

XXV

TECMUN Jr.

International Criminal
Tribunal for Rwanda

“Cuando pones la proa visionaria hacia una estrella y tiendes el ala hacia tal excelsitud inasible, llevas en ti el resorte misterioso de un ideal. Custódiala; si la dejas apagar no se reenciende jamás. Y si ella muere en ti quedarás inerte; frío. Solo vives por esa partícula de ensueño que se sobrepone a lo real y que te hace sentir vivo”.

José Ingenieros, *El hombre mediocre*, Buenos Aires, 1913.

Delegados, embajadores, jueces, ministros, fiscales y compañeros:

Dentro del cosmos de la modernidad, entre las corrientes de la paz y el conflicto, yacen miles de hombres como tú y como yo, hambrientos de cambio, deleitados con la ficción irrisoria de un mañana distinto. Nuestra realidad es fruto de los sueños de los visionarios de antaño y nuestros ideales son las líquidas y abstractas partículas que cristalizarán la realidad de los hombres del futuro. No es hasta que reflexionamos acerca de la naturaleza de este proceso de transición que valoramos las verdaderas implicaciones de nuestras acciones.

No somos más que individuos aislados entre la masa social, sin embargo, no es esta individualidad lo que genera el cambio, por el contrario, las ideas son la fuerza motriz que marca la senda de las revoluciones; son las ideas aquellas que impulsan la materialización del cambio. No obstante, si demeritásemos el valor de la potencia personal, nos encontraríamos con la nada, pues, no existe revolución que haya sido emprendida sin conciencia individual. Es esta suma de unidades lo que empodera la raza humana y nos aproxima a la evolución perpetua.

TECMUN es el crisol que funde las perspectivas personales en una gran razón colectiva. Es aquella entidad viva que congrega a visionarios aislados en una red de sueños, esperanzas y acciones. Hago un llamado categórico hacia todos ustedes, exigiéndoles que jamás dejen morir sus ideales, pues la decadencia del deseo contrae el desgarramiento del cambio, que conducirá a la muerte de nuestro espíritu y, al cabo, a la muerte perpetua e irreversible de nosotros mismos.

Delegados, nosotros hacemos la diferencia. Vivamos con unidad, conciencia e ideales.

Kevin Zamora González

Secretario General

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Delegados, embajadores, jueces, ministros, fiscales y compañeros:

El lenguaje en México, el tejer redes complejas de ideas, debería ser lugar tanto de acuerdo como de disenso. En un país inundado por el silencio, ¿qué prosigue? Es sencillo: el silencio puede ser chispa y llama. Cuando el eco que este provoca se hace tan intenso que nos ahoga, reaccionamos. A lo largo de la historia, hemos formado un círculo de víctimas y victimarios en México. Desgraciadamente, México suele ser la víctima. Mi México el vencido, al que le duele, el que llora y sangra, pero ni así responde. ¿Es esta razón para desistir de intentar cambiarlo? No. ¿Es esta razón para volverse victimario? Tampoco. Esas son dos grandes lecciones.

Recientemente, tras una serie de cambios estructurales, después de hacer y deshacer durante años, de tirar todo y empezar desde cero, podemos decir que el mexicano es mejor deshaciendo que haciendo. Empero, esto no es algo intrínsecamente malo —en el desorden también hay un orden y un nuevo desorden nos debería guiar a un mejor orden. Esa es la gran peculiaridad de México, o de menos, la que he observado: incluso cuando todo va mal, cuando se está cayendo el país (literal o metafóricamente), intentamos ordenarlo. Vamos, nos organizamos, ayudamos y todo regresa a la normalidad. Sin embargo, este fenómeno no es necesariamente bueno debido a otra gran característica: los mexicanos tendemos a olvidar. Cuando contamos con minutos de paz, no pensamos, ni nos cuestionamos cómo fue que los obtuvimos. Somos hedonistas al por mayor —preferimos simplemente disfrutar del placer que nos brinda el bienestar. Eso no es incorrecto, no importa regocijarte ante algo. El problema reside en solo vivir el momento, sin reflexionar antes el pasado o el futuro. Por eso te propongo, tú que estás ahí (idealmente escuchando, leyendo) usar el lenguaje, tu discurso, como espacio de disenso. Cuestionate tu entorno, el porqué de las cosas. Sí, busca el orden dentro de nuestro sublime desorden. Participa. Lee. Sé. Modifica tu actitud conforme a lo que vayas descubriendo. No obstante, si no lo harás, da espacio a los que sí, porque los que ya nos cansamos de los ciclos en México, de la injusticia, de que todo y nada pase somos más. Ya basta de que el silencio en México duela, hay que regresarle su voz a las víctimas. Tú, yo, nosotros que sí podemos hablar: unámonos en la otredad. Ese dolor que alguien más siente, hazlo tuyo y habla por él, sé por él y lucha por él. *Bajo la lluvia / que me quema la piel / s e r é. En el agua herida: / n o s o t r o s / s e r e m o s.*

Daniela Rivera Guerrero
Subsecretaria de las Agencias Especializadas y Organismos Regionales
XXV TECMUN Jr.

Delegates, Ministers, Ambassadors, Judges and Partners:

We are always told that the future of the world is in our hands, and that we are the ones who are going to make a change. That may sound really far away from the present, but actually, it is closer than it appears. We are already making changes, our generation has shown to have a huge influence on the society. That's why we have to be conscious of what we do, and what we want for our world.

We have to see the whole picture. We live in a world of which we have abused. Our lack of tolerance has made us forget what respect is, and has shown the worst of us. We have forgotten that despite everything, we are all humans and we are equals.

To be honest, I am constantly scared. I am scared of the world, and in what we have turned it into, but I know, that fear is not going to make the change; we are. Because, despite all the harm we have made to the world, we have also shown that we can join to make a change, to support us and to get up even when we have fallen to the deepest. We have shown that we still have what makes us humans and that we can still make a change for good.

I know that just ideas are not what makes the change, but everything starts with them. I firmly believe that we have the capacity to make the change that we need. From now on, every action and decision you make is going to determine your path, and is also going to determine who you will be for the world.

I really want to encourage you to express yourself, and to never be afraid of your ideas and thoughts, because as I previously mention, fear is not going to make a change. So, leave fear behind, and start raising your voice to world.

Mirka Fuentes Ojeda

President of the International Criminal Tribunal for Rwanda

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Outline of the International Criminal Tribunal for Rwanda

The International Criminal Tribunal for Rwanda (ICTR) was established by the United Nations Security Council Resolution 955 on November 1994. Upon the request of the reports of the Special Rapporteur for Rwanda of the United Nations Commission on Human Rights and the Government of Rwanda. The main purpose of this tribunal is to “prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring States, between 1 January 1994 and 31 December 1994”

The ICTR Judges have the responsibility of determining the guilt or innocence of those accused. Life imprisonment is the maximum sentence than can be imposed by the Chambers on an accused. The Tribunal consists of three organs. The Chambers, including the Appeals Chamber, is headed by the President. The Office of The Prosecutor is headed by the Prosecutor. The Registry is headed by the Registrar. The Division of Administrative Support Services is under the Registry, and as the name depicts, it serves as the supporting body to the three Organs by providing administrative support.

Topic A

The prosecution against Tharcisse Renzaho for genocide, crimes against humanity and serious violations of Common Article 3 of the *Geneva Conventions* and *Additional Protocol II* committed in Rwanda

Outline

Between April and June 1994, there was a genocide in Rwanda caused by the conflict between two ethnic groups; the Tutsis and the Hutus.

There have always been disagreements between the majority Hutus and minority Tutsis, and the friction between them has been growing a lot since the colonial period.

The civil war broke in Rwanda in 1990, when Rwandan exiles formed a group called the Rwandan Patriotic Front (RPF) and launched an offensive against Rwanda from their home base in Uganda. The RPF was comprised mostly by Tutsis; these blamed the government of failing to address the Tutsi refugees. The Tutsis were allies of the RPF and the opposite part, the Hutus, were deemed traitors. This created even more tension between the two ethnic groups.

The genocide was sparked by the death of the Rwandan President, Juvenal Habyarimana, a Hutu, when his plane was shot down above Kigali airport on 6 April 1994.

In just a matter of hours, Hutu rebels surrounded the capital and took over the streets of Kigali. Within a day, the Hutus had successfully eliminated Rwanda's moderate leadership. As the weeks progressed, Tutsis and anyone suspected of having any ties to a Tutsi, were killed.

Over the course of the 100 days, the RPF began to make gains on both the battlefield and in the negotiations led by Tanzania. By early July, the RPF had control of the majority of the country. Fearing reprisal killings, hundreds of thousands of Hutus fled the country.

The Genocide

In the 19th century, Rwanda was colonized by Germany and Belgium, since then the disputes between Tutsis and Hutus had been in a growing wave, based in the before kingdom time when Tutsis were considered as a higher step in Rwandans community; therefore the inner conflict had been build up as a result of it and the maintenance of it including the regulations enjoined by the new government. During the kingdom, ethnically Tutsis formed into a hierarchy dominated by the *Mwami* (King) whom asked to be paid a tribute from all Rwanda ending up in promoting hatred against Tutsis. In 1990 the civil war finally broke out in Rwanda; the civil war began when the Rwandan Patriotic Front (RPF) was formed due to the

nonconformity of Tutsis exile from the country. On the night of 6 April 1994 a plane carrying the president Juvenal Habyarimana, and his counterpart Cyprien Ntarymanira of Burundi, both Hutus, was shot down killing everyone on board. Hutu extremists blamed the RPF and immediately started a campaign of slaughter.

Lists of government opponents were handed out to militias who will kill them, along with their families. As ID cards had people's ethnic group on them, militias set up roadblocks where Tutsis were identified and killed; thousands of Tutsi women were taken away and kept as sexual slaves. Radio stations were set up and newspaper which broadcast hate propaganda, urging people to "weed out the cockroaches" meaning kill the Tutsis. The then governing party, MRND, had a youth wing called the Interahamwe, which was turned into a militia to carry out the slaughter, to them were handed out weapons and hit list that afterwards were delivered to local groups, who knew exactly where to find their targets. During this time, amongst 1994, in just 100 days some 800,000 people were slaughtered.

The UN and Belgium had forces in Rwanda but the UN mission was not given mandate to stop the killing, finally the RPF, backed by Uganda's army, the 4th of July marched into the capital.

Rwanda's situation

Rwanda was divided in an 1890 conference in Brussels; Rwanda and Burundi was given as a colonial spheres of interest to the German Empire, in exchange of renouncing all claims on Uganda.

After World War II, there was an emancipation movement from the Hutus; this was brought about the increasing resentment of the inter-war social reforms, also for the sympathy within the Catholic Church. The missionaries found responsibility for empowering the unprivileged Hutu unlike the Tutsi. This started a formation of a Hutu clergy that gave a counterweight to the political order. The Tutsi sensed the growing influence of the Hutu and started to look for immediate independence. In 1957 was wrote the Bahutu Manifesto, which was the first document to name Hutu and Tutsi as different races. Since then there has been tension and minor conflicts between the two ethnic groups, which began to grow up as the revolution progressed.

As it has been seen among Rwanda's History, genocide was given by a certain group of causes; destroy an undesired minority, every Tutsi in Rwanda was accused of being part of the invading rebel army. Exterminating this "enemy within" was therefore framed as a justifiable act of self-defence (Bartrop 2002: 526).

Economic crisis, victims were portrayed as wealthy and as willing to take advantage of Hutus, basing these in the history of the country in which Tutsis had always been in a higher social position along with accusations of bringing the economic crisis in the 1980s, a crisis that had been brought about by plummeting coffee prices, in order for power and dominance to be restored (Hintjens 1999: 256). In hardship it has been shown that belonging to an in group gives security, in Rwanda's specific case the militia group, was called interahamwe, which translates to "those who fight together" (Hintjens 1999: 257).

Rwandan Patriotic Front

The Rwandan Patriotic Front (hereby referred RPF) is a political party in Rwanda. It was founded in 1987 in Uganda. It was founded by Tutsis who had contributed to the overthrow of the Milton Obote dictatorship. The main objective of this party was to overthrow the Hutu government in Rwanda.

On 1 October 1990 the RPF invaded Rwanda, this event started the Rwandan Civil War. The Rwandan Army was receiving help from Belgium, France and Zaire and rapidly they forced the RPF to return back to Uganda.

After the President Juvénal Habyarimana's plane was shot down on 6 April 1994, the RPF blamed the Hutu extremists of the government for the attack, and the government blamed the RPF. The genocide started immediately after this event. The RPF took control of the country by breaking down the social order, cutting off the government's supply routes, which gave the RPF a major advantage. The Rwandan Patriotic Front ended the genocide by defeating the civilian and military forces responsible of the killings and capturing Kigali on 4 July and the rest of the country on 18 July.

In their drive for military victory, the RPF troops killed thousands, including noncombatants, government troops and members of militia. They also killed civilians in numerous executions and massacres. The killings from the RPF rarely involved civilian

participation, they were mostly soldiers who were part of a highly disciplined military organization.

International Criminal Tribunal for Rwanda on the Case

On September 29 2002, Tharcisse Renzaho was arrested in the Democratic Republic of Congo and handed over to the International Criminal Tribunal for Rwanda (ICTR).

The first preliminary indictment against him was presented by the ICTR's prosecutor on November 11 2002, in which he was charged with three counts of indictment:

- Genocide.
- Complicity to commit genocide
- Murder as a crime against humanity.

On November 21 2002, at his initial court appearance, Tharcisse Renzaho was pleaded not guilty.

On 18 March 2005, the Second Trial Chamber of the ICTR granted the demand of the Prosecutor aimed for adjusting the preliminary indictment in perspective of the advancements in case law and the disclosure of new components which were not accessible at the time the underlying prosecution was set up.

The Prosecutor changed the arraignment by including three new checks:

- Rape as a crime against humanity
- Violence to life, wellbeing and physical or mental prosperity of people specifically for murder in addition to cruel treatment such as torture, mutilations or all types of corporal savagery as an infringement of Article 3 regular to the Geneva Conventions and of Additional Convention II
- Outrages upon personal dignity specifically mortifying and humiliating treatment such as torture, rape, forced prostitution and all types of indecent assault as an infringement of Article 3 common to the Geneva Conventions and of Additional Protocol II.

On 3 June 2005, at his second appearance before the Second Trial Assembly of the ICTR, Tharcisse Renzaho argued not blameworthy regarding the totality of the above charges. His trial began on 8 January 2007.

Article 3 Common to the Geneva Conventions and Additional Protocol II

The Geneva Conventions and their Additional Protocols are at the center of international humanitarian law, the body of international law that regulates the conduct of armed conflicts. It protects people who are not taking part but are involved in the hostilities (civilians, health workers and aid workers) and those who were part of the hostilities but are no longer involved on them, such as wounded, sick and shipwrecked soldiers and prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all crimes.

The Common Article 3 of The Geneva Conventions and their Additional Protocols protects War Victims. It exhorts the High Contracting Parties to give persons that are not taking part in the hostilities, including members of armed forces who have laid down their arms by detention, wounds, or any other cause, a humanely treat, without any discrimination of race, colour, religion or faith, sex, birth, or any other criteria. It protects the War Victims from any kind of violence, outrages upon personal, dignity or any other unfair treatment.

Currently Accused

- *Tharcisse Renzaho*

Tharcisse Renzaho, was a rwandan soldier and politician. He was born in 1944 in the Gaceta sector of the Kigarama commune, in the Rwandan prefecture of Kibungo. He was educated as a military engineer in various military academies in Germany, France and Belgium. In 1990 he took up politics, as an ethnic Hutu, he was member of Juvénal Habyarimana's dominant MRND party. He was appointed préfet of the prefecture of Kigali City, also, held the position of President of the Civil Defence Committee for Kigali City and with his position as Colonel in the Rwandan Armed Forces (FAR), Renzaho was a senior officer who wielded control over the armed forces placed under his command.

From the 7 April 1994 onwards, Tharcisse Renzaho was said to have given out orders during meetings which were directed at the military, gendarmes, militias, local citizens and

demobilised soldiers, requiring them to set up and man roadblocks with the intent of intercepting, identifying and then killing Tutsis, these orders were also broadcast by air over Radio Rwanda.

Towards 9 April 1994 in Kanombe, Tutsi's houses were burnt down by the Interahamwe militias, killing them in the name of Tharcisse Renzaho, who, despite his position as high level civil servant, reportedly did not put up any opposition.

By April 30, 1994, it was said that Renzaho had taken the decision to dismiss the councilmen of the sector Jean-Baptiste Rudasingwa and Celestin Sezibera, who opposed the assassination of the Tutsis and were subsequently replaced by councilors in favor of the massacres.

Crimes submitted

- *Genocide*
- *Count I and II: Ordering, Acknowledge and Complicity - Article 2 (3)(a) and (e)*
- *Crimes against humanity*
- *Count III: Murder - Article 3 (a)*
- *Count IV: Rape - Article 3 (g)*
- *Serious violations of the Article 3 common to the Geneva Convention and Additional Protocol II*
- *Count V: Murder - Article 4 (a)*
- *Count VI: Rape - Article 4 (e)*

Conclusion

More than 1,000,000 people were massacred by Hutu extremists in the Rwandan territory from April to July 1994. This conflict is one of the heaviest moments in history, and the quickest killing spree ever. Unlike other conflicts, the Rwandan genocide was outspread in front of the eyes of national media, which covered the events live from Rwanda. In a really short time, all the world was aware of Rwanda's conflict and situation.

The conflicts and tensions between Hutu and Tutsi, two ethnic groups from the same country, were increasing with every attack until the exiles number grew and ended in the

civil war, the beginning of the genocide. Even though being 1990 Rwanda as a country which did not had an important part in the international community, didn't receive the help it should have during the genocide.

Against this, UN did help the country with the social, economical and political crisis it had sunk down, it created the International Criminal Tribunal for Rwanda and also implement programs like The Outreach Programme on the Rwanda Genocide and the United Nations and information and educational programme run by the United Nations Department of Public Information.

Within the ICTR the chief leaders responsible for provoking the genocide were judged, among them was Tharcisse Renzaho, whom was responsible for encouraging, using his position as a colonel, Rwanda's citizens in committing the murders and threatening those ones who refused to do it.

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Glossary

C

Counterweight: A weight that balances or equilibrates another force

Clergy: The body of religious activities of a particular group of believers, emphasizing Christian Church.

D

Deemed: Regard, judge or consider something in a specified or particular way.

Dismiss: To officially close a court case. To refuse, consider, or accept a statement.

Disclosure: The act of making a secret or new information known.

Demobilised: To release troops or someone from active military service or the cease military operations.

E

Ethnic: Human community link by racial, linguistic, and cultural features. Relative to a population, nation, cultural group or subculture with common cultural traditions.

G

Genocide: An indiscriminate massacre of a certain population in an inhumane, brutal and cruel process for political, social or religious reasons.

Gendarmes: A paramilitary police in French-speaking countries.

H

Hierarchy: A system in which members are organized according to their relative status or authority.

Hutu: Bantu ethnic group which forms the majority of the population in Rwanda mostly formed by farmers, however they were historically dominated by the Tutsi people and have been in conflict with them leading to a large scale of ethnic violence since 1994.

I

Interahamwe: A “Hutu” military group created by the National Republican Movement for Democracy and Development (MRND), on Rwanda's civil war in 1991.

Indictment: A system, situation or person that deserves to be condemned or criticise for its bad decisions.

M

Maintenance: The act of interfering in a suit illegally, in order to help a certain party.

N

Portrayed: The Depiction, representation, recreation or description of someone or something in an artistic work or literature.

Pleaded: Present and argue of position , especially in court or in another public context. State formally in court whether one is blameworthy or not blameworthy of the offence with which one is charged. Invoke a reason or a point of law as an accusation or defence.

Plummeting: Collapse down at high speed.

Préfet: The chief administrative officer of a department of France.

R

Roadblocks: When an authority barrier or barricade on a road in order to stop the traffic from going through it.

S

Shipwrecked: The destruction of a ship at sea specially by sinking or breaking up.

Slaughter: A crime in which occurs mass murderer in a cruelly and unfair way .

T

Tharcisse Renzaho: Tharcisse Renzaho was a Rwandan military and politician, appointed préfet of the prefecture of Kigali City, and Colonel in the Rwandan Armed Forces (FAR), who was said to have given out orders during meetings, requiring many armed Hutus to set up and man roadblocks with the intent of killing Tutsis.

Tutsi: Ethnic minority of the population of Rwanda, who dominated the Hutu majority, which created a cycle of violence between the two cultures.

W

Wielded: To use and hold a weapon, tool, power or influence.

Guiding Questions

1. What are the charges Tharcisse Renzaho was given by the International Criminal Tribunal for Rwanda?
2. How was the International Criminal Tribunal for Rwanda formed and why?
3. What is the Rwandan Patriotic Front?
4. What does the *Statute of the International Criminal Tribunal for Rwanda* states about violations of *Article 3* common to the *Geneva Conventions* and of *Additional Protocol II*?

Topic B

The prosecution against Ephrem Setako for genocide, crimes against humanity and war crimes committed in Rwanda

By: Mirka Fuentes Ojeda and Daniela Rodríguez Ventura.

Outline

Between April and June 1994, there was a genocide in Rwanda caused by the conflict between two ethnic groups; the Tutsis and the Hutus.

There have always been disagreements between the majority Hutus and minority Tutsis, and the friction between them has been growing a lot since the colonial period.

The civil war broke in Rwanda in 1990, when Rwandan exiles formed a group called the Rwandan Patriotic Front (RPF) and launched an offensive against Rwanda from their home base in Uganda. The RPF was comprised mostly by Tutsis; these blamed the government of failing to address the Tutsi refugees. The Tutsis were allies of the RPF and the opposite part, the Hutus, were deemed traitors. This created even more tension between the two ethnic groups.

The genocide was sparked by the death of the Rwandan President, Juvenal Habyarimana, a Hutu, when his plane was shot down above Kigali airport on 6 April 1994.

In just a matter of hours, Hutu rebels surrounded the capital and took over the streets of Kigali. Within a day, the Hutus had successfully eliminated Rwanda's moderate leadership. As the weeks progressed, Tutsis and anyone suspected of having any ties to a Tutsi, were killed.

Over the course of the 100 days, the RPF began to make gains on both the battlefield and in the negotiations led by Tanzania. By early July, the RPF had control of the majority of the country. Fearing reprisal killings, hundreds of thousands of Hutus fled the country.

The Genocide

In the 19th century, Rwanda was colonized by Germany and Belgium, since then the disputes between Tutsis and Hutus had been in a growing wave, based in the before kingdom time when Tutsis were considered as a higher step in Rwandans community; therefore the inner conflict had been build up as a result of it and the maintenance of it including the regulations enjoined by the new government. During the kingdom, ethnically Tutsis formed into a hierarchy dominated by the *Mwami* (King) whom asked to be paid a tribute from all Rwanda ending up in promoting hatred against Tutsis. In 1990 the civil war finally broke out in Rwanda; the civil war began when the Rwandan Patriotic Front (RPF) was formed due to the

nonconformity of Tutsis exile from the country. On the night of 6 April 1994 a plane carrying the president Juvenal Habyarimana, and his counterpart Cyprien Ntarymanira of Burundi, both Hutus, was shot down killing everyone on board. Hutu extremists blamed the RPF and immediately started a campaign of slaughter.

Lists of government opponents were handed out to militias who will kill them, along with their families. As ID cards had people's ethnic group on them, militias set up roadblocks where Tutsis were identified and killed; thousands of Tutsi women were taken away and kept as sexual slaves. Radio stations were set up and newspaper which broadcast hate propaganda, urging people to "weed out the cockroaches" meaning kill the Tutsis. The then governing party, MRND, had a youth wing called the Interahamwe, which was turned into a militia to carry out the slaughter, to them were handed out weapons and hit list that afterwards were delivered to local groups, who knew exactly where to find their targets. During this time, amongst 1994, in just 100 days some 800,000 people were slaughtered.

The UN and Belgium had forces in Rwanda but the UN mission was not given mandate to stop the killing, finally the RPF, backed by Uganda's army, the 4th of July marched into the capital.

Rwanda's situation

Rwanda was divided in an 1890 conference in Brussels; Rwanda and Burundi was given as a colonial spheres of interest to the German Empire, in exchange of renouncing all claims on Uganda.

After World War II, there was an emancipation movement from the Hutus; this was brought about the increasing resentment of the inter-war social reforms, also for the sympathy within the Catholic Church. The missionaries found responsibility for empowering the unprivileged Hutu unlike the Tutsi. This started a formation of a Hutu clergy that gave a counterweight to the political order. The Tutsi sensed the growing influence of the Hutu and started to look for immediate independence. In 1957 was wrote the Bahutu Manifesto, which was the first document to name Hutu and Tutsi as different races. Since then there has been tension and minor conflicts between the two ethnic groups, which began to grow up as the revolution progressed.

As it has been seen among Rwanda's History, genocide was given by a certain group of causes; destroy an undesired minority, every Tutsi in Rwanda was accused of being part of the invading rebel army. Exterminating this "enemy within" was therefore framed as a justifiable act of self-defence (Bartrop 2002: 526).

Economic crisis, victims were portrayed as wealthy and as willing to take advantage of Hutus, basing these in the history of the country in which Tutsis had always been in a higher social position along with accusations of bringing the economic crisis in the 1980s, a crisis that had been brought about by plummeting coffee prices, in order for power and dominance to be restored (Hintjens 1999: 256). In hardship it has been shown that belonging to an in group gives security, in Rwanda's specific case the militia group, was called interahamwe, which translates to "those who fight together" (Hintjens 1999: 257).

Rwandan Patriotic Front

The Rwandan Patriotic Front (hereby referred RPF) is a political party in Rwanda. It was founded in 1987 in Uganda. It was founded by Tutsis who had contributed to the overthrow of the Milton Obote dictatorship. The main objective of this party was to overthrow the Hutu government in Rwanda.

On 1 October 1990 the RPF invaded Rwanda, this event started the Rwandan Civil War. The Rwandan Army was receiving help from Belgium, France and Zaire and rapidly they forced the RPF to return back to Uganda.

After the President Juvénal Habyarimana's plane was shot down on 6 April 1994, the RPF blamed the Hutu extremists of the government for the attack, and the government blamed the RPF. The genocide started immediately after this event. The RPF took control of the country by breaking down the social order, cutting off the government's supply routes, which gave the RPF a major advantage. The Rwandan Patriotic Front ended the genocide by defeating the civilian and military forces responsible of the killings and capturing Kigali on 4 July and the rest of the country on 18 July.

In their drive for military victory, the RPF troops killed thousands, including noncombatants, government troops and members of militia. They also killed civilians in numerous executions and massacres. The killings from the RPF rarely involved civilian

participation, they were mostly soldiers who were part of a highly disciplined military organization.

International Criminal Tribunal for Rwanda on the Case

On 25 February 2004 Ephrem Setako was arrested in The Netherlands and transferred to the United Nations Detention Facility on 17 November 2004.

On 23 June 2008 Indictment, the prosecutor of the ICTR pursuant to his authority under Article 17 of the Statute of the International Criminal Tribunal for Rwanda presented six counts of charges against him:

- Genocide
- Complicity in Genocide
- Murder
- Extermination
- Violence to life, health and physical or mental well-being of persons
- Pillage

Those were counts of crimes against humanity, war crimes and violation to the Article 3 Common to the Geneva Conventions and Additional Protocol II.

The Trial opened the 25 August 2008, with two counts of genocide, two counts of war crimes and two counts of crimes against humanity against Setako.

Article 3 Common to the Geneva Conventions and Additional Protocol II

The Geneva Conventions and their Additional Protocols are at the center of international humanitarian law, the body of international law that regulates the conduct of armed conflicts. It protects people who are not taking part but are involved in the hostilities (civilians, health workers and aid workers) and those who were part of the hostilities but are no longer involved on them , such as wounded, sick and shipwrecked soldiers and prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all crimes.

The Common Article 3 of The Geneva Conventions and their Additional Protocols protects War Victims. It exhorts the High Contracting Parties to give persons that are not taking part in the hostilities, including members of armed forces who have laid down their arms by detention, wounds, or any other cause, a humanely treat, without any discrimination of race, colour, religion or faith, sex, birth, or any other criteria. It protects the War Victims from any kind of violence, outrages upon personal, dignity or any other unfair treatment.

Currently Accused

- *Ephrem Setako*

Ephrem Setako was born in May 1949. He graduated from the École d'officiers de Kigali in 1973 at the age of 24, with the rank of sub-lieutenant and was appointed to the rank of Lieutenant Colonel in 1991. Lieutenant Colonel Ephrem Setako was the head of the division of legal affairs in the Ministry of Defence in Kigali in 1994. He was Lieutenant-Colonel in the Forces Armées Rwandaises (FAR), the Rwandan Army. Setako was the Director in charge of the Judicial Affairs Division of the Ministry of Defence of Rwanda which was under the supervision of the Minister of Defence from November 1993 and throughout the relevant events. He was a member of the War Council, which was a military court which tried military personnel who committed offences within the FAR. Also, he was a Judge at the Court of National Security, which was responsible for trying civilians and military personnel considered to be traitors or perpetrators of other security threats inside the Rwandan State or accomplices of the Rwandan Patriotic Front (RPF) which was considered to be the enemy of the Rwandan State.

Setako left the Ministry of the Interior in 1990, and was chosen as one of five persons to represent Rwanda in the Neutral Military Observers Group of the Organisation of African Unity (NMOG). When NMOG stopped functioning in June 1991, he returned to the Ministry of Defence and worked in its division of legal affairs. Before the end of the year, was when Setako became Lieutenant Colonel. The NMOG later revived the Arusha Accords negotiations, and Ephrem Setako joined the Rwandan delegation to that group. In July 1993 was named commander of NMOG's Nkumba sector. The Rwandan Patriotic Front opposed to this assignment so Setako was set as humanitarian officer for that sector. Ephrem Setako returned to the Rwandan delegation in October and, as the most senior officer, became its

head. The United Nations Assistance Mission for Rwanda (UNAMIR) replaced the group on November 1993, Setako returned to the Ministry of Defence to lead its division of legal affairs.

As a superior officer in the FAR he had effective control over members of the FAR under his authority. Ephrem Setako could order such persons to commit or refrain from committing the crimes and could discipline or punish them for unlawful acts or omissions. He had de facto control over the local population including policemen and soldiers. Militiamen and soldiers under Setako's command, looted and destroyed the property of the Tutsi civilian population who were not participating in the non-international armed conflict in furtherance of the war efforts and/or in exploitation of the environment created by the war.

On February 2004 Setako was arrested in Amsterdam and transferred to the International Criminal Tribunal for Rwanda in Arusha days later.

Crimes submitted

- *Genocide*
- *Genocide: Articles 2 (3) (a), 6 (1) and 6 (3)*
- *Complicity in Genocide: Articles 2 (3) (e), 6 (1) and 6 (3)*
- *Crimes against humanity*
- *Murder: Articles 3 (a), 6 (1) and 6 (3)*
- *Extermination: Articles 3 (b), 6 (1) and 6 (3)*
- *Serious violations of the Article 3 common to the Geneva Convention and Additional Protocol II*
- *Violence to life, health and physical or mental well-being of persons: Articles 4(a), 6(1) and 6(3)*
- *Pillage: Articles 4(f), 6(1) and 6(3)*

Conclusion

Amongst April and July 1994, Rwanda was torn apart by a bloody genocide. The Rwandan genocide is one of the heaviest crossroads in mankind's history in which roughly more than 1,000,000 Tutsis and Hutu moderates were butchered over 100 days by Hutu extremists, leaving a mark on the world as the fastest killing binge the world has ever seen.

In hopes of encouraging the procedure of national compromise and to advance peace in the nation, on 8 November 1994 the United Nations Security Council adopted Resolution 955, setting up the International Criminal Tribunal for Rwanda (ICTR), situated in Arusha, Tanzania. The Tribunal's main function is to prosecute perpetrators of crimes of genocide, crimes against humanity and war crimes committed between 1 January and 31 December 1994 in Rwanda.

Ephrem Setako was recognized as one of the main in charge of inciting genocide. He allegedly induced, requested, helped and encouraged the commission of murder of the Tutsi non military personnel populace, besides he is considered responsible of the preparation and enlistment of the Amahundure army.

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Glossary

A

Arusha Accords: A peace agreement between the Rwandan government and the Rwandan Patriotic Front (RPF) signed in August 1993.

B

Bahutu Manifesto: Drafted by nine Rwandan Hutu intellectuals in 1957, was a political document that called for Hutu ethnic and political solidarity, as well as the political disfranchisement of the Tutsi people.

Butchered: One that kills brutally or indiscriminately.

C

Clergy: The collective body of men and women ordained as religious ministers, esp of the Christian Church

Court of National Security: Responsible for trying civilians and military personnel considered to be traitors or perpetrators of other security threats inside the Rwandan State or accomplices of the Rwandan Patriotic Front (RPF)

Cyprien Ntarymanira of Burundo: Was president of Burundi, chosen by the main political parties took office in February 1994, died along the Rwandan president in Kigali airport.

E

Ephrem Setako: He was Lieutenant-Colonel in the Forces Armées Rwandaises (FAR), the Rwandan Army. Setako was arrested in Amsterdam and transferred to the International Criminal Tribunal for Rwanda

F

FAR: Rwandan Armed Forces; the country's armed forces until 1994.

I

ID card: In this specific situation meaning the identification card people in Rwanda used to use for identifying themselves as Hutus or Tutsis.

Interahamwe: “Those Who Attack Together”; Hutu militia group.

J

Juvenal Habyarimana: Army officer and politician who ruled Rwanda almost single-handedly for more than 20 years after he seized power in a 1973 coup.

L

Loot: Verb, To take goods by force or through lawless behavior.

M

Milton Obote: Politician who was prime minister (1962–70) and twice president (1966–71, 1980–85) of Uganda. He led his country to independence in 1962, but his two terms in office (both of which were ended by military coups) were consumed by struggles between

N

National Republican Movement for Democracy and Development: ruling political party of Rwanda from 1975 to 1994 under President Juvénal Habyarimana

NMOG: Neutral military Observer Group; a meeting of neutral observers which followed a number of ceasefire agreements , including one negotiated at Arusha, United republic of Tanzania, on 22 July 1992, which arranged for the presence in Rwanda of a 50-member, it was ended by Organization of African Unity (OAU).

O

Overthrow: To bring about the downfall, destruction, or ending of, especially by force or concerted action; An instance of overthrowing, especially one that results in downfall or destruction.

Outrage : An act of extreme violence or viciousness

P

Plummeting: From noun plummet; meaning drop, decline, decrease, etc.

Pursuant: (Law) chiefly law (often foll by: to) in agreement or conformity

Portrayed : To describe or represent in words

R

Reprisal: The act of punishing another for some injury the latter caused. In terms of International Law, a reprisal is the forcible taking, in time of peace, by the government of one country of the property or territory belonging to another country or belonging to the citizens of the other country, as redress intended to satisfy a claim.

Rwandan Patriotic Front: Political party founded by Tutsis who had contributed to the overthrow of the Milton Obote dictatorship. The main objective of this party was to overthrow the Hutu government in Rwanda.

Roadblocks: A barricade or obstruction across a road set up to prevent the escape or passage, as of a fugitive or enemy troops

S

Slaughter: Killing of great numbers of human beings (as in battle or a massacre).

Shipwrecked : A complete failure or ruin.

U

UNAMIR: United Nations Assistance Mission for Rwanda; established by the Security Council, resolution 872 (1993), to help the parties implement the agreement, its implementation and support the transitional Government.

W

War council: Military court which tried military personnel who committed offences within the FAR

Guiding Questions

1. What are the charges Ephrem Setako was given the by the International Criminal Tribunal for Rwanda?
2. Which is the relation between the *Geneva Conventions* and their *Additional Protocols* and the International Criminal Tribunal for Rwanda?
3. How does the *Statute of the International Criminal Tribunal for Rwanda* defines genocide and crimes against humanity?