. Gasagura, Jean Gihana, and M. Ruabikinza.

¹⁷ A gaping hold on the side of the metal door frame was plainly visible when, after hearing Ms. Umurungi's testimony, the USCR mission made its second visit to Rukara Parish.

¹⁸ Other immediate family members killed at the maternity ward include Berthe Mukaysinga, Odette Musantiwabo, Jean Marie Vjamney Hodari, Liliose Mwentekati, Uwimana, Umutone, Bizimana, Bamuyesi, and Gatesi.

¹⁹ Mr. Mbonye-Muvunyi, nonetheless, fled to Tanzania, along with most of the area Hutu after the RPF took over in Rukara. While he had not killed, his sons had been *Interhamwe*, and he was afraid that the RPF would kill him too, according to Nurse Mukamurigo.

²⁰ After hearing Andrew Kabarira's testimony, the USCR mission returned to the church and witnessed the bullet holes in the roof, the ripped off sheet roofing, and the gash in the metal door.

²¹ Some of them may not have gotten too far. Just after the RPF takeover at Rukara, when foreign journalists (including a Kampala-based, free-lance journalist who has written a number of reports for USCR) came to the parish, among the dead bodies strewn about the parish was a noticeable pile of short young men whose arms had been tied behind their backs. None of the Tutsi survivors at Rukara interviewed by USCR in August-September described killings in that fashion.

²² When the killings in Rukara began, nine days earlier, according to the new RPF leaders for Rukara commune, the RPF troops were more than one hundred kilometers away.

²³ Without identifying its source of information, the September 29 Preliminary Report of the UN Commission of Experts cites the massacre of 500 Tutsi at the Catholic mission at Rukara (para. 63, p. 15). All of the Rukara survivors USCR interviewed (independently of each other) mentioned either two or three thousand deaths.

²⁴ Helen Fein, "Discriminating Genocide from War Crimes," *Denver Journal of International Law and Policy*, Vol. 22, No. 1, Fall 1993.

²⁵ Preliminary Report of the Independent Commission of Experts Established in Accordance with Security Council Resolution 935, September 29, 1994, p. 10.

²⁶ See U.S. Committee for Refugees Issue Paper, "Exile from Rwanda: Background to an Invasion," February 1991.



²⁷ Caused in large part by the withdrawal of the Belgian contingent following the deaths of ten Belgian peacekeepers who were with Prime Minister Agathe Uwilingiyimana, who had been deliberately and personally targeted for immediate execution--a situation that differed substantially from the mass killings of ethnic minority group by the poorly armed government-organized mobs that followed for the next several weeks.

²⁸ Ironically, one of the difficulties was that, at the same time, the Rwandan government, which was committing the genocide, was itself one of the revolving, nonpermanent members of the Security Council, and continued to participate in UN deliberations over what to do about Rwanda. Another difficulty was the initial misperceptions in some UN policy circles that what was happening was communal violence resulting from an explosion of ancient tribal hatreds, rather than a governmentally planned and directed mass murder designed to retain political power. Another complicating factor, given present U.S. predominance in the Security Council, was the coincidental arrival at the UN of the Presidential Decision 25, a well-considered U.S. (Somalia experience-driven) policy memoranda designed to bring about better, more careful, long-term planning for more effective UN peacekeeping operations, but which arrived at the very moment when what was even more efficacious was decisive action in the face of messy, fast-moving events in Rwanda.

²⁹ Unlike other peacekeeping operations elsewhere, in Rwanda, the UN peacekeeping troops were not themselves targeted. The few instances where a handful of the remaining UNAMIR forces did maintain a presence at sites where large numbers of Tutsi had sought refuge, the militia backed off and did not attack.

³⁰ The new government is arresting some Tutsi who have engaged in revenge killings by private citizens. One such person was interviewed in Kibungo by the USCR mission. There are also now additional allegations of revenge killings by RPF forces. (The USCR mission saw imprisoned RPF soldiers, but did not learn what they are charged with.)

³¹ UN Doc. #E/CN. 4/1995/7. Excerpts from this report were published as a News Bulletin by USCR on July 12, 1994.

³² The Commission on Human Rights is a Geneva-based UN political body, comprised of 53 UN Member States, which reports to the Economic and Social Council, a subsidiary body of the UN General Assembly. The staff Secretariat of the Commission, the UN Human Rights Center, and its agents (generally referred to as "Special Rapporteurs" or "Special Representatives") can only conduct investigations of, or prepare reports about, human rights violations when explicitly enabled so to do by a resolution of the Commission, passed by a majority of its members voting under instructions of their respective governments. Normally, the Commission meets for only six weeks a year in February-March. To obtain the necessary mandate for the UN investigation a special session of the Human Rights Commission, its third ever, was convened on May 25.

³³ Paragraph 75, page 19.

³⁴ UN Doc. S/1994/879

³⁵ Including the U.S. Committee for Refugees.

³⁶ Item B, pages 10-17.

³⁷ Paragraph 63, page 15.

³⁸ Paragraph 82, page 17.

³⁹ Paragraph 83, pages 17-18.

⁴⁰ Paragraph 115, page 28. Also Paragraphs 137-139, page 34.

⁴¹ Paragraph 129, page 32.

⁴² Paragraph 141, page 34.

⁴³ Pages 31-32.

⁴⁴ It is also very much on the minds of UN legal officials that the expansion of the competence of the Yugoslavia tribunal is a large step toward the Security Council creating a possible ongoing international tribunal with vastly wider jurisdiction than would likely be accomplished through the process of creating a permanent international tribunal through the treaty ratification by UN Member States, a process that would allow many States to severely restrict and delimit the jurisdiction of any such tribunal.

⁴⁵ Paragraph 126, page 31.

⁴⁶ See *New York Times*, October 7, Page 19.

⁴⁷ Importantly, nongovernmental organizations are explicitly enabled to submit evidence to the Prosecutors. NGOs can be called upon to testify. NGOs can also submit *amicus curiae* briefs to the Court at the Trial and appeal stages.

⁴⁸ The International Tribunal would be funded, upon approval of the budget by the General Assembly, as an integral part of the UN system.

⁴⁹ Op.Cit., paragraphs 114 and 115, p. 28.

⁵⁰ "Statement by the President Made at a Briefing to Members of Diplomatic Missions," International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, February 11, 1994, The Hague, Netherlands, UN Doc. IT/29, p. 8.

⁵¹ Ibid., p. 9.

⁵² Jeri Laber and Ivana Nizich, "The War Crimes Tribunal for the Former Yugoslavia: Problems and Prospects," *Fletcher Forum of World Affairs*, Vol. 18, No. 2, Summer/Fall 1994, p. 16.

