

Cunningham Levy Muse LLP  
1250 Connecticut Ave NW, Suite 200  
Washington, DC 20036

T (202) 261-6564  
F (202) 261-3508

[cunninghamlevy.com](http://cunninghamlevy.com)

REPORT AND RECOMMENDATION TO THE GOVERNMENT OF RWANDA  
ON THE ROLE OF FRENCH OFFICIALS IN THE GENOCIDE AGAINST THE TUTSI

SUBMITTED ON DECEMBER 11, 2017

**\*This document is embargoed until 10:00am Kigali time Wednesday, 13 December 2017.\***

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In late November 2016, the Government of Rwanda’s Prosecutor General confirmed the initiation of an investigation into the role of the French government and its officials regarding the 1994 Genocide against the Tutsi.<sup>1</sup> In light of that inquiry, the Government of Rwanda has retained the Washington, D.C. law firm of Cunningham Levy Muse LLP to review and report on the material available in the public record on the role and knowledge of French officials regarding the Genocide against the Tutsi.

**I. EXECUTIVE SUMMARY**

This report summarizes publicly available information about the role and knowledge of French officials before, during and after the Genocide against the Tutsi. This report, while detailed, is not an exhaustive presentation of the public record. Where possible, we cite to primary sources in the record. When reviewing secondary sources, we examine the material cited therein to help determine the reliability of the secondary source material. We provide a summation of the public record as to the facts – *i.e.*, what happened and what was known. While much can be observed about the knowledge or role of French officials, we do not reach final conclusions or judgments, as an investigation into these matters must go forth and be completed.

In 1998, a French Parliamentary Commission (“the Commission”) attempted to investigate the role of French officials in Rwanda.<sup>2</sup> The information gathered by the Commission comprises a substantial portion of the public record today about the role of French officials in the Genocide against the Tutsi. But the Commission’s work was neither fully transparent nor complete. For example, the Commission kept secret from the public the testimony of certain witnesses and, without the power to compel testimony, did not interview other critical witnesses.<sup>3</sup> The day after the Commission released its report, French Parliament Member and Commission Vice President Jean-Claude Lefort issued a press release explaining that he had abstained from signing the report

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<sup>1</sup> See Ken Karuri, *Rwanda Opens Investigation into the Role of French Officials in Genocide*, AFRICA NEWS, Nov. 30, 2016, available at <https://goo.gl/9wCH3h>.

<sup>2</sup> Although technically called a “Mission” in France, we are referring to the body as a commission (*i.e.*, “the Commission”) for purposes of the English version of this report.

<sup>3</sup> See *Humanitarian?*, THE ECONOMIST, Apr. 23, 1998, available at [http://www.economist.com/node/161052#print\\_2](http://www.economist.com/node/161052#print_2); see also COMMISSION OF NATIONAL DEFENSE AND THE ARMED FORCES AND COMMITTEE ON FOREIGN AFFAIRS, RAPPORT D’INFORMATION SUR LES OPÉRATIONS MILITAIRES MENÉES PAR LA FRANCE, D’AUTRES PAYS ET L’ONU AU RWANDA ENTRE 1990 ET 1994 [INFORMATION REPORT ON MILITARY OPERATIONS CONDUCTED BY FRANCE TO OTHER COUNTRIES AND THE UN IN RWANDA BETWEEN 1990 AND 1994] [hereinafter MIP], Tome III, Volume 1 & 2, (Fr.). A non-paginated electronic version of the Report, annexes, and auditions is available at <https://goo.gl/u5Xet1>.

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because major and decisive points had yet to be clarified.<sup>4</sup> Or, as Mr. Lefort later put it during a 2008 interview, “I believe that the fact-finding mission did not fully accomplish its task of highlighting the truth.”<sup>5</sup>

Another serious gap in the public record is the fact that the French government and French officials continue to withhold documents relevant to their former officials’ role in and knowledge of the Genocide against the Tutsi. Current and former French officials have first-hand knowledge that they have not yet publicly disclosed.

Nevertheless, the incomplete public record, including the report of the French Parliamentary Commission as well as the work of journalists and academics, suggests that French authorities had knowledge of and participated in events relating to the Genocide. The public record, however, does not detail the full extent of that knowledge and participation. A fuller investigation is warranted.

A summary of this report’s observations is as follows:

**First**, this report will discuss the origins of France’s involvement in Rwandan affairs. Following widespread government-supported violence against the Tutsi that began in 1959 and drove thousands of Tutsi into exile, France began supporting the Rwandan government in 1962. Through the 1970s and 1980s, French support grew and expanded into military assistance, even as French officials were aware of massacres of Tutsi that took place in the 1960s and 1970s in Rwanda. By the early 1990s, France had become more involved in and more essential to Rwandan internal affairs than had any other foreign nation.

Efforts of refugee associations whose interests aligned with the Rwandan Patriotic Front (“RPF”), the political organization that sought equal rights for all Rwandans, failed to achieve a peaceful resettlement of Tutsi refugees in Rwanda. When war between the Rwandan government and the RPF’s military wing, the Rwandan Patriotic Army (“RPA”), broke out in October 1990, French officials sent soldiers to Rwanda (*Opération Noroît*) purportedly to protect French citizens there.<sup>6</sup> But President Mitterrand and other French officials initiated and thereafter expanded *Opération Noroît* to provide strategic and military support for Rwanda in its war against the RPF. During this armed conflict, French advisors provided the Rwandan government with strategic and organizational assistance, hundreds (if not thousands) of soldiers, and millions of dollars’ worth

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<sup>4</sup> Press Release, Jean-Claude Lefort, Communiqué de Jean-Claude Lefort Député du Val-De-Marne Vice-Président de la Mission Rwanda [Communiqué de Jean-Claude Lefort Deputy of Val-De-Marne Vice-President of the Mission Rwanda] (Dec. 16, 1998), available at <https://www.lanuitrwandaise.org/revue/notes-du-depute-jean-claude-lefort,079.html?lang=fr> (Fr.).

<sup>5</sup> See Jean-Claude Lefort: “La mission d’information parlementaire est passé à côté d’une vérité qu’il lui fallait rechercher coûte que coûte” [Jean-Claude Lefort: “The Parliamentary Information Mission Missed a Truth that Had to Be Sought at All Costs”] LA NUIT RWANDAISE, Apr. 7, 2008 at 230 (Fr.).

<sup>6</sup> Although the RPA was the armed wing of the RPF, we will use the term “RPF” to describe their joint efforts.

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of war-fighting equipment. Senior French officials in Rwanda also joined in the elaboration of genocide ideology by defining the enemy not as the RPF, but as “the Tutsi,” in parallel to the anti-Tutsi vitriol then being promoted, with regularity, by the state-sponsored media.

During the early 1990s, French advisors became involved in major Rwandan governmental and military offices. Information in the public record indicates that French officials helped to develop key security institutions, core elements of which would later become instruments of the Genocide against the Tutsi (e.g., many members of the Rwandan Army (“FAR”), including the Presidential Guard, the paracommando battalion and its CRAP unit (*les commandos de recherche et d’action en profondeur*), as well as the Gendarmerie).

**Second**, this report will review the knowledge of French officials of recurring massacres of the Tutsi during the early 1990s. Notwithstanding their awareness of this mounting violence, French officials continued to facilitate the flow of weaponry into Rwanda and into the hands of the Rwandan regime presiding over these waves of ethnic bloodshed.

On April 6, 1994, at least two French officials gained privileged access (to the exclusion of the UN peacekeeping forces and others) to the scene of where the plane of Rwandan President Juvénal Habyarimana crashed after being shot down, taking his life, among others, while flying home from a regional summit in Dar es Salaam. Little evidence has emerged from the crash site. Almost immediately after the crash, *génocidaires* and their controlled radio stations blamed the RPF and Belgium for shooting down the plane and used it as the rallying cry to begin the Genocide against the Tutsi, even as the RPF was preparing itself to implement a power-sharing agreement previously achieved through the Arusha Accords. The securing of the scene under false pretenses and the failure to share any evidence from it have enabled *génocidaires* and their allies to continue to promote unsupported conspiracy theories identifying the RPF and Belgium as being responsible for shooting down the plane.

In the immediate aftermath of the plane crash, despite their knowledge of the violence against the Tutsi in Rwanda, French officials nevertheless permitted *génocidaires* to meet within the French Embassy in Kigali and, while there, to begin to form the Interim Rwandan Government (“IRG”), which presided over Rwanda during the Genocide. French officials provided cover for the IRG, despite their knowledge of the ongoing Genocide against the Tutsi by mischaracterizing it as a two-sided humanitarian crisis. French officials used these false narratives to answer criticism of France’s continued support of the *génocidaires*, including but not limited to the IRG and the FAR (many of whom participated in the Genocide).

After the Genocide against the Tutsi began, French officials commenced *Opération Amaryllis*, a mission to rescue French nationals. In addition to French citizens, *Amaryllis* evacuated members of the Habyarimana family, shepherded other extremist leaders out of Rwanda, and interfered with efforts of the UN peacekeeping forces to protect citizens. The *Amaryllis* contingent

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 did nothing to save or protect the lives of the Tutsi or opposition politicians who had not already been murdered within the first few days of the Genocide.

*Third*, this report will discuss how French officials initiated *Opération Turquoise*, ten weeks after the Genocide began, to preserve the remnants of the IRG. Despite that aim, France persuaded the UN Security Council to approve the operation as a humanitarian mission. But the internal private communications among French officials, as well as their conduct, show that the operation's primary objective was not humanitarian, but rather to prevent the RPF from removing the IRG.<sup>7</sup> As recently as this year, the French press has reported that Hubert Védrine, Secretary General of Élysée Palace under President Mitterrand, ordered *Turquoise* troops to rearm the *génocidaires*.<sup>8</sup>

*Fourth*, this report will discuss the documents and testimony indicating that French officials provided safe harbor for *génocidaires*. After the RPF liberated Rwanda and put an end to the Genocide, French officials enabled *génocidaires* to flee to Zairian refugee camps (and elsewhere), where they regrouped, re-armed and continued to threaten and kill Tutsi survivors. Simultaneously, French officials withheld, impeded and opposed financial aid to the new Government of Rwanda.

In the years since that time, French officials have interfered with the truth about the Genocide and justice for its victims by failing to prosecute all but three of the 30 Genocide suspects known to be within France or to grant requests for their extradition to Rwanda, and by failing to declassify and release documents related to the Genocide against the Tutsi. French officials have continued to ignore requests from the Rwandan government and civil society groups for documents that will shed further light on decisions made and actions taken during the Genocide. Attempts by French officials to divert public attention away from the role of French officials in the Genocide and to obstruct efforts to bring *génocidaires* to justice continue to this day.

In summation: throughout their engagement in Rwanda in the early 1990s and beyond, French officials were aware of human rights outrages between 1990 and 1994, and yet chose to deepen French support for the former Rwandan regime. That support continued throughout the Genocide, and French support for *génocidaires* did not stop even after RPF forces ended the slaughter in July 1994. The effort by French officials to conceal their own role in the Genocide and to undermine attempts to prosecute Genocide suspects continues. Consequently, the public record lacks the full complement of French government documents or the benefit of testimony from French officials with knowledge of or involvement in, Rwanda.

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<sup>7</sup> See, e.g., Interview of Guillaume Ancel by Mehdi Ba, *L'histoire mythique de l'opération Turquoise ne correspond pas à la réalité* [The Mythical Story of Opération Turquoise Does Not Correspond to Reality], JEUNE AFRIQUE (Apr. 7, 2014) [hereinafter Interview of Guillaume Ancel by Mehdi Ba] available at <https://goo.gl/saFctB> (Fr.).

<sup>8</sup> Patrick de Saint-Exupéry, *Réarmez-les!* [Rearm Them!], REVUE XXI, 64-65, July/August/September 2017.

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France should do all it can to help the people of Rwanda and France learn the full truth. To this point, however, French officials have continued to interfere with the public's right to the truth about the Genocide against the Tutsi.<sup>9</sup> French officials have failed to cooperate with Rwanda's requests for documents and testimony. French officials have rarely prosecuted or extradited Genocide suspects. At different moments in time, French officials have also incorporated revisionist history into documents and, in so doing, have diverted the public's attention away from the role of French officials in the Genocide against the Tutsi. These efforts have not only compromised the truth, they have also frustrated the attainment of justice for the victims.

In light of the public record, the Government of Rwanda's investigation into the role and knowledge of French officials in the Genocide against the Tutsi is warranted. The facts must be understood and brought to light. The investigation should draw from not only the public record, but also additional original source documents and interviews of witnesses. The investigation should also evaluate the cooperation of French officials with past inquiries and requests for information. French cooperation with this investigation is of paramount importance. The French government has custody of documents, photographs, physical evidence, archives and individuals with first-hand knowledge of what happened and what was known.

## **II. FROM 1962 – 1994, FRENCH OFFICIALS DEEPENED THEIR SUPPORT OF THE RWANDAN GOVERNMENT REGARDLESS OF THE CONSEQUENCES FOR THE TUTSI.**

The conduct of French officials during the Genocide against the Tutsi cannot be understood without first examining the history of the French government's role in Rwanda.

### **A. From the 1960s through the 1980s, Fully Aware of the Violence and Discrimination against the Tutsi in Rwanda, French Officials Expanded Their Support of the Rwandan Government to Include Military Aid.**

French support of Rwanda began in the early 1960s. In July 1962, Rwanda gained independence from Belgium. Three months later, in October 1962, French officials entered into an agreement of friendship and cooperation with the Rwandan government, then led by the anti-Tutsi President Grégoire Kayibanda, under whose leadership Tutsi had been expelled from Rwanda.<sup>10</sup> In December 1962, France and Rwanda signed three cooperation agreements for

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<sup>9</sup> See, e.g., *France-Rwanda: Dominique Bertinotti, la gardienne des archives*, JEUNE AFRIQUE, July 10, 2017, available at <https://goo.gl/BKTusj> (Fr.).

<sup>10</sup> See MIP, Tome I 18-19.



**\*This document is embargoed until 10:00am Kigali time Wednesday, 13 December 2017.\*** economic, cultural, and technical assistance (including assistance with radio broadcasts).<sup>11</sup> Throughout the 1960s, France sent to Rwanda “occasional expert missions in varied fields: agricultural development, road infrastructure, aviation security, urbanization, small industrialization, etc.”<sup>12</sup> The Rwandan government was emerging as a member of Francophone Africa and was ripe to enter France’s sphere of influence.

Some commentators have explained French commitment in Rwanda as reflective of a policy to expand and preserve Francophone Africa against Anglophone encroachment. Commentators have noted its origins in the “Fachoda syndrome,”<sup>13</sup> which refers to Fachoda, a small town in what is now South Sudan where, just before the turn of the 19<sup>th</sup> century, the British forced an unconditional withdrawal of the area by the French.<sup>14</sup> For French officials, the defeat at Fachoda amounted to and remained a “public humiliation.”<sup>15</sup> As Minister of Justice in 1957, François Mitterrand expressed this sentiment: “All the trouble we had in French West Africa has nothing to do with a desire for independence, but with a rivalry between the French and British blocs. It is British agents who fomented all our troubles.”<sup>16</sup>

Regardless of the underlying reason, France’s interests in Rwanda overrode concerns that its policymakers may have had about human rights violations committed by the Kayibanda regime. From November 1959 to February 1973, massacres left thousands of Tutsi dead and drove hundreds of thousands of Tutsi into exile, in neighboring Uganda, Burundi, Zaire (now the Democratic Republic of Congo), and elsewhere.<sup>17</sup> For example, French diplomatic cables apparently detailed how, in response to a December 1963 attack by Tutsi rebels at a military camp in Gako, elements within the Kayibanda government organized massacres of the Tutsi:

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<sup>11</sup> See *id.* at 19.

<sup>12</sup> *Id.* at 20.

<sup>13</sup> See e.g., Patrick de Saint-Exupéry, *France-Rwanda: Le Syndrome de Fachoda*, LE FIGARO, Jan. 13, 1998, at 4 (Fr.); RONY BRAUMAN, MÉDECINS SANS FRONTIÈRES, DEVANT LE MAL. RWANDA: UN GENOCIDE EN DIRECT [BEFORE THE EVIL, RWANDA: A LIVE GENOCIDE] 18 (1994) (Fr.). The MIP acknowledges the role of the Fachoda Syndrome in Rwanda, stating “The presence of France in Rwanda would therefore respond to the dual concern of, on one hand, defending what some have called the “*linguistic Maginot Line*,” and on the other, to deal with the Anglo-Saxon influence, by the British originally, and by the United States thereafter.” MIP Tome I 31-32. The MIP went on to state that France’s interests in Rwanda were not in conflict with the interests of the United States, but it did not deny the role that language played in its support for the Rwandan government against the English speaking RPF.

<sup>14</sup> P. M. H. Bell, *FRANCE AND BRITAIN, 1900-1940: ENTENTE AND ESTRANGEMENT* 3 (Taylor & Francis Group, 1996).

<sup>15</sup> *Id.*

<sup>16</sup> MIP, Tome I 31 (quoting Michel Brot, *Mitterrand et l’Afrique en 1957: une interview révélatrice* [*Mitterrand and Africa in 1957: A Revealing Interview*], AFRICAN POLICY, June 1995, at 52 (Fr.)).

<sup>17</sup> See e.g., *L’extermination des Tutsis* [*The Extermination of Tutsis*], LE MONDE, Feb. 4, 1964, at 16 (Fr.) (discussing violence against Tutsi from 1959-1962 and systematic killing of Tutsi in 1963-1964); A.J., *De sanglants incidents auraient lieu au Ruanda* [*Bloody Incidents Taking Place in Rwanda*], LE MONDE, Jan. 17, 1964, at 17 (Fr.) (stating that around 84,000 Tutsi refugees fled Rwanda to Uganda and Burundi); JACQUES MOREL, *LA FRANCE AU COEUR DU GENOCIDE*, 1415–1419 (2016). See also MIP Tome I 67 (stating that the latest estimates of political refugees from Rwanda by the early 1990s were 600,000 to 700,000 refugees).

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Measures were taken for ‘autodéfense civile’ in four southern prefectures. This entailed each prefect, supported by a government minister, calling meetings with *bourgmestres* in order to give necessary orders to peasants on how to combat the enemy. Three days later, and two days before Christmas, there began an organized slaughter of Tutsi. There were roadblocks everywhere, manned by civilians. The radio in Kigali repeatedly broadcast emergency warnings that a Tutsi plot was under way to enslave Hutu.<sup>18</sup>

On January 17, 1964, *Le Monde* described killings with clubs and recounted corpses thrown in rivers. On February 6, 1964, the same French newspaper quoted British academic Bertrand Russell, who said that the violence against the Tutsi was the most horrible and systemic extermination of a people since the Nazis’ extermination of the Jews.<sup>19</sup>

On July 5, 1973, Juvénal Habyarimana took power in Rwanda. President Habyarimana’s government continued to require identity cards to specify ethnicity, which enabled the singling out of the Tutsi for mistreatment.<sup>20</sup> Successive French governments nevertheless intensified France’s support of Rwanda.

On July 18, 1975, France entered into the Military Technical Assistance Agreement (“MTAA”) with President Habyarimana’s regime, with the stated purpose of providing French military personnel to organize and train the Rwandan Gendarmerie.<sup>21</sup> French officials quickly expanded their military support of the Rwandan government beyond the Gendarmerie by providing arms and training to the Rwandan army. For example, a June 15, 1982, memorandum from Guy Penne, President François Mitterrand’s counsellor on Africa, provided President Mitterrand with highlights of past and future military assistance, as well as a pronouncement about the coming years’ anticipated French contributions to Rwanda: “equipment and training of a parachutist unit and setting up a group of Gendarmerie,” as well as the delivery of “two small ‘Rallye warrior’ type

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<sup>18</sup> LINDA MELVERN, *A PEOPLE BETRAYED* 27 (2d ed. 2009) (non-paginated electronic version) [hereinafter Melvern, *A People Betrayed*]. See also MOREL, *supra* note 1, at 1417 (citing Diplomatic Telegram nos. 561 & 565, from Jean-Marc Barbey, Ambassador of France to Rwanda (Dec. 23, 1963) (Fr.)); GABRIEL PÉRIÈS & DAVID SERVENAY, *UNE GUERRE NOIRE: ENQUÊTE SUR LES ORIGINES DU GÉNOCIDE RWANDAIS (1959-1994)* [A BLACK WAR: INVESTIGATING THE ORIGINS OF THE RWANDAN GENOCIDE (1959-1994)] 130 (2007).

<sup>19</sup> See A.J., *De sanglants incidents auraient lieu au Ruanda* [*Bloody Incidents Taking Place in Rwanda*], *LE MONDE*, Jan. 17, 1964, at 17 (Fr.); *Trois mille Tutsis au Congo-Léopoldville lanceraient une attaque suicide contre le Ruanda* [*Three Thousand Tutsi Refugees in Congo-Leopoldville Said to Have Launched a “Suicide Attack” against Rwanda*], *LE MONDE*, Feb. 6, 1964 (Fr.).

<sup>20</sup> See MIP Tome I 61-62.

<sup>21</sup> See *Accord Particulier d’Assistance Militaire du 18 juillet 1975* [*Military Technical Assistance Agreement of July 18, 1975*] [hereinafter MTAA] art. 1(a), Fr.-Rwanda, July 18, 1975, *Journal Officiel de la République Française* (“The Government of the French Republic shall place at the disposal of the Government of the Republic of Rwanda French military personnel whose assistance is necessary for the organization and training of the Rwandan gendarmerie.”), available at <https://goo.gl/9HKtG4> (Fr.).

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aircraft that will enable onsite training of Rwandan pilots” by 1984.<sup>22</sup> The “parachutist unit” (*i.e.*, the Paracommando Battalion) and the Gendarmerie would later become instrumental in carrying out the 1994 Genocide against the Tutsi.<sup>23</sup> Less than a year later, in April 1983, the MTAA was amended to remove the sentence forbidding French troops from involvement in “the preparation and execution of war operations.”<sup>24</sup>

## **B. In the Early 1990s, France Became Rwanda’s Primary Foreign Military Ally in Its War against the RPF.**

For two decades, pressure on President Habyarimana to allow the return of Tutsi refugees intensified, but he denied resettlement to all but the wealthiest of them.<sup>25</sup> Indeed, in November 1989, the chairman of a special commission created earlier that year to address the refugee crisis could only point to 300 negotiated returns since 1986.<sup>26</sup> How seriously the commission intended to help refugees remains in doubt, as two appointees to this commission – Ferdinand Nahimana and Colonel Théoneste Bagosora – would later be tried and convicted at the International Criminal Tribunal for Rwanda (“ICTR”) for their respective criminal roles in the Genocide against the Tutsi.<sup>27</sup> Contemporaneous with this commission’s process, the Habyarimana government rebuffed attempts to resolve the refugee problem through peaceful negotiations.<sup>28</sup>

On October 1, 1990, the RPF led an offensive from Uganda into Rwanda; its goal was to force a change in Rwanda that would in turn allow the repatriation of its exiled refugees. The Government of France responded to the Habyarimana regime’s plea for military assistance and initiated *Opération Noroît*, an operation designed to help the Habyarimana regime defeat the RPF.<sup>29</sup> Internal French cables show that senior French officials, in parallel to the anti-Tutsi

<sup>22</sup> Memorandum from Guy Penne, African Affairs Advisor to President François Mitterrand 3 (June 15, 1982), available at <http://francegenocidetutsi.org/Penne11juin1982.pdf> (Fr.).

<sup>23</sup> See, e.g., Aloys Ntabakuze v. The Prosecutor, Case No. ICTR-98-41A-A, Judgement, ¶ 165, 234-244, (May 8, 2012), available at <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-99-46/appeals-chamber-judgements/en/120508.pdf>; The Prosecutor v. Théoneste Bagosora et al., Case No. ICTR-98-41-T, Judgement and Sentence, ¶ 801 (Dec. 18, 2008), available at <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-98-41/trial-judgements/en/081218.pdf>.

<sup>24</sup> See MIP Tome I 29 & Tome II 86-89.

<sup>25</sup> See MIP Tome I 72.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Meeting minutes, Second Meeting of the Rwanda/Uganda Inter-Ministerial Committee on Rwandan Refugees in Uganda 3 (Nov. 17, 1989), available at <https://goo.gl/vf3Xaq>.

<sup>29</sup> See MIP Tome I 137-138 (stating that Colonel Gilbert Canovas recalled that “his work had consisted...of providing expertise and advice to the Chief of Staff to the Rwandan army and to his team,” and as such he had “assisted in the development of the defense plans for the city of Kigali” and participated in the most threatened border regions, Gisenyi, Ruhengeri, Byumba, Mutara Lake region, in “the planning work aimed at strengthening military presence and equipping them with reaction capability”); Bernard Loth, *Rwanda combats, prev Intervention française au Rwanda, la deuxième en Afrique depuis janvier* [Rwanda Fighting, French Intervention in Rwanda, the

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 propaganda being promoted in the Rwandan media at the time, also defined the threat to their allies in Rwanda not as the RPF, but as “the Tutsi.”

### **1. During the 1990-1993 War against the RPF, France Provided Direct Military Support to the Habyarimana Regime.**

Within days of the October 1, 1990, RPF incursion, President Habyarimana asked the Government of France for assistance.<sup>30</sup> He spoke to Jean-Christophe Mitterrand, who was the son of the French President and also, from 1986 to 1992, the person in charge of the President’s “Africa Cell,” which was then the policy making group in charge of Africa for the Élysée. Gérard Prunier was present for this phone call, which took place at the Élysée Palace, and has reported that the younger Mitterrand reassured the Rwandan President, “adding with a wink: ‘We are going to send him a few boys, old man Habyarimana. We are going to bail him out. In any case, the whole thing will be over in two or three months.’”<sup>31</sup> On October 4, 1990, 300 French troops landed in Kigali and secured the airport.<sup>32</sup> The same day, hundreds of Belgian paratroopers joined their French counterparts.<sup>33</sup> Thus, *Opération Noroît* began.

As President Habyarimana’s forces lost ground to the RPF,<sup>34</sup> French officials responded. Speaking years later, Secretary-General to the President, Hubert Védrine, clarified the purpose of French intervention: France wanted to avoid a foreign country overthrowing the Government of Rwanda.<sup>35</sup> Records indicate that French officials did not want another “Fachoda,” in which an African country under France’s sphere of influence would fall to “Anglophone powers”: When serving as the French Chief of the Defense Staff, Admiral Jacques Lanxade reportedly viewed the RPF as part of an “Anglo-Saxon conspiracy.”<sup>36</sup> According to French journalist Patrick de Saint-Exupéry, a high-ranking French official admitted: “The Fachoda complex, the Francophone

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*Second in Africa since January*], AGENCE FRANCE-PRESSE, Oct. 5, 1990 (Fr.) (reporting that France had sent 300 soldiers to Rwanda); HUMAN RIGHTS WATCH, RWANDA/ZAIRE: REARMING WITH IMPUNITY 3 (1995) [hereinafter *Rearming with Impunity*]. A non-paginated electronic version of this Report is available at <https://goo.gl/AusiBn>.

<sup>30</sup> See MIP Tome I 181-182.

<sup>31</sup> GÉRARD PRUNIER, *THE RWANDA CRISIS: HISTORY OF A GENOCIDE* 100-101 (1997) (discussing author’s eyewitness observations).

<sup>32</sup> See MIP Tome I 128; Bernard Loth, *Rwanda combats, prev Intervention française au Rwanda, la deuxième en Afrique depuis janvier* [*Rwanda Fighting, French Intervention in Rwanda, the Second in Africa since January*], AGENCE FRANCE-PRESSE, Oct. 5, 1990 (reporting that France has sent 300 soldiers to Rwanda).

<sup>33</sup> Cf. U.S. Department of State internal memorandum on Rwanda (Oct. 5, 1990) available at <https://goo.gl/JLk8vA> (stating Belgium was deploying 600 paratroopers in Rwanda); with Patrick de Saint-Exupéry, *France-Rwanda: Le Syndrome de Fachoda*, LE FIGARO, Jan. 13, 1998 (stating Belgium was deploying 400 paratroopers in Rwanda).

<sup>34</sup> For instance, France’s Ambassador to Rwanda Georges Martres noted in an internal cable: “President Habyarimana feels he can no longer handle the situation on his own.” Cable regarding situation in Rwanda (Oct. 7, 1990), in MIP Tome II 131, available at <http://francegenocidetutsi.org/Martres7octobre1990.pdf> (Fr.).

<sup>35</sup> See MIP Tome III, Vol. 1 208 (Hubert Védrine Audition).

<sup>36</sup> Sam Kiley, *French Influence Salvaged Amid Ruins of Rwanda*, THE TIMES, Aug. 22, 1994.

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against the Anglophone vision, the speeches about the RPF insurgents characterized as Khmer Noirs of Africa, our enemies. . . . All that is true.”<sup>37</sup> As President Mitterrand told his cabinet with respect to Rwanda: “We are at the edge of the English-speaking front. . . .”<sup>38</sup> Mr. Védrine also posited that President Mitterrand backed President Habyarimana with military support to reassure other African regimes they could rely on French security guarantees:

[President Mitterrand] considered that letting, anywhere, one of these regimes be overthrown by a faction, especially if it was a minority and supported by the army of a neighboring country, would be enough to create a chain reaction that would jeopardize the security of all countries linked to France and would undermine the credibility of the French pledge.

In the analysis of President Mitterrand, what mattered most was the overall reasoning, there was no particular strategic application point, neither in Rwanda nor in Chad. He believed, like his three predecessors, that France had signed a commitment to security, and that if it was not able to provide assistance in a case where a friendly state was invaded by an armed country, its security guarantee was worthless.<sup>39</sup>

But when *Opération Noroît* began, French officials informed the public that the purpose of the operation was to protect French expatriates in Rwanda. In a televised statement, on October 6, 1990, French Prime Minister Michel Rocard said: “We have sent troops to protect French citizens and nothing more.”<sup>40</sup> By the end of *Opération Noroît*, however, French military support of Rwanda appears to have expanded far beyond the protection of French citizens, such that, according to an October 1993 memorandum from General Christian Quesnot to President Mitterrand, RPF units considered French officials and troops to be the RPF’s “enemies.”<sup>41</sup>

The expansion of France’s military support and strategic advice began within days of the war’s commencement. On October 11, 1990, Defense Attaché Colonel René Galinié recommended sending French advisers into the field, northeast of the combat zone, to “educate, organize and motivate troops that had been ossified for thirty years and who had forgotten the basic rules of battle.”<sup>42</sup> Five months later, in an April 30, 1991 report, Deputy Defense Attaché Colonel Gilbert Canovas recommended that the Rwandan government recruit more soldiers,

<sup>37</sup> Patrick de Saint-Exupéry, *France-Rwanda : Le Syndrome de Fachoda* [*France-Rwanda: the Fashoda Syndrome*], LE FIGARO, Jan. 13, 1998 (Fr.) (ellipsis in the original).

<sup>38</sup> Meeting minutes from French cabinet meeting (Jan. 23, 1991), available at <https://goo.gl/3HRqnA>.

<sup>39</sup> MIP Tome I 33-34.

<sup>40</sup> MIP Tome III, Vol. 2 235 (Michel Rocard Audition) (quoting Rocard’s October 6, 1990, TF1 television interview).

<sup>41</sup> Memorandum from General Christian Quesnot to President François Mitterrand (Oct. 11, 1993), available at <http://nsarchive.gwu.edu/NSAEBB/NSAEBB461/docs/DOCUMENT%2042%20-%20English.pdf>.

<sup>42</sup> See MIP, Tome I 137-138.

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reduce the training period for new recruits, and station groups of soldiers in civilian disguise in areas along the Ugandan border to neutralize the rebels.<sup>43</sup>

In addition to advice, French officials supplied the FAR with modern mortars, armored vehicles, and other vehicles, along with ammunition and rockets.<sup>44</sup> French officials also provided and helped maintain helicopter-gunships, which fired upon RPF fighters.<sup>45</sup> According to jokes at the time, the only thing Rwandan soldiers did was pull the trigger.<sup>46</sup>

Information in the public record also indicates that French military support included the development of battle plans and the commanding of artillery bombardments on the battlefield.<sup>47</sup> Marcel Gatsinzi, a senior officer in the FAR at that time, later provided a commentator with the following characterization of French military escalation in Rwanda:

[In October 1990,] French troops were deployed in the capital Kigali initially to evacuate French citizens, but remained for three years. During this time, apart from assisting through arming and training the exponential growth of the Rwandan army (*forces armées rwandaises* [FAR], which grew from 5,200-strong in 1990 to 35,000 in 1993), they maintained a visible presence in the city – manning checkpoints and carrying out joint patrols with the FAR, and played a less visible support role at the front – commanding artillery bombardments and, on at least one occasion, conducting a bombardment (at Byumba, far from where there were any French citizens to protect, in October 1990).<sup>48</sup>

As the French Parliamentary Commission observed, the French military

continuously participated in the development of battle plans, provided advice to the chief of staff and to the sectors' commands, proposed restructuring and new tactics. It dispatched advisers to instruct the FAR in the use of sophisticated

<sup>43</sup> See *id.* at Tome I 138 & 157.

<sup>44</sup> HUMAN RIGHTS WATCH, *ARMING RWANDA: THE ARMS TRADE AND HUMAN RIGHTS ABUSES IN THE RWANDAN WAR 15-16* (1994) [hereinafter HRW, *Arming Rwanda*], available at <https://goo.gl/YF1HtM>; see MIP Tome III, Vol. 1 133 (Jean-Christophe Mitterrand Audition).

<sup>45</sup> See HRW, *Arming Rwanda*, *supra* note 44, at 16.

<sup>46</sup> Jean Chatain, *Accablantes responsabilités françaises* [*Overwhelming French Responsibility*], L'HUMANITÉ, June 17, 1994, at 17 (Fr.).

<sup>47</sup> See MIP Tome I 170-171; DIDIER TAUZIN, *JE DEMANDE JUSTICE POUR LA FRANCE ET SES SOLDATS* [I DEMAND JUSTICE FOR FRANCE AND ITS SOLDIERS] 75-76 (2011) (stating that Tauzin prepared the February 25, 1993 order to stop the RPF advance in the Rulindo Sector with Jean Michel Chereau, the head of the Military High Command, and recounting how French officers commanded the FAR in artillery bombardments against the RPF that successfully broke their momentum to Kigali).

<sup>48</sup> Mel McNulty, *France's Role in Rwanda and External Military Intervention: A Double Discrediting*, 14 INT'L PEACEKEEPING 3, 32 (1997) (citing 1996 interview with Col. Marcel Gatsinzi); see also MIP Tome I 175 (acknowledging that the rules of behavior for French soldiers manning checkpoints permitted the delivery of suspects to the Rwandan Gendarmerie).

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weapons. It taught techniques of laying traps and mining, suggesting for that purpose the most appropriate locations.<sup>49</sup>

After the initial retreat of the RPF, French forces remained in Rwanda and broadened their assistance through Military and Instruction Assistance Detachments (“DAMI”). On March 15, 1991, French officials told the FAR they would send the DAMI to northern Rwanda, for what was initially reported as a temporary presence to train and supervise the Rwandan military, to protect French nationals in the region and to assess the security situation.<sup>50</sup> The DAMI grew to include three components: (1) a Panda DAMI created on March 20, 1991, in charge of training the FAR; (2) an artillery component formed in 1992; and (3) an engineering component added in 1993.<sup>51</sup> According to an April 1991 U.S. reporting cable, all FAR troops, which by that point numbered 21,000, were expected to undergo two-week intensive combat training that included the use of mortars and “special combat operations.”<sup>52</sup> The cable went on to note that French paratrooper trainers formerly attached to an elite paracommando battalion had helped train a reconnaissance commando unit that was patterned on a French model.<sup>53</sup> Thus, French forces in Rwanda, then numbering 219,<sup>54</sup> trained, armed, and assisted Habyarimana’s military in an effort to push back the RPF. DAMI Colonel Bernard Cussac also stated that he, accompanied by DAMI Lieutenant Colonel Gilles Chollet, had participated in the interrogation of RPF prisoners.<sup>55</sup>

## **2. During the 1990-1993 War, French Officials Defined the ‘Tutsi’ as the Threat, While Extremists Promoted Anti-Tutsi Propaganda and Massacred Tutsi.**

From the outset of *Opération Noroît*, senior French officials characterized the Tutsi (not just the RPF) as the threat to the Rwandan government. For example, on October 7, 1990, France’s Ambassador to Rwanda, Georges Martres, wrote in a cable to Paris:

The aggression confronting [Habyarimana] is based on a political project for national unity of Tutsis and Hutus that would undoubtedly lead to Tutsi domination.... The political choice is crucial for Western powers who help Rwanda, particularly Belgium and France.

<sup>49</sup> MIP Tome I 171.

<sup>50</sup> See Cable regarding DAMI implementation (Mar. 15, 1991), in MIP Tome II 178, available at <http://francegenocidetutsi.org/TaixDami15mars1991.pdf> (Fr.); MIP Tome I 145, 153, 157 & 165.

<sup>51</sup> See MIP Tome I 146-148.

<sup>52</sup> See Cable from U.S. Embassy in Kigali to U.S. Secretary of State, in Washington D.C. 2 (Apr. 9, 1991) [hereinafter French Special Ops Apr. 1991 Cable], available at <https://goo.gl/MxfZ4W>.

<sup>53</sup> See *id.*

<sup>54</sup> See *id.* at 3.

<sup>55</sup> See MIP Tome I 176-177 & Tome II 23-24.

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Either they consider primarily the foreign nature of the aggression to which an increased military engagement on their part is necessary to deal with it. Or they take into account the domestic support enjoyed by this movement [RPF] even if it could only develop with Ugandan support, and even if it is anticipated that after the apparent phase of national unity, it may result in the takeover of power by the Tutsi or at least by the mestizo class....<sup>56</sup>

In additional reports to President Mitterrand, senior French officials in Rwanda, such as Ambassador Martres, Admiral Jacques Lanxade (then Chief of the Military Staff of the President and later Chief of the Defense Staff) and Claude Arnaud (a senior advisor to the President), described the threat as the “Tutsis.”<sup>57</sup> These and other officials continued to refer to Rwanda’s threat as “Tutsi” in correspondence to Paris.<sup>58</sup>

French officials adopted this language in government memoranda and communications in parallel to the propaganda machine stirring ethnic hatred in Rwanda. The anti-Tutsi crusade

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<sup>56</sup> Ministry of Foreign Affairs Cable from Georges Martres, French Ambassador to Rwanda (Oct. 7, 1990), *available at* MIP Tome II 131, *available at* <https://goo.gl/6Z3rcH> (Fr.) (the word “mestizo” is used to refer to a person of mixed ethnicity and was used in Rwanda to refer pejoratively to a mixed class of both Tutsi and Hutu). This cable refers to additional diplomatic telegrams (e.g., Diplomatic Telegrams 447 & 510), which the French government has yet to release to the public and/or Rwanda. According to the French Parliamentary Report, Ambassador Martres wrote this cable. *See* MIP Tome I 141-142.

<sup>57</sup> *See, e.g.*, letter from Admiral Jacques Lanxade to President Francois Mitterrand (Oct. 11, 1990) (describing the RPF as “The Tutsi forces” and “Tutsi”), *available at* <https://goo.gl/pkR1gB> (Fr.); letter from Claude Arnaud (a senior advisor to the president) to President Francois Mitterrand (Oct. 18, 1990) (stating that Rwanda has been attacked by “refugees of Tutsi origin” and describing the RPF as “Tutsi rebels”), *available at* <http://francegenocidetutsi.org/Arnaud19901018.pdf> (Fr.); cable from Ambassador Georges Martres to President Francois Mitterrand (Oct. 24, 1990) (reporting on the RPF as “Tutsi who are looking to take power”), *available at* <http://francegenocidetutsi.org/Martres24octobre1990.pdf> (Fr.).

<sup>58</sup> *See, e.g.*, letter from Admiral Jacques Lanxade to President Francois Mitterrand (Jan. 2, 1991) (referring to “Tutsi incursions” and “Tutsi forces”), *available at* <https://goo.gl/ajGtwE> (Fr.); Minutes, Meeting at Élysée Palace (Jan. 23, 1991) (quoting President Mitterrand as having said that “[t]he Ugandan Tutsi are moving to conquer Rwanda, it’s worrying”), *available at* <http://francegenocidetutsi.org/ConseilRestreint23janv1991.pdf> (Fr.); letter from Admiral Jacques Lanxade to President Francois Mitterrand (Feb. 3, 1991) at 1-2 (referring to a “New Ugando-tutsi offensive” and describing the RPF as “Ugando-tutsi forces”), *available at* <http://francegenocidetutsi.org/Lanxade3fevrier1991.pdf> (Fr.); letter from Admiral Jacques Lanxade to President Francois Mitterrand (Apr. 22, 1991) (referring to the RPF as “Ugando-tutsi rebels”), *available at* <http://francegenocidetutsi.org/Lanxade19910422.pdf> (Fr.); letter from General Christian Quesnot to President Francois Mitterrand (May 23, 1991) (referring to the RPF as “Ugando-tutsi rebels”), *available at* <https://goo.gl/pgw5ei> (Fr.); letter from General Jean-Pierre Huchon to President Francois Mitterrand (Nov. 20, 1991) (referring to the RPF as “Tutsi” or “Tutsi forces”), *available at* <https://goo.gl/K1DLjK> (Fr.); letter from General Christian Quesnot to President Francois Mitterrand (Feb. 13, 1993) (describing the RPF attacks in Rwanda as “Ugandan-tutsi offensive”), *available at* <http://francegenocidetutsi.org/Quesnot13fevrier1993.pdf> (Fr.); letter from Dominique Pin (a senior advisor to the president) and General Christian Quesnot to President Francois Mitterrand (Feb. 23, 1993) (stating that the “victory of the Tutsi ethnicity, which directs the RPF, would undoubtedly lead to a Hutu ethnic uprising, which could have dramatic consequences”), *available at* <http://francegenocidetutsi.org/QuesnotPin23fevrier1993.pdf> (Fr.); Minutes of Fr. Council of Ministers, Part C on the Situation in Rwanda (Mar. 3, 1993) (referring to a “revolt by the Tutsi minority, supported by Uganda against the Hutu majority”), *available at* <https://goo.gl/nig6BP> (Fr.).



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reached its “first ideological highpoint”<sup>59</sup> in December 1990, with the publication in *Kangura*, a Rwandan newspaper, of an article entitled “Appeal to the Conscience of the Hutu.”<sup>60</sup> Although much of *Kangura* was in Kinyarwanda, this particular article was published in French.<sup>61</sup> It stated: “[I]n October 1990, Rwanda was the object of an external attack mounted by Tutsi extremists supported by the Ugandan army. These aggressors, counting on the action of infiltrators in the country and the complicity of the internal Tutsi . . . [,] hoped to conquer the country. . . .”<sup>62</sup> The “Hutu Ten Commandments,” a set of rules of conduct set out in the article, “conveyed contempt and hatred for the Tutsi ethnic group, and for Tutsi women in particular as enemy agents”<sup>63</sup> by, inter alia, stating that any Hutu man who marries a Tutsi woman is a traitor, and that all Tutsi are dishonest in their business dealings.<sup>64</sup>

On December 17, 1990, Ambassador Martres reported to Paris on the *Kangura* article: “The radicalization of the ethnic conflict can only intensify. The newspaper *Kangura*, mouthpiece of Hutu extremists, just published an issue resurrecting the ancient hatred against Tutsi feudalism: the ‘Hutu commandments.’”<sup>65</sup> On the back page of this particular issue of *Kangura* was a full-page photo of President Mitterrand captioned “A true friend of Rwanda.”<sup>66</sup> We are unaware of any public information suggesting that France condemned the publication of the “Hutu Ten Commandments” or distanced itself from being a “true friend” to the anti-Tutsi efforts.

French officials, likewise, appear to have been well aware of the broadcasts emanating from the radio complement to *Kangura*: Radio Rwanda and, later, *Radio-Télévision Libre des Mille Collines* (“RTLM”). Radio Rwanda had been the Rwandan government’s state radio station and reflected its anti-Tutsi position. In April 1992, in the midst of peace negotiations, the radio station began to moderate its rhetoric.<sup>67</sup> Hutu hard-liners thereafter created RTLM, which, according to information in the public record, began broadcasting either in April or July 1993.<sup>68</sup> RTLM aired racially discriminatory messages in both Kinyarwanda and French; thus, French

<sup>59</sup> DANIELA KROSLAK, *THE FRENCH BETRAYAL OF RWANDA* 76 (2008).

<sup>60</sup> *See Appel a la conscience des Bahutu [Appeal to the Conscience of the Hutu]*, KANGURA, No. 6, Dec. 1990, at 6-7, available at <https://goo.gl/NFMcCg><https://goo.gl/NFMcCg> (Fr.).

<sup>61</sup> *See id.*

<sup>62</sup> *See id.* at 6.

<sup>63</sup> *The Prosecutor v. Ferdinand Nahimana, et al.*, Case No. ICTR-99-52-T, Trial Judgement (Dec. 3, 2003) ¶ 152, available at <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-99-52/trial-judgements/en/031203.pdf>.

<sup>64</sup> *Appel a la conscience des Bahutu [Appeal to the Conscience of the Hutu]*, KANGURA, No. 6, Dec. 1990, at 8, available at <https://goo.gl/NFMcCg><https://goo.gl/NFMcCg> (Fr.).

<sup>65</sup> Cable from French Ambassador to Rwanda Georges Martres to the French Ministry of Foreign Affairs (Dec. 19, 1990), in MIP Tome II 139 (discussing Diplomatic Telegram 740, which Ambassador Martres sent on Dec. 17, 1990) (Fr.), available at <https://goo.gl/PJ9amL> (Fr.). *See also* MIP Tome I 141.

<sup>66</sup> KANGURA, No. 6, Dec. 1990, at 20, available at <https://goo.gl/NFMcCg><https://goo.gl/NFMcCg> (Fr.).

<sup>67</sup> ALISON DES FORGES, HUMAN RIGHTS WATCH, *LEAVE NONE TO TELL THE STORY* 68 (1999) [hereinafter *Leave None*].

<sup>68</sup> *Cf.* MIP Tome I 291 (stating that RTLM began broadcasting in April 1993); *with* *Prosecutor v. Ferdinand Nahimana, et al.*, Case No. ICTR-99-52-T, Judgement and Sentence, ¶ 342 (Dec. 3, 2003) (stating that RTLM began broadcasting in July 1993).

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Ah . . . those who have, there are people who have slender children, who are born of a few families (whose mothers are Tutsi), now they are members of the RPF. There are men who marry Tutsi women because of their beauty and who claim to be members of the [*Coalition pour la Défense de la République* (“CDR”), a Hutu Power political party,] we tell them that this is not possible, we cannot admit it, we know the side towards which you lean.<sup>72</sup>

Indeed, the virulent message was so clear that in early 1994, prior to the Genocide, the Commander of the UN peacekeeping force in Rwanda (“UNAMIR”), Canadian Lieutenant-General Roméo Dallaire, repeatedly asked for the capability to jam RTLM’s broadcasts inciting violence against Tutsi and describing ways to kill, but the requests were denied.<sup>73</sup>

### **C. From 1990 through March 1994, France Was Aware of the Habyarimana Government’s Involvement in Massacres against the Tutsi and Yet Continued to Provide Arms and Ammunition.**

As extremists massacred Tutsi during the early 1990s,<sup>74</sup> not only did French media make French officials well aware of these atrocities, so too did French government cables. In parallel to the massacres, the Rwandan government expanded its crackdown and brutality against the Tutsi. For example, in October 1990, the Rwandan government arrested and detained an estimated 10,000 persons it claimed were supporters of the RPF.<sup>75</sup> Yet French officials, in Paris and Rwanda, continued to support the regime responsible for the mass killings and arrests, and to facilitate the shipment of armaments to Rwanda.

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<sup>69</sup> See MIP Tome III, Vol. 1 306 (French Ambassador Jean-Michel Marlaud Audition).

<sup>70</sup> See, e.g., transcript of RTLM Broadcast 25-26 (Jan. 4, 1994), available at [http://migs.concordia.ca/links/documents/RTLM\\_04Jan94\\_fr\\_K024-9406-K024-9452.pdf](http://migs.concordia.ca/links/documents/RTLM_04Jan94_fr_K024-9406-K024-9452.pdf) (Fr.).

<sup>71</sup> *Id.*

<sup>72</sup> Transcript of RTLM Broadcast 10 (Jan. 1, 1994) (parenthetical in original) (on file with CLM LLP).

<sup>73</sup> ROMÉO DALLAIRE, THE MEDIA IN DICHOTOMY, in THE MEDIA IN THE RWANDAN GENOCIDE, edited by ALLAN THOMPSON 18 (2007).

<sup>74</sup> See, e.g., FEDERATION INTERNATIONALE DES DROITS DE L’HOMME (“FIDH”), ET AL., RAPPORT DE LA COMMISSION INTERNATIONALE D’ENQUETE SUR LES VIOLATIONS DES DROITS DE L’HOMME AU RWANDA DEPUIS LE 1ER OCTOBRE 1990 [REPORT OF THE INTERNATIONAL COMMISSION OF INVESTIGATION ON HUMAN RIGHTS VIOLATIONS IN RWANDA SINCE OCTOBER 1, 1990] [hereinafter FIDH Report] 20 (1990), available at <https://goo.gl/jEkh4G> (Fr.).

<sup>75</sup> See MIP Tome I 81 & Tome III, Vol. 1 27 (Andrés Guichaoua Audition).

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French officials knew that Rwandan officials encouraged the killing of Tutsi civilians, and that the violence against civilians had accelerated in response to the RPF invasion. For example, on October 13, 1990, Colonel René Galinié, the French Defense Attaché, reported that “Hutu peasants,” organized by President Habyarimana’s political party, the *Mouvement Révolutionnaire National pour le Développement* (“MRND”), “has intensified the search for suspected Tutsis in the foothills; massacres are reported in the region of Kibilira, 20 kilometres northwest of Gitarama. The risk of the generalization of this confrontation, already reported, seems to be becoming concrete.”<sup>76</sup> Galinié’s cable went on to explain that 90% of the population supported President Habyarimana’s regime and stated that the MRND “conducts cunning propaganda directed at old historical and ethnic motivations, which remain powerful in an isolated country without information (no newspapers, no television, subservient radio broadcasting).”<sup>77</sup> Other French officials were similarly aware of the Rwandan government’s designs for its Tutsi citizens: “General Jean Varret, former head of the Military Cooperation Mission from October 1990 to April 1993, indicated to the French Parliamentary Commission how, when he arrived in Rwanda, FAR Colonel Rwagafilita had explained the Tutsi issue to him: ‘they are very few, we will liquidate them.’”<sup>78</sup>

President Paul Kagame later described what Paul Dijoud, Director of African and Malagasy Affairs at the Foreign Ministry, told him in January 1992, during a meeting in Paris – namely, that “if we [*i.e.*, the RPF] didn’t stop, even if we managed to take Kigali, we wouldn’t find our people there because they would all have been massacred!”<sup>79</sup> Accordingly, Kagame inferred that “[Dijoud] must have had some knowledge that the genocide was about to happen.”<sup>80</sup>

Two years earlier, French Ambassador to Rwanda Georges Martres similarly acknowledged the risk of genocide. On October 15, 1990, he warned Paris of a coming Rwandan genocide against the Tutsi: “[the Tutsi population] is still counting on a military victory. A military victory, even partial, would allow them to escape genocide.”<sup>81</sup> On October 24, 1990, a joint report by Ambassador Martres and Defense Attaché Galinié noted that concessions by the Habyarimana government to the RPF (whom the authors referred to as “Tutsi invaders”) could “result in all likelihood in the physical elimination of Tutsis in the interior of the country, 500,000 to 700,000 people, by the 7,000,000 Hutus.”<sup>82</sup>

<sup>76</sup> Cable from Colonel René Galinié 1 (Oct. 13, 1990), available at <https://goo.gl/rj7eJH> (Fr.).

<sup>77</sup> *Id.* at 2.

<sup>78</sup> See MIP Tome I 292 (emphasis in original).

<sup>79</sup> FRANÇOIS SOUDAN, KAGAME: THE PRESIDENT OF RWANDA SPEAKS 51 (2015).

<sup>80</sup> *Id.*

<sup>81</sup> Cable from French Ambassador to Rwanda Georges Martres to the Ministry of French Foreign Affairs 1 (Oct. 15, 1990), in MIP Tome II 133, available at <https://goo.gl/Zp17VS> (Fr.).

<sup>82</sup> Cable from French Ambassador Georges Martres (Oct. 24, 1990), in MIP Tome II 134, available at <https://goo.gl/MYQhSH> (Fr.).

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As reported in a December 19, 1990, cable from Ambassador Martres, a joint report prepared by the ambassadors of France, Belgium, and Germany, along with a European Economic Community representative in Kigali, warned that the ethnic violence created an “imminent risk of escalation with adverse consequences for Rwanda and the entire region.”<sup>83</sup> As discussed more fully below, despite these warnings, French officials continued to aid the Habyarimana government, and the Habyarimana government continued to participate in massacres of Tutsi. By contrast, the Belgian government decided to suspend its military assistance in October 1990 and to withdraw its troops from Rwanda by November 1990.<sup>84</sup>

Researchers have concluded that approximately 2,000 Tutsi were massacred between October 1990 and January 1993.<sup>85</sup> Consider, for example, the following account from the Bugesera massacre in March 1992:

Another witness, a soldier himself, who was posted to Gako at the time of the attacks, declared that Colonel Musonera, the commander of the sector, received a telegram on March 8 from the Rwandan army headquarters ordering him to provide the operation to kill the Tutsi with a company (about 150 soldiers). The operation started the next day, March 9. . . . During the day, the men of this company were dressed in civilian clothes and were guided by local residents who pointed out the homes of Tutsi. They were preceded by a patrol of soldiers in uniform who disarmed and dispersed Tutsi who had gathered to defend themselves. . . .<sup>86</sup>

A second soldier:

declared that he could identify latrines where victims who were still alive had been thrown. . . . and a place in the marsh near Rilima where about 50 people in hiding had been killed by grenades.<sup>87</sup>

Ambassador Martres was aware of the March 1992 Bugesera massacre and the involvement of Rwandan officials:

Severe attacks of Hutu peasants against Tutsis started on March 6 in Bugesera. . . . Soldiers seem to have done little to disarm the population. . . . For several months now, extremist movements, have developed . . . and, supported by the *Kangura* journal, they call for the Hutu nation to gather around the ideal of the former

<sup>83</sup> Cable from French Ambassador to Rwanda Georges Martres to the French Ministry of Foreign Affairs (Dec. 19, 1990), in MIP Tome II 139 (Fr.), available at <https://goo.gl/rgz8Jy> (Fr.).

<sup>84</sup> See MIP Tome I 83; *Le dispositif militaire français au Rwanda “demeure inchangé”* [French Military Device in Rwanda “Remains Unchanged”] AGENCE FRANCE-PRESSE, Oct. 29, 1990; U.S. Department of State internal memorandum on Rwanda (Oct. 29, 1990) available at <https://goo.gl/56KfFA>.

<sup>85</sup> See Leave None, *supra* note 67, at 87.

<sup>86</sup> See FIDH Report, *supra* note 74, at 47.

<sup>87</sup> *Id.*

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Parmehutu, which had as its main goal the defence of the majority population against the ethnicity which constituted the old feudal class.

These extremists . . . primarily come from the hardliner group of the [MRND] . . .

Abuses had already been carried out for several months in Bugesera, at the instigation of the mayor of Kanzenze, who is known for his extremism.<sup>88</sup>

Ambassador Martres' cable went on to note that the spark for the massacre was disinformation spread on Rwanda's official radio station, Radio Rwanda.<sup>89</sup>

Massacres of Tutsi continued throughout 1991, 1992, and up until the Genocide. French officials were aware of massacres at this time, as well as the role of the Habyarimana government and its military in them. Despite this knowledge, French officials maintained their support of the Rwandan military and funneled weapons into Rwanda.<sup>90</sup> In fact, France often approved of, or delivered, weapons or other military assistance soon after massacres of Tutsi occurred. For example:

- **January 1991 – March 1991**

**Massacres.** In early 1991, Rwandan officials orchestrated several killings of the Bagogwe, which refers to a pastoral Tutsi subgroup in Bigogwe, in the Northwest of the country.<sup>91</sup> The best-known of these attacks occurred on the morning of February 5, 1991, when “soldiers organized Hutu crowds to search out and attack Tutsi. More than 300 Tutsi and members of opposition political parties were killed.”<sup>92</sup>

**French Military Assistance.** Despite the Bigogwe killings in early 1991, France reinforced its Military Assistance Mission, on March 21, 1991, with additional soldiers from the Panda DAMI.<sup>93</sup>

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<sup>88</sup> Cable from Georges Martres, French Ambassador to Rwanda, to the French Ministry of Foreign Affairs 1-3 (Mar. 9, 1992), in MIP Tome II 166, 166-167 [hereinafter Martres Mar. 9, 1992 Cable] available at <https://goo.gl/NVGvxE> (Fr.).

<sup>89</sup> See *id.* at 4.

<sup>90</sup> Authorizations of exportation of weapons (by the CIEEMG-Interministerial Commission for the Study of Exports of War Material) from France to Rwanda for the period between 1987-1994 (year-number of authorizations-value in millions of francs) are as follows: 1987-4- 50M; 1988-3-19M; 1989-4-116M; 1990-16-191M; 1991-11-48M; 1992-17-122M; 1993-6-44M; 1994-1-1M. See MIP Tome I 178-179. The following are the numbers of Export Authorization of war material (AEMG) from France to Rwanda for the period between Jan 1, 1990 – April 6, 1994 (year-number of authorizations-value in millions of francs): 1990-13-9M; 1991-9-5M; 1992-33-90M; 1993-23-32M; 1994-6-0.4M. See MIP Tome I 179-180.

<sup>91</sup> FIDH Report, *supra* note 74, at 26-29.

<sup>92</sup> HRW, Arming Rwanda, *supra* note 44, at 12.

<sup>93</sup> MIP Tome I 356.

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- **November 1991 – December 1991**

**Massacres.** Throughout the evening of November 7 and into November 8, 1991, “Tutsi families were attacked in their homes in the Rwankuba sector of Murambi commune.”<sup>94</sup> During the attacks, “one 85-year old woman was killed, three girls were repeatedly raped, at least a dozen adults were injured by machetes or were severely beaten, and dozens of homes were pillaged. . . . Survivors commented that as the aggressors attacked them with machetes and sticks, they insulted the victims for being Tutsi.”<sup>95</sup>

**French Military Assistance.** On December 18, 1991, a month after the Murambi attacks, the French General Air Force Office received an export license for replacement parts for Gazelle, Alouette, and Ecureuil helicopters to be exported on April 8, 1992.<sup>96</sup> On January 27, 1992, the French government granted an export license for the three Gazelle helicopters, which French officials exported on April 22, July 1, and October 1, 1992.<sup>97</sup>

- **February – March 1992**

**Massacres.** In February and March 1992, Tutsi were massacred in Bugesera, where the editor of *Kangura* had spread rumors about “the danger of ‘Inyenzi’ infiltration and attacks,” and Radio Rwanda had incited the slaughter of Tutsi by “five times broadcast[ing] the ‘news’ that a ‘human rights group’ in Nairobi had issued a press release warning that Tutsi were going to kill Hutu, particularly Hutu political leaders, in Bugesera.”<sup>98</sup> Sometimes referred to as “rehearsals” for the 1994 Genocide against the Tutsi, the Rwandan government organized attacks on Tutsi, in March 1992, that left almost 300 dead in Bugesera.<sup>99</sup> Soldiers in civilian dress attacked Tutsi.<sup>100</sup> Reports also indicated that the perpetrators included members of the Presidential Guard and soldiers from Camp Kanombe in Kigali.<sup>101</sup>

During the first week of March 1992, extremists attacked Kibilira, wherein they killed five people, destroyed 74 Tutsi houses, and forced 1,200 to flee Kibilira, where the government previously had organized massacres of Tutsi in October 1990.<sup>102</sup>

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<sup>94</sup> HUMAN RIGHTS WATCH, TALKING PEACE AND WAGING WAR 15 (1992).

<sup>95</sup> *Id.*

<sup>96</sup> See MIP Tome I at 183-84.

<sup>97</sup> See *id.* at 183.

<sup>98</sup> Leave None, *supra* note 67, at 58 & 88-89.

<sup>99</sup> *Id.*, *supra* note 67, at 90; see *Toll of Tribal Fighting in Rwanda “Could Be 300”: Rights Group*, AGENCE FRANCE-PRESSE ANGLAIS, Mar. 8, 1992 (reporting as many as 300 deaths and the displacement of 6,000 Tutsi).

<sup>100</sup> See *id.* at 90; see also FIDH Report, *supra* note 74, at 47.

<sup>101</sup> See FIDH Report, *supra* note 74, at 47.

<sup>102</sup> See *id.* at 22.

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***French Financial and Military Assistance.*** Notwithstanding these events, in March 1992, Rwanda purchased from Egypt \$6 million of armaments (including plastic explosives, landmines, and mortar shells),<sup>103</sup> and documents suggest a French role in the transaction. Human Rights Watch found credible allegations that Crédit Lyonnais bank (nationalized by the French government) guaranteed the transaction,<sup>104</sup> although the President of Crédit Lyonnais denied these allegations.<sup>105</sup>

Further, on May 4, 1992, France delivered to Rwanda, via the Thomson-CSF company, equipment for encrypted communications, hundreds of transceivers (some of which were portable), and four high-security digital telephone sets.<sup>106</sup>

- **July 1992 – August 1992**

***Cease-Fire Followed by French Military Assistance.*** The signing of a cease-fire between the Rwandan government and the RPF in July 1992 and commencement of peace negotiations in Arusha did not stop the flow of French weapons and materials.<sup>107</sup> Thus, on August 12, 1992, the French Ministry of Foreign Affairs determined that the terms of the cease-fire agreement should not impact the sale of 2,000 105mm shells, 20 12.7mm machine guns, and 32,400 rounds to Rwanda.<sup>108</sup>

- **August 1992 – February 1993**

***Massacres.*** Supporters of the MRND and the CDR massacred Tutsi and burned their homes in Kibuye Prefecture, in the west of Rwanda, between August 20 and 25, 1992.<sup>109</sup> Political leaders connected to Habyarimana's MRND party and the extremist CDR party used the youth wings of the respective parties (*i.e.*, the *Interahamwe* and *Impuzamugambi*) and FAR soldiers to participate in the massacres.<sup>110</sup> On August 26, 1992, a few days after Habyarimana and the RPF agreed to a cease-fire, France and Habyarimana amended the

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<sup>103</sup> See MIP Tome I 178-180; see also HRW, *Arming Rwanda*, *supra* note 44, at 14-15.

<sup>104</sup> See HRW, *Arming Rwanda*, *supra* note 44, at 14-15.

<sup>105</sup> See MIP Tome I 186.

<sup>106</sup> See *id.* at 184.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> See ASSOCIATION RWANDAISE POUR LA DÉFENSE DES DROITS DE LA PERSONNE ET DES LIBERTÉS PUBLIQUES, REPORT SUR LES DROITS DE L'HOMME AU RWANDA SEPTEMBRE 1991 – SEPTEMBRE 1992, [RWANDAN ASSOCIATION FOR THE DEFENSE OF INDIVIDUAL RIGHTS AND PUBLIC FREEDOMS, REPORT ON HUMAN RIGHTS IN RWANDA, SEPTEMBER 1991 – SEPTEMBER 1992] 245-264 (Dec. 1992) (Fr.); Leave None, *supra* note 67, at 80; U.S. Department of State, *Rwanda: Threading a Needle*, in AFRICAN TRENDS 1, 12 (Sept. 18, 1992), available at <https://goo.gl/MisZGA> (declassified State Department publication, released in part).

<sup>110</sup> See ROMÉO DALLAIRE, SHAKE HANDS WITH THE DEVIL 211 (2003) [hereinafter Dallaire].

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1975 MTAA, which previously had restricted French military cooperation to the Gendarmerie and further extended that cooperation to the FAR.<sup>111</sup>

Then, in December 1992, for the third time in just over two years, Tutsi villagers were massacred at Kibilira.<sup>112</sup> *Interahamwe* and *Impuzamugambi* led the attacks in conjunction with local officials.<sup>113</sup> There were also reports of participation by the Presidential Guard in civilian clothes.<sup>114</sup> The killers targeted both Tutsi and Hutu members of opposition parties.<sup>115</sup>

***French Military Assistance.*** According to the French Parliamentary Commission, French officials continued to provide arms to Rwanda in February 1993:

Thus, in February 1993, after the *Noroît* detachment had just been reinforced . . . , the Army Chief of Staff reminded the defense attaché that he was responsible for “ensuring that the Rwandan army does not find itself in a stock shortage of sensitive ammunition . . . and that deliveries to the FAR of military equipment be made in the utmost discretion.”

In fact, in the timeline laid down in his end of mission report, Colonel Philippe Tracqui, commander of the *Noroît* detachment for the period from February 8, 1993 to March 21, 1993, noted “Friday, February 12, 1993: landing of a DC8 50 with a 12.7mm machine gun plus 100,000 cartridges for the FAR. Wednesday, February 17, 1993: landing of a Boeing 747 with discrete unloading by the FAR of 10 mm shells and 68 mm rockets (Alat).”<sup>116</sup>

Based on reports of the massacres discussed above, between January 7 and 21, 1993, a group of human rights organizations led a fact-finding mission in Rwanda. The organizations, led by the International Federation of Human Rights (“FIDH”), did not release their final report, known as the “FIDH report,” until March 8, 1993. French officials, however, were aware of the organizations’ work and findings in advance of the final report: A January 19, 1993, cable from Ambassador Martres to Bruno Delaye, advisor on African Affairs to President Mitterrand, reported on information provided by Jean Carbonare of the organization, *Survie et Développement*, which collaborated on the FIDH report.<sup>117</sup> According to the cable, Mr. Carbonare told Ambassador

<sup>111</sup> See Amendment to MTAA, Aug. 26, 1992, in MIP 91-94 Tome II (Fr.)

<sup>112</sup> See FIDH Report, *supra* note 74, at 22.

<sup>113</sup> See *id.* at 26.

<sup>114</sup> See *id.* at 26.

<sup>115</sup> See *id.* at 23.

<sup>116</sup> MIP Tome I 184-85.

<sup>117</sup> See Cable from Georges Martres, French Ambassador to Rwanda, to Bruno Delaye, Head of the Africa Desk in the Office of the President 1 (Jan. 19, 1993), available at <https://goo.gl/Nf46mz> (Fr.).



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Martres that President Habyarimana had ordered the massacres, while meeting with numerous top officials (including Colonel Bagosora).<sup>118</sup> Ambassador Martres elaborated: “During this meeting, the operation would have been planned, including the order to carry out a systematic genocide using, if necessary, military strength and involving local populations in the massacres, probably to create a sense of national solidarity in the fight against the Tutsi enemy.”<sup>119</sup> Ambassador Martres accepted that the report contained serious criticism against President Habyarimana and acknowledged that “the report that the mission will deliver . . . will only add horror to the horror we already know.”<sup>120</sup>

On February 11, 1993, Belgium signaled that it would cut aid to Rwanda.<sup>121</sup> But the revelations of human rights abuses at the hands of Rwandan officials failed to move key French officials. On March 3, 1993, only a few days before the release of the final FIDH report, General Christian Quesnot, concerned with the RPF’s continued advance,<sup>122</sup> made the following recommendations to President Mitterrand:

1 - as a first priority, to demand a strong and immediate change in the media information about our policy in RWANDA, notably emphasizing:

- The democratic advancement in RWANDA for the past two years: a multiparty system, opposition Prime Minister, etc. . . .
- the Ugandan aggression,
- the serious human rights abuses of the RPF: systematic massacre of civilians, ethnic purification, displaced populations, . . .

2 - continue to put pressure on the Rwandan authorities to present a united front in the negotiations and for the Rwandan army to feel solidly supported in the defense of national territory,

3 - to help the Rwandan army even more to maintain strong and sufficiently equipped units between the French security apparatus and the [RPF] aggressors,

4 - to maintain, at a minimum, our current military apparatus.<sup>123</sup>

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<sup>118</sup> *See id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *See Belgium Signals It Will Cut Its Substantial Aid to Rwanda*, AGENCE FRANCE-PRESSE ANGLAIS, Feb. 11, 1993.

<sup>122</sup> *See Memorandum from General Christian Quesnot, Chief of Military Staff, to President François Mitterrand 1 (Mar. 3, 1993)*, available at [http://francegenocidetutsi.org/Quesnot3mars1993.pdf\\_\(Fr.\)](http://francegenocidetutsi.org/Quesnot3mars1993.pdf_(Fr.)). (“The RPF has resumed its offensive . . . . Our military and technological aid to the Rwandan forces has still not reversed the balance of power, neither has it achieved the political objectives decided on October 22, which seems more serious to me.”).

<sup>123</sup> *Id.* at 1-2.

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Clearly aware of media criticism of President Habyarimana, a top priority for General Quesnot appears to have been to lay the blame on the RPF, whom he referred to as “the aggressors.”<sup>124</sup> His communication made no mention of human rights abuses by the Rwandan government and did not recommend pressure upon Rwandan authorities to curb them.

The next day, March 4, 1993, Senator Guy Penne, previously a counselor to President Mitterrand on African Affairs, advised Prime Minister Pierre Bérégovoy to suspend cooperation with Rwanda and limit French troops to protecting expatriates and humanitarian pursuits.<sup>125</sup> That advice went unheeded.

On March 8, 1993, FIDH *et al.* released its report in Paris and Brussels, which concluded that “massive, systematic” human rights violations had been committed in Rwanda since October 1, 1990, “with the deliberate intention to attack a specific ethnic group.”<sup>126</sup> The English version of the report was released the same month. Among the findings quoted in the English version’s “Introduction and Summary of Findings,” and supported in the body of the French version (which did not include a summary of findings), were:

- There were “massive, systematic” human rights violations being committed in Rwanda since October 1, 1990, “with the deliberate intention to attack a specific ethnic group.”
- The Rwandan government has killed or caused to be killed about 2,000 of its citizens.
- The majority of the victims have been Tutsi, and they have been killed and otherwise abused for the sole reason that they are Tutsi.
- Authorities at the highest level, including the President of the Republic, have consented to abuses.
- Officials and state agents have been responsible for carrying out attacks at the local level. In some cases, they have even informed Hutu that killing Tutsi is part of umuganda, the obligatory communal labor ordinarily done for the public good.
- The FAR killed civilians during attacks on the Bagogwe and in Bugesera. It slaughtered hundreds of others in the course of a military operation in Mutara. The Rwandan army staged fake military assaults, one on the capital of Kigali and one on its own camp at Bigogwe, to provide a pretext for killing or arresting Tutsi and supposed opponents of the government.
- The Rwanda military has assassinated or summarily executed civilians designated by civilian authorities.
- The Rwandan army has killed RPF soldiers after their surrender.

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<sup>124</sup> *Id.*

<sup>125</sup> Letter from French Senator Guy Penne to Prime Minister Pierre Bérégovoy (Mar. 4, 1993), *available at* <https://goo.gl/Nd5896> (Fr.).

<sup>126</sup> FIDH Report, *supra* note 74, at 90.

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- In clear violation of Rwandan law, the President and government of Rwanda have tolerated and encouraged activities of armed militia attached to the political parties. Within recent months, the militia have taken over from the government the leading role in violence against Tutsi and members of the political opposition, effectively “privatizing” the violence.<sup>127</sup>

The release of the FIDH report was well reported in French media.<sup>128</sup>

On the day the Commission made its work public, Belgium recalled its ambassador from Rwanda for consultation and said it might reconsider its civilian and military cooperation with the country.<sup>129</sup> The French foreign ministry summoned the Rwandan ambassador for an explanation; however, the *AFP* reported: “French Ministry of Foreign Affairs spokesman Daniel Bernard stressed that unlike the former colonial power Belgium, France [has] had no intention of reviewing its cooperation policy with Rwanda after the report on massacres and mass graves by the International Human Rights Federation (FIDH).”<sup>130</sup>

Likewise, following the release of the FIDH report, French Ambassador Jean-Michel Marlaud attempted to deflect accusations against the Rwandan government by stating, “There are violations by the Rwandan Army, more because of a lack of control by the government, rather than the will of the government.”<sup>131</sup>

After the release of the FIDH report, French arms dealers supplied armaments to Rwanda, reportedly with the approval of French officials. For example, in May 1993, the Rwandan government entered into a \$12 million arms deal for weapons and ammunition from a French company, DYL Investments, that was subject to French regulations.<sup>132</sup> In addition, according to reports, the French consul in Goma justified allowing shipments of French and eastern European arms as “fulfilling private French contracts agreed before the wholesale murder of civilians was

<sup>127</sup> FÉDÉRATION INTERNATIONALE DES DROITS DE L’HOMME (“FIDH”), ET AL., REPORT OF THE INTERNATIONAL COMMISSION OF INVESTIGATION ON HUMAN RIGHTS VIOLATIONS IN RWANDA SINCE OCTOBER 1, 1990, English Version, 3-4 (1990), available at <https://goo.gl/64zXGE>.

<sup>128</sup> See, e.g., *RWANDA: selon une commission d’enquête internationale des violations “systématiques” des droits de l’homme ont fait plus de 2,000 victimes en deux ans* [RWANDA: According to an international commission of inquiry, “systematic” violations of human rights have created more than 2000 victims in two years], *LE MONDE*, Mar. 10, 1993 (reporting on a Paris press conference by FIDH President, Daniel Jacoby, who had stated that the Rwandan government was implicated “at a very high level of responsibility” in killing of 2000 civilians since the beginning of the civil war in October 1990); *Au Rwanda, les massacres ethniques au service de la dictature* [In Rwanda, Ethnic Massacres at the Service of the Dictatorship], *LE MONDE DIPLOMATIQUE*, Apr. 1993, 18-19, available at <https://goo.gl/t7Ad8r> (Fr.); Interview of Jean Carbonare, *NEWS ANTENNA 2*, 1993, available at <https://goo.gl/SGQpx9> (Fr.); Remy Ourdan, *Les yeux fermés* [Closed Eyes], *LE MONDE*, Apr. 1, 1998 (Fr.).

<sup>129</sup> See *Belgium Recalls Its Ambassador from Rwanda*, *AGENCE FRANCE-PRESSE ANGLAIS*, Mar. 8, 1993.

<sup>130</sup> See *Rwandan Ambassador Called in Over Rights Violations*, *AGENCE FRANCE-PRESSE ANGLAIS*, Mar. 11, 1993.

<sup>131</sup> See Stephen D. Goose & Frank Smyth, *Arming Genocide in Rwanda*, *FOREIGN AFFAIRS*, Sept.-Oct. 1994, available at <https://goo.gl/H5dy1K>.

<sup>132</sup> See Letter from Colonel Cyprien Kayumba, Duty Officer at the Ministry of Defense, to the Minister of Defense of Bukava (Dec. 26, 1994), in *MIP Tome II* 563, 566 (Fr.); Letter from Paul Barril to Dominique Lemonnier, CEO of DYL Invest (July 13, 1994), in *MIP Tome II* 575, 575-576 (Fr.); see also *MIP Tome II* 581-589.

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sparked by the deaths of the Rwandan president and his Burundian counterpart on April 6.”<sup>133</sup> As one journalist has stated, “It is unlikely the shipments could have gone ahead without, at the least, the tacit approval of the French authorities which have, until now, been Rwanda’s main weapons supplier.”<sup>134</sup>

On January 25, 1994, Human Rights Watch (“HRW”) issued an open letter to President François Mitterrand in which the organization claimed that France was “the major military supporter of the government of Rwanda . . . providing combat assistance to a Rwandan army guilty of widespread human rights abuses, and failing to pressure the Rwandan government to curb human rights violations.”<sup>135</sup> The letter charged that France’s military assistance to Rwanda was tantamount to direct participation in the war.<sup>136</sup> Although one report claimed that officials within the French Ministry of Cooperation were preparing a response to the HRW letter,<sup>137</sup> the French government does not appear to have responded.<sup>138</sup>

The French Parliamentary Commission accordingly found:

Faced with procrastination by Rwandan authorities and concerned about the stability of states and regional security, France never made the decision to suspend all cooperation, or even to decrease the level of its civil and military aid. Thus, President Juvénal Habyarimana was able to convince himself that “France . . . would be behind him regardless of the situation, and he could do anything militarily and politically.”<sup>139</sup>

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<sup>133</sup> See Chris McGreal, *Paris Stands by as Arms Pour Through Eastern Zaire*, THE GUARDIAN, June 23, 1994 [hereinafter *Paris Stands by as Arms Pour Through Eastern Zaire*], available at <https://goo.gl/WVTXLS>; see also ANDY STOREY, STRUCTURAL VIOLENCE AND THE STRUGGLE FOR STATE POWER IN RWANDA 36 n.27 (2010) (stating it is “unlikely the French government was unaware of this arrangement.”); see also *Rearming with Impunity*, *supra* note 29, at 4 (“The French consul in Goma at the time, Jean-Claude Urbano, has justified the five shipments as a fulfillment of contracts negotiated with the government of Rwanda prior to the arms embargo.”). Jean-Claude Urbano intended to sue Human Rights Watch over its reporting but did not follow through. See Memorandum from Defense Officer of the Ministry of Cooperation to the Minister of Cooperation (Sept. 1, 1994), LAURE CORET & FRANÇOIS-XAVIER VERSHAVE, L’HORREUR QUI NOUS PREND AU VISAGE: L’ÉTAT FRANÇAIS ET LE GÉNOCIDE [THE HORROR THAT STRIKES US IN THE FACE: THE FRENCH STATE AND THE GENOCIDE] (2005) [hereinafter *Roussin Memorandum*] 126, available at <https://goo.gl/neQHqe> (Fr.).

<sup>134</sup> *Paris Stands by as Arms Pour Through Eastern Zaire*, *supra* note 133.

<sup>135</sup> Frank Smyth, *Rwanda’s French Connection*, THE VILLAGE VOICE, May 3, 1994, available at <https://goo.gl/3d1skp> [hereinafter *Smyth*]; *France: Mitterrand Fils Encore!*, AFRICA CONFIDENTIAL, Feb. 4, 1994, at 8 [hereinafter *Africa Confidential*].

<sup>136</sup> Monah Esipisu, *Human Rights Group Urges Arms Ban on Rwanda*, REUTERS, Jan. 25, 1994; *Africa Confidential*, *supra* note 135, at 8.

<sup>137</sup> *Africa Confidential*, *supra* note 135, at 8.

<sup>138</sup> *Smyth*, *supra* note 135.

<sup>139</sup> MIP Tome I 36 (quoting testimony from former US Assistant Secretary of State for African Affairs Herman Cohen).

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## **D. Despite the Massacres in Rwanda, French Officials Strengthened the Rwandan Gendarmerie and May Have Helped Civilian Militias.**

In the midst of these massacres, public information shows that France increased its support for Rwandan institutions, core elements of which would later participate in the Genocide against the Tutsi.<sup>140</sup>

### **1. French Officials Developed and Assisted the Rwandan Gendarmerie.**

Through the MTAA of 1975, French officials helped develop the Rwandan Gendarmerie. That assistance intensified during the early 1990s. In November 1990, Rwandan officials asked French officials to continue with their development of the Rwandan Gendarmerie and, within it, the judicial police.<sup>141</sup> Internal communications from 1991 show that French officials were assisting the Gendarmerie prepare for the defense of Kigali, and that the Gendarmerie would benefit from tactical assistance, led by Col. Canovas.<sup>142</sup>

French advisors also assisted the Gendarmerie in the investigation of acts of “terrorism.” Yet, two French reports on the subject (one dated June 1, 1992 and the other dated June 1993) suggest that DAMI advisors to the Gendarmerie were more interested in finding evidence of crimes supposedly committed by the RPF than in putting an end to the mass murder of Tutsi.<sup>143</sup> While both reports acknowledged the lack of conclusive evidence for the laying of mines and explosive attacks on taxis in Kigali, the 1993 report, in particular, accused the RPF.<sup>144</sup>

Neither report entertained an investigation into the well-reported massacres that were continuing to unfold across the country. Instead, they referred to “ethnic violence” in passing, and

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<sup>140</sup> See generally LAURE DE VULPIAN AND THIERRY PRUNGNAUD, SILENCE TURQUOISE: RWANDA, 1992-1994 RESPONSABILITÉS DE L'ÉTAT FRANÇAIS DANS LE GÉNOCIDE DES TUTSI [TURQUOISE SILENCE: RWANDA, 1992-1994 RESPONSIBILITY OF THE FRENCH STATE IN THE TUTSI GENOCIDE] 65 (2012) [hereinafter Vulpian & Prungnaud]; *France Said to Train Rwandans Before '94 Genocide*, NYTIMES, Apr. 23, 2005, available at <http://www.nytimes.com/2005/04/23/world/europe/france-said-to-train-rwandans-before-94-genocide.html>; AFRICAN RIGHTS, DEATH, DESPAIR AND DEFIANCE 55 (1995).

<sup>141</sup> See Memorandum from Colonel Leonidas Rusatira 2 (Nov. 17, 1990), available at <http://francegenocidetutsi.org/Rusatira17novembre1990.pdf> (Fr.).

<sup>142</sup> See Cable from René Galinié to Jacques Ruelle, Head of the DMAT/Gendarmerie 1 (Feb. 18, 1991), available at <http://francegenocidetutsi.org/GalinieRuelle18fevrier1991.pdf> (Fr.).

<sup>143</sup> RÉPUBLIQUE RWANDAISE GENDARMERIE NATIONALE, ETUDE SUR LE TERRORISME AU RWANDA DEPUIS 1990 [STUDY ON TERRORISM IN RWANDA SINCE 1990] (1993) (hereinafter *Etude sur le terrorisme*), available at <https://goo.gl/HBv6yV> (Fr.).

<sup>144</sup> See *Etude sur le terrorisme*, *supra* note 143, at 508 (Fr.) (“We can assert that the sponsor of most of the attacks is the RPF”).

**\*This document is embargoed until 10:00am Kigali time Wednesday, 13 December 2017.\*** accused the RPF of inciting massacres to destabilize the Habyarimana regime.<sup>145</sup> The theory that the RPF sought to incite massacres against its own people found no support in the contemporaneous FIDH report, which instead noted numerous instances of participation by the Gendarmerie in the massacres of Tutsi.<sup>146</sup>

## 2. French Officials May Have Trained and Equipped Civilian Militias.

Over time, while the violent atmosphere in Rwanda boiled, information in the public record suggests that French officials may have trained and equipped civilian militias. Thierry Prunghaud, a former member of the National Gendarmerie Intervention Group, for example, told France Culture radio that in 1992 he saw “French military members training Rwandan civilian militias to shoot a gun. . . . [T]here were about 30 militants being taught how to shoot in Akagera park.”<sup>147</sup>

These militias organized and operated in similar fashion to the *Interahamwe* and *Impuzamugambi*, who were responsible for the deaths of hundreds of thousands of people during the Genocide against the Tutsi. They were trained (not necessarily by the French) to see the Tutsi as the enemy, “cockroaches” who deserved to die.<sup>148</sup> In the months preceding the Genocide against

<sup>145</sup> See, e.g., ACTES DE TERRORISME PERPÉTRÉS AU RWANDA DEPUIS DECEMBRE 1991, at 6 (Fr.) (“a significant part of these actions are to be imputed to the RPF which implements them from Burundi, possibly via Zaire. They aim to destabilize the country and discredit the president of the Republic with public opinion and donors (provoking for example ethnic massacres)”; see also Etude sur le terrorisme, *supra* note 143, §§ VII & VIII (Fr.) (concluding “evidence clearly shows that the Rwandan Patriotic Front is behind those attacks” and specifically suggesting that in Bugesera the RPF had committed “attacks on soldiers at Gako camp in order to provoke trouble and an indiscriminate ethnic crackdown.”).

<sup>146</sup> See FIDH Report, *supra* note 74, at 53 (Fr.) (“The Rwandan Armed Forces, among whom we include the gendarmerie, are cited in several chapters of this report as perpetrators of particularly grave human rights violations.”).

<sup>147</sup> *France Said to Train Rwandans before '94 Genocide*, N.Y. TIMES, Apr. 23, 2005, available at <http://www.nytimes.com/2005/04/23/world/europe/france-said-to-train-rwandans-before-94-genocide.html>; see also MIP Tome I 369 (discussing testimony of Venuste Kayimahe, who named two French soldiers who he observed training militias in Kigali, and also the testimony of the two soldiers, who denied the accusation) & 370 (discussing Gerard Prunier’s recollection of French soldiers’ training of militias); AFRICAN RIGHTS, DEATH, DESPAIR AND DEFIANCE 60 (1995) (“About 8000 [*Interahamwe* sufficiently trained and equipped by the French army await the signal to begin the assassinations among the residents of the city of Kigali and its surroundings.”); Vulpian & Prunghaud, *supra* note 140, at 66, 78-80 (2012).

<sup>148</sup> In the ICTR prosecution of Augustin Ndindiliyimana, a witness (“GFC”) testified that the trainees at the Mukingo Commune office in 1993 were told “that Tutsis were mean, *Tutsis-Inyenzi*, and that it was the Tutsis who had attacked us and that we should chase them away,” and that the authorities gave the trainees weapons and told them they would be posted at roadblocks to pursue the Tutsi enemy. Prosecutor v. Augustin Ndindiliyimana et al., Case No. ICTR-00-56-T, Judgement and Sentence, ¶ 354 (May 17, 2011), available at <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-99-50/trial-judgements/en/110517.pdf>; see also *Genocide Survivor Can’t Forgive*, BBC News, Apr. 7, 2006 (quoting Genocide survivor who claimed that she encountered “many *Interahamwe*, men who had been trained to kill the Tutsis,” and referred to Tutsi as “*Inyenzi*” or

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the Tutsi, French officials received reports about the conduct of the *Interahamwe* and other extremists. On January 12, 1994, the Directorate-General for External Security (“DGSE”), France’s foreign intelligence service, informed the French Ministry of Foreign Affairs that elements within the *Interahamwe* were attempting to provoke reactions from RPF soldiers stationed at the Rwandan parliament (“CND”) in order to use the reactions as a pretext for killing the Tutsi in Kigali.<sup>149</sup>

### III. DURING THE GENOCIDE AGAINST THE TUTSI, FRENCH OFFICIALS SUPPORTED THE INTERIM RWANDAN GOVERNMENT AND THE *GÉNOCIDAIRES*.

On March 30, 1994, a week before the Genocide against the Tutsi began, UNAMIR Commander, Lieutenant-General Roméo Dallaire, discovered that the French Government had learned of his reports about French involvement with extremist forces and, in reaction to them, had tried to remove him from his command. He explained:

France had written the Canadian government to request my removal as force commander of UNAMIR. Apparently someone had been reading my reports and hadn’t liked the pointed references I had made to the presence of French officers among the Presidential Guard, especially in light of the Guard’s close links to the *Interahamwe* militias. The French ministry of defence must have been aware of what was going on and was turning a blind eye. My bluntness had rattled the French enough for them to take the bold and extremely unusual step of asking for my dismissal. It was clear that Ottawa and the DPKO were still backing me, but I made a mental note to keep a close watch on the French in Rwanda, to continue to suspect their motives and to further probe the presence of French military advisers in the elite RGF units and their possible involvement in the training of the *Interahamwe*.<sup>150</sup>

When the Genocide against the Tutsi began on April 7, 1994, some French officials were immediately aware that the level of violence would exceed all previous massacres. According to

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cockroaches), available at <https://goo.gl/YbKpK3>; see also cable from Lieutenant-General Roméo Dallaire, UNAMIR Force Commander, to United Nations, Department of Peace Keeping Operations (Jan. 11, 1994) (noting that while the official purpose of the *Interahamwe* stationed in Kigali was to protect the city against the RPF, one of their trainers had been ordered to register all the Tutsi in Kigali and suspected it was for extermination purposes), available at <http://www.rwandadocumentsproject.net/gsd/cgi-bin/library?e=d-01000-00---off-0RW2--00-1--0-10-0---0---0prompt-10---4-----0-11--11-en-1000---50-about---00-3-1-00-0-0-11-1-1-0utfZz-8-00&a=d&cl=CL1.6.1&d=HASHac5d200ba6db810c1d0329.1>.

<sup>149</sup> See Memorandum from Pierre-Henri Bunel, French intelligence officer 228 (Jan. 12, 1994), in MIP Tome II 228, available at <http://francegenocidetutsi.org/Bunel12janvier1994.pdf> (Fr).

<sup>150</sup> Dallaire, *supra* note 110, at 209-210.

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the French Parliamentary Commission report, General Quesnot conceded that they knew what was taking place and what was about to unfold: “[W]hen President Habyarimana was assassinated, ... politicians and military men ... immediately understood that we were heading towards massacres that were completely different from those that had taken place previously.”<sup>151</sup> Indeed, on the morning of April 7, 1994, the Genocide started with mass killings of Tutsi and moderate politicians (including Prime Minister Agathe Uwilingiyama, the official authorized to lead the Rwandan government following President Habyarimana’s assassination).<sup>152</sup>

#### **A. French Officials Arrived Early to the Scene of the Wreckage of President Habyarimana’s Plane, Which Has Since Yielded Little Evidence.**

The French-trained Presidential Guard denied UNAMIR and others access to the site of the plane crash,<sup>153</sup> and Major Aloys Ntabakuze (convicted *génocidaire* and commander of the FAR paracommando battalion) claimed he had sent a platoon to the site.<sup>154</sup> As UNAMIR and others were denied access to the site of the plane crash, at least two French officials (Lt. Col. Grégoire de Saint-Quentin and a subordinate) arrived early to the scene of the plane crash, where they searched for evidence,<sup>155</sup> and did not properly secure the site in order to preserve evidence. With the deaths of the French pilots and crew on the downed Falcon 50 (a French plane), which itself was a gift from the French government to President Habyarimana, it would be expected that the French government would investigate the matter in real time. France, however, has never disclosed either an investigation report or any physical evidence from the crash site.

#### **B. During the Genocide, French Officials Adopted Their Allies’ Opposition to the Tutsi.**

As the Genocide against the Tutsi continued, French officials accepted some of the extremist myths and ethnic hatred that helped provoke mass murders of Tutsi.

When the Genocide began on April 7, 1994, extremist radio immediately helped foment the Genocide by broadcasting accusations that the RPF and Belgium had shot down the plane and

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<sup>151</sup> MIP Tome III, Vol. 1 344 (General Christian Quesnot Audition).

<sup>152</sup> See generally Dallaire, *supra* note 110, ch. 10.

<sup>153</sup> See MIP Tome I 247; Letter from Lieutenant-General Roméo Dallaire, Commander of UNAMIR, to Jean Kambanda, Prime Minister of Rwanda, *in* MIP Tome II 244 (Fr.).

<sup>154</sup> The Prosecutor v. Théoneste Bagosora et al., Case No. ICTR-98-41-T, Judgement and Sentence, ¶ 830 (Dec. 18, 2008).

<sup>155</sup> See Fact sheet by the French Ministry of Defense 3 (July 7, 1998), available at <https://goo.gl/aEthso> (Fr.); MIP Tome I 247-248.



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advising civilians to alert authorities to the presence of Tutsi.<sup>156</sup> In an April 7, 1994, cable to President Mitterrand, Bruno Delaye (head of the Africa Cell in Élysée Palace) reported the same narrative heard on extremist radio stations that the RPF had shot down the Falcon 50.<sup>157</sup> Yet, on April 11, 1994, a DGSE cable dismissed “the hypothesis” that the RPF shot down the plane as “not satisfactory,” as the DGSE wrote that the missiles had launched from the edge of Camp Kanombe, controlled by the Rwandan military, and – because of the many roadblocks – by personnel already within the confines of the airport’s security perimeter.<sup>158</sup>

Nevertheless, French officials did not correct the public misinformation about the plane crash and, at least at one point, internally blamed the “the Tutsi” for the mass killings that ensued. On April 13, 1994, the French Chief of the Defense Staff Admiral Jacques Lanxade, when asked by President Mitterrand whether the massacres would spread, predicted: “They are already considerable. But at this moment it is the Tutsi who will massacre the Hutu in Kigali.”<sup>159</sup> On April 19, 1994, General Quesnot told a reporter that Ugandan President Museveni, through his support of the RPF, “wants to create a Tutsiland,” but will fail because “an ethnic majority of 90 per cent will not accept domination of a Tutsi ethnic minority.”<sup>160</sup> General Quesnot, in the same interview, likened the RPF to the “Khmers Noirs.”<sup>161</sup>

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<sup>156</sup> See, e.g., transcript of RTLM Broadcast (Apr. 9, 1994) (on file with CLM) (Fr.); see also Letter from Baron H. Dehennin, Belgian Ambassador to the UK, to Mr. A.M. Goodenough, CMG, Superintending Under-Secretary, African Department (Southern), Foreign and Commonwealth Office (May 3, 1994), in The Linda Melvern Rwanda Genocide Archive, The Hugh Owen Library, University of Wales.

<sup>157</sup> See Memorandum from Bruno Delaye, Head of the Africa Desk in the Office of the President, to President François Mitterrand (Apr. 7, 1994), available at <http://nsarchive.gwu.edu/NSAEBB/NSAEBB461/docs/DOCUMENT%2020%20-%20French.pdf> (Fr.).

<sup>158</sup> JEAN FRANÇOIS DUPAQUIER, POLITIQUES, MILITAIRE, ET MERCENAIRES FRANÇAIS AU RWANDA: CHRONIQUE D’UNE DÉSINFORMATION 349 (2014) (quoting from DGSE cable 18502/N).

<sup>159</sup> Transcript of Restricted Council Meeting 2 (Apr. 13, 1994) (on file with CLM LLP) (Fr.).

<sup>160</sup> Interview by Françoise Carle with General Christian Quesnot 3 (Apr. 29, 1994), available at [http://nsarchive.gwu.edu/ageofgenocide/Session%204%20Documents%20\(with%20list\).pdf](http://nsarchive.gwu.edu/ageofgenocide/Session%204%20Documents%20(with%20list).pdf) (Fr.).

<sup>161</sup> *Id.* at 2.

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### **C. Extremists Used Institutions Developed by French Officials to Execute the Genocide against the Tutsi.**

At the same time as French officials were aware of the increasing violence against the Tutsi, Rwanda's powder keg of ethnic hatred exploded. Within a matter of hours after the plane was shot down, extremists used institutions or means previously developed or aided by French officials to begin the mass killings of the Tutsi. For example:

- **The Lists**: The Rwandan Gendarmerie was trained and organized by French officials over time. With their assistance, the Gendarmerie entered the names of people under surveillance into a computer database.<sup>162</sup> Colonel Augustin Ndindiliyimana, the Rwandan Gendarmerie chief of staff, requested from Lt. Col. Robardey that “the personnel from the judicial police and the *Groupement* be trained in order to exploit this tool to the maximum.”<sup>163</sup> It has been reported that on the evening of April 6, 1994, after the plane was shot down, extremists began to use lists to identify and target people to be killed.<sup>164</sup> But it is not clear from the public record whether these lists were the same lists generated by the Gendarmerie.
- **Radio**: When the Genocide against the Tutsi began, RTLM and other radio stations, broadcasting in French and Kinyarwanda, blamed Tutsi for the shoot down of the president's plane and encouraged the Rwandan people to rise up and kill “the enemy” – *i.e.*, the Tutsi.<sup>165</sup> During the first days of the Genocide, French officials permitted RTLM co-founder Ferdinand Nahimana to use the French Embassy in Kigali as a place of refuge for his family.<sup>166</sup>
- **FAR and Presidential Guard**: The IRG's efforts in April and May 1994 to exterminate the Tutsi employed many members of the FAR and the Presidential Guard trained by embedded French officials.<sup>167</sup>

<sup>162</sup> See Letter from Lt. Col. Michel Robardey to Augustin Ndindiliyimana, Chief of Staff of the Gendarmerie, (Oct. 14, 1992), available at <https://goo.gl/VXbpKc> (Fr.); see also letter from Colonel Augustin Ndindiliyimana to Lieutenant Colonel Michel Robardey (Oct. 28, 1992) [hereinafter Ndindiliyimana Oct. 28, 1992 Letter], available at <http://francegenocidetutsi.org/NdindiliyimanaChefCrcd28octobre1992.pdf> (Fr.).

<sup>163</sup> Ndindiliyimana Oct. 28, 1992 Letter, *supra* note 162.

<sup>164</sup> See FRANÇOIS GRANER, LE SABRE ET LA MACHETTE: OFFICIERS FRANCAIS ET GENOCIDE TUTSI [THE SWORD AND THE MACHETE: FRENCH OFFICERS AND TUTSI GENOCIDE] 71 (2014) (citing PHILIPPE BREWAEYS, RWANDA 1994: NOIRS ET BLANCS MENTEURS [RWANDA 1994: BLACK AND WHITE LIARS] 157 (2013) and CAPITAINE THIERRY JOUAN, UNE VIE DANS L'OMBRE [A LIFE IN THE SHADOW] 186 (2012)).

<sup>165</sup> See, e.g., MIP Tome I 291; see, e.g., transcript of RTLM Broadcast (Apr. 9, 1994) (on file with CLM LLP) (Fr.); transcript of RTLM Broadcast (June 4, 1994) (on file with CLM LLP) (Fr.).

<sup>166</sup> See MIP Tome III, Vol. 1 31-32 (André Guichaoua Audition).

<sup>167</sup> See Memorandum from the Rwandan Ministry of National Defense 8 (Jan. 1, 1993), available at <https://goo.gl/5AF9fN> (Fr.) (showing that Lt. Col. Grégoire de Saint-Quentin, among others, was embedded with the FAR); Memorandum from the Rwandan Ministry of National Defense (Mar. 5, 1994), available at <https://goo.gl/No1dTE> (Fr.) (showing that Saint-Quentin was still embedded with the FAR as of March 5, 1994);

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- **Roadblocks:** In 1993, French officials manned roadblocks.<sup>168</sup> At the roadblocks, French and Rwandan officials checked identification cards to determine an individual's ethnicity.<sup>169</sup> When the Genocide began, *génocidaires* manned the roadblocks, where thousands of Tutsi were identified and slaughtered.

#### **D. French Officials Sheltered and Supported the Interim Rwandan Government.**

When, on April 8, 1994, *génocidaires* (including ministers in the Habyarimana government) met to constitute a new Rwandan government, they did so inside the French Embassy in Kigali.<sup>170</sup> According to French Ambassador Jean-Michel Marlaud, the Rwandan ministers at this meeting made a variety of commitments, *e.g.*, replacing government ministers and regaining control of the Presidential Guard.<sup>171</sup> Ambassador Marlaud added that while these ministers purported to reaffirm their commitment to the Arusha Agreements, they refused to proceed with standing up the Broad Based Transitional Government (“BBTG”), which the RPF and multiple political parties had agreed to establish as part of the Arusha process.<sup>172</sup> Around eight o'clock that evening, the French Embassy was informed of the appointment of a President and of an IRG – *i.e.*, not the BBTG.<sup>173</sup>

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MIP Tome I 369 (reporting that the Presidential Guard benefited from the presence of DAMI officers under the command of Lieutenant Denis Roux); Vulpian & Prunghaud, *supra* note 140, at 74; *France Said to Train Rwandans Before '94 Genocide*, NYTIMES, Apr. 23, 2005, available at <http://www.nytimes.com/2005/04/23/world/europe/france-said-to-train-rwandans-before-94-genocide.html> (stating that Thierry Prunghaud had been sent to train the Presidential Guard); AFRICAN RIGHTS, DEATH, DESPAIR AND DEFIANCE 55 (1995) (stating that members of the Presidential Guard based at Kanombe barracks in Kigali and trained by the French participated in the training of local militias); Prosecutor v. Aloys Ntabakuze, Case No. ICTR-98-41A-A, Judgement, ¶245-250 (May 8, 2012), <https://goo.gl/kMHgXB>.

<sup>168</sup> See MIP at Tome I 172 (citing MSF official Jean-Hervé Bradol Audition); *id.* at Tome I 175-176.

<sup>169</sup> See *Kigali*, AGENCE FRANCE PRESSE-ANGLAIS, Mar. 3, 1993 (“French troops accompanied by Rwandan soldiers are manning roadblocks on the outskirts of the capital. The French soldiers were checking identification papers of Rwandans travelling to and from Kigali on Wednesday.”); ORGANIZATION OF AFRICAN UNITY, RWANDA: THE PREVENTABLE GENOCIDE 76 (2000) (“French soldiers were deployed, manning checkpoints and scrutinizing identity cards far from where any French citizens were known to be living, but very close to the RPF zone of control. A Dutch physician working in Rwanda for Doctors without Borders, often found French soldiers manning checkpoints in the countryside.”) (citations omitted); HRW, *Arming Rwanda*, *supra* note 44, at 24 (“The Arms Project observed French soldiers manning checkpoints just north of Kigali on the roads to Ruhengeri and Byumba. They were armed with 5.56mm FAMAS automatic rifles, as well as Wasp 58 assault rocket launchers and other infantry support weapons. Like Rwandan army troops, French troops demanded identification from passing civilians.”).

<sup>170</sup> See MIP Tome III Vol.1 296 (Ambassador Jean-Michel Marlaud Audition).

<sup>171</sup> See *id.*

<sup>172</sup> See *id.*

<sup>173</sup> See *id.* at 296-297.

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French officials recognized the IRG and received its officials in Paris. This acknowledgement and acceptance of the IRG and its officials was particularly noteworthy because at the time, only Egypt had agreed to do the same, while other states, such as Belgium and the United States, refused.<sup>174</sup> On April 27, 1994, on their way to a UN meeting in New York, Jerome Bicomumpaka (interim foreign minister) and Jean-Bosco Barayagwiza (the leader of the CDR) met in Paris with Bruno Delaye (head of the Africa Cell in the Élysée) and the Office of the French Prime Minister.<sup>175</sup> Delaye defended these meetings and stated, “you cannot deal with Africa without getting your hands dirty.”<sup>176</sup>

Also, according to a May 16, 1994, correspondence from Lt. Col. Ephrem Rwabalinda to the Rwandan Minister of Defense, Augustin Bizimana, and the Rwandan Army Chief of Staff, Augustin Bizimungu, General Jean-Pierre Huchon (the military head of the French Ministry of Cooperation) had confirmed during a meeting in France that encrypted communications systems for General Bizimungu and General Huchon to use for communications between Rwanda and Paris had been sent to Kigali.<sup>177</sup> Rwabalinda’s communication added that General Huchon believed it was “necessary to provide without delay all the evidence proving the legitimacy of the war waged by Rwanda in order to return international opinion in favor of Rwanda.”<sup>178</sup> Rwabalinda had explained that the French were unable to provide direct military assistance at that time because of adverse public opinion against the Rwandan regime.<sup>179</sup>

According to contemporaneous press reports, French officials continued to funnel weapons to Rwanda in defiance of a United Nations Security Council (“UNSC”) arms embargo put into place during the Genocide against the Tutsi, on May 17, 1994.<sup>180</sup>

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<sup>174</sup> See Leave None, *supra* note 67, at 25.

<sup>175</sup> See MIP Tome I 316; Press Release, Human Rights Watch/Africa, Representatives of Rwanda’s Genocidal Government Expected in New York; Militia Groups Ordered to Halt the Slaughter during Kigali Visit by UN High Commissioner for Human Rights 13 (May 11, 1994), *available at* <http://nsarchive.gwu.edu/NSAEBB/NSAEBB472/pdf/nz2597.pdf>; Patrick Saint-Exupery, *France-Rwanda: un génocide sans importance...* [France-Rwanda: An Unimportant Genocide], LE FIGARO, Jan. 12, 1999 (Fr.) 8. See also Leave None, *supra* note 67, at 285-86 (stating the IRG officials also met with President Mitterrand and French Minister of Foreign Affairs Alain Juppé).

<sup>176</sup> Patrick Saint-Exupéry, *France-Rwanda : un génocide sans importance...* [France-Rwanda: An Unimportant Genocide], LE FIGARO, Jan. 12, 1998 (Fr.).

<sup>177</sup> See, e.g., letter from Lt. Col. Ephrem Rwabalinda, Advisor to the Chief of Staff, Rwandan Armed Forces, to Augustin Bizimana, Rwandan Minister of Defense, and Augustin Bizimungu, Chief of Staff, Rwandan Army 2-3 (May 16, 1994), *available at* <http://francegenocidetutsi.org/RapportRwabalinda16mai1994.pdf> (Fr.).

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> See MIP Tome I 186.

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### **E. French Officials Mischaracterized the Genocide against the Tutsi as a Civil War.**

On April 11, 1994, *Le Parisien* published an article under the headline “*C’est un véritable génocide*” (“It is a true genocide”) and characterized the situation on the ground in Rwanda as a genocide against the Tutsi.<sup>181</sup> As the Genocide raged, however, French officials regarded the state of affairs in Rwanda as a two-sided humanitarian crisis brought on by an armed conflict.<sup>182</sup> These mischaracterizations subverted the truth of a wholesale slaughter of non-combatant civilian Tutsi perpetrated by government forces and militias.

These mischaracterizations were made both internally within France and on an international stage. At this time, in 1994, Rwanda held one of ten rotating seats on the UNSC. In late April 1994, after the Genocide began, the Rwandan and French representatives to the UNSC “sought to amend [the] opening [paragraphs of a draft statement being composed by the UNSC] to remove [the] assertion that Government forces were responsible for the bulk of the killings” in Rwanda.<sup>183</sup> Notwithstanding those suggestions from Rwanda and France, the UNSC presidential statement on Rwanda, on April 30, 1994, represented that the killings occurred “throughout the country, especially in areas under the control of members or supporters of the armed forces of the interim Government of Rwanda.”<sup>184</sup>

Although few governments accurately characterized events in Rwanda as a genocide while it was occurring,<sup>185</sup> French officials mischaracterized the situation as a civil war or a double-

<sup>181</sup> Bruno Fanucchi, *C’est un véritable génocide [It Is a True Genocide]*, LE PARISIEN, Apr. 11, 1994, available at <https://goo.gl/9k2NM3> (Fr.).

<sup>182</sup> See, e.g., MIP Tome III, Vol. 1 210 (Hubert Védrine Audition) (characterizing a genocide instead as a “terrible confrontation” and indicating that a “ceasefire” could resolve the situation in Rwanda).

<sup>183</sup> Cable no. C04395 from New Zealand Representative to the U.N. Security Council in New York, to New Zealand U.N. Security Council Representative office in Wellington 2 (May 2, 1994), available at <http://nsarchive.gwu.edu/NSAEBB/NSAEBB472/pdf/nzc04395.pdf>.

<sup>184</sup> Statement, President of the Security Council, U.N.S.C. Statement S/PRST/1994/21 1 (Apr. 30, 1994), available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/PRST/1994/21](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PRST/1994/21).

<sup>185</sup> The Czech Republic, along with New Zealand, was an outlier in this respect. According to former Czech Ambassador to the U.N. Karel Kovanda, by April 25, 1994, she understood that the Genocide was not simply a humanitarian catastrophe, but rather “the deliberate extermination of one ethnic group.” In her correspondence to the Czech government in Prague, she noted that “[t]his is a matter of clear genocide committed by governmental and presidential units of the Hutu against the Tutsi.” On April 28, 1994, the Czech delegation introduced a draft Presidential statement to the Security Council which stated that “[t]he Security Council reaffirms that the systematic killing of any ethnic group, with the intent to destroy it in whole or in part, constitutes an act of genocide....” Karel Kovanda, *The Czech Republic on the UN Security Council: The Rwandan Genocide*, in *Genocide Studies and Prevention* 193, 204 (August 2010). In an April 25, 1994, cable, New Zealand’s UNSC representative sought an investigation of what was happening in Rwanda, “at the very least to open a file in which the evidence of the MSF [*Médecins Sans Frontiers*] could be deposited so that over the longer term action is taken to have the perpetrators of this genocide held responsible[.]” Cable no. C04362 from New Zealand Representative to the U.N. Security Council in New York, to New Zealand U.N. Security Council Representative office in Wellington 3 (April 25, 1994), available at <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB472/docs/Document%2011.pdf>.

**\*This document is embargoed until 10:00am Kigali time Wednesday, 13 December 2017.\*** genocide,<sup>186</sup> particularly in April 1994, as they helped establish, support and advise the IRG, while, as discussed below, simultaneously witnessing the Genocide against the Tutsi and continuing to provide armaments to Rwanda.

#### **F. When the Genocide Commenced, French Officials Airlifted Extremists and Their Families to Safety.**

On April 8, 1994, French officials initiated *Opération Amaryllis*, whereby French officials evacuated French citizens and 394 Rwandans, including President Habyarimana's widow (Agathe Kanziga, a member of the extremist group, the Akazu), her three children and two grandchildren, RTLM co-founder Ferdinand Nahimana and his family, 40 MRND members, and other extremists,<sup>187</sup> while refusing to evacuate either Tutsi or opposition politicians. French officials commenced and conducted this operation, even as they stated in the official order for *Opération Amaryllis*, issued on April 8, 1994, that the Presidential Guard had begun to eliminate members of the opposition and the Tutsi.<sup>188</sup>

On the morning of April 9, 1994, 190 French soldiers reportedly flew into Kigali International Airport, occupied it, and installed artillery and anti-aircraft weapons.<sup>189</sup> Later that day, 400 additional French troops landed at the airport.<sup>190</sup> On the evening of April 10, 1994, Lieutenant-General Dallaire spoke with an adviser to the UN Secretary General and "hit him with all of [Dallaire's] anger over the French and Belgian actions, including the fact that the French were shooting from [UNAMIR] vehicles, which they had stolen from the airport."<sup>191</sup>

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<sup>186</sup> See Transcript of Restricted Council Meeting 2 (Apr. 13, 1994) ("[The massacres] are already considerable. But at this moment it is the Tutsi who will massacre the Hutu in Kigali."), available at <http://francegenocidetutsi.org/ConseilRestreint13avril1994.pdf> (Fr.); Memorandum from Admiral Jacques Lanxade I (July 2, 1994), available at <https://goo.gl/oZQDB7> (Fr.).

<sup>187</sup> See ANDRÉ GUICHAOUA, LES CRISES POLITIQUES AU BURUNDI ET AU RWANDA (1993–1994) [THE POLITICAL CRISES IN BURUNDI AND IN RWANDA (1993-1994)] Annex 83 (2000), available at <http://francegenocidetutsi.org/ListeEvacuesParFrance12avrilGuichaouaAnnexe83.pdf>; MIP Tome I 260.

<sup>188</sup> Order for Operation Amaryllis (Apr. 8, 1994), in MIP Tome II 344 (Fr.).

<sup>189</sup> Melvern, *A People Betrayed*, *supra* note 18, at 141.

<sup>190</sup> *Id.*

<sup>191</sup> Dallaire, *supra* note 110, at 289.

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**G. During the Genocide and Even after the Imposition of a UN Arms Embargo, France Facilitated Arms Shipments to Rwanda.**

On May 3, 1994, General Quesnot sent the following message to President Mitterrand, in order to persuade the highest levels of French government of the need to arm the IRG and the FAR, a month into the Genocide against the Tutsi:

As it stands, the FAR are lacking in munitions and military equipment. But the Quai d'Orsay, noting the public opinion and the necessity to not feed the conflict, believes it necessary to support the American proposal of a weapons and ammunition embargo destined for Rwanda. This embargo will not extend to Burundi, where it is appropriate to stabilize the situation in order to, in particular, be able to use it as a humanitarian relay.<sup>192</sup>

Three days later, on May 6, 1994, General Quesnot sent the following warning to President Mitterrand:

On the ground, the RPF refuses all cease-fire and will very shortly attain its war objectives: the control of all the eastern part of Rwanda, including the capital, in order to ensure a territorial continuity among Uganda, Burundi and Rwanda. President MUSEVENI (sic) and his allies will have therefore created a "Tutsiland" with Anglo-Saxon help and with the objective complicity of false intellectuals, who are remarkable intermediaries for a Tutsi lobby, to which part of our state apparatus is sensitive.<sup>193</sup>

In the same May 6, 1994, cable to President Mitterrand, General Quesnot expressed his concerns about France losing influence with its other allies in Africa, in the event France lost control of Rwanda:

Through the Rwandan tragedy and the de facto abandonment of years of Franco-Rwandan cooperation, would it be possible to guarantee other friendly African countries that analogous situations will not lead to an identical reaction of withdrawal? Barring the use of a direct strategy in the region which could be politically difficult to implement, we have the means and intermediaries for an indirect strategy that could re-establish a certain equilibrium.<sup>194</sup>

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<sup>192</sup> Letter from General Christian Quesnot to President François Mitterrand 2 (May 3, 1994) *available at* <http://francegenocidetutsi.org/Quesnot3mai1994.pdf> (Fr.).

<sup>193</sup> Letter from General Christian Quesnot to President François Mitterrand 1 (May 6, 1994) *available at* <https://goo.gl/qT6vVf> (Fr.).

<sup>194</sup> *Id.* at 2.

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On May 17, 1994, the UNSC embargoed arms going to Rwanda. Despite that, public reports concluded that French officials and individuals helped rearm the *génocidaires* through deliveries into Zaire.<sup>195</sup> In a May 1995 report titled, “Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide,” HRW found:

Arms flows to the FAR were not suspended immediately by France after the imposition of the arms embargo on May 17, 1994. Rather, they were diverted to Goma airport in Zaire as an alternative to Rwanda’s capital, Kigali, where fighting between the FAR and the rebel RPF as well as an international presence made continued shipments extremely difficult. Some of the first arms shipments to arrive in Goma after May 17 were supplied to the FAR by the French government. Human Rights Watch learned from airport personnel and local businessmen that five shipments arrived in May and June containing artillery, machine guns, assault rifles and ammunition provided by the French government. These weapons were taken across the border into Rwanda by members of the Zairian military and delivered to the FAR in Gisenyi. The French consul in Goma at the time, Jean-Claude Urbano, has justified the five shipments as a fulfillment of contracts negotiated with the government of Rwanda prior to the arms embargo.<sup>196</sup>

**IV. UNDER THE BANNER OF A HUMANITARIAN MISSION, FRENCH OFFICIALS USED *OPÉRATION TURQUOISE* TO SUPPORT THE IRG AGAINST THE RPF, EVEN AS THE GENOCIDE AGAINST THE TUTSI CONTINUED.**

By mid-June 1994, it became apparent that the Genocide’s perpetrators were losing the war and the RPF would soon control the country. In a May 22, 1994, letter to President Mitterrand, IRG President Theodore Sindikubwabo requested “material and diplomatic support” from the French government, as “Uganda’s support for the Rwandan Patriotic Front was massive and decisive.”<sup>197</sup> “Without your urgent help,” the President of the IRG appealed to President Mitterrand, “our assailants are likely to realize their plans. . . .”<sup>198</sup> The public record suggests that France initiated and executed *Opération Turquoise* in order to support the nearly defeated IRG and keep its influence over Rwanda, but masked that purpose from the public. Though French officials portrayed the operation as a humanitarian mission to the public and the UNSC, the public record includes information that soldiers who participated in the mission were ordered to rearm the IRG.

<sup>195</sup> See MIP Tome I 186.

<sup>196</sup> See *Rearming with Impunity*, *supra* note 29, at 4.

<sup>197</sup> Letter from President Théodore Sindikubwabo to President François Mitterrand 1 (May 22, 1994), *available at* <https://goo.gl/jVCsvv> (Fr.).

<sup>198</sup> *Id.*



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*Opération Turquoise*, which would begin on June 23, 1994, became a way for France to intervene in Rwanda under the guise of a humanitarian effort.

French journalist Patrick de Saint-Exupéry recently reported that a highly placed French officer who reviewed the French archives on Rwanda confirmed the existence of a note directing French soldiers to obey the order to rearm the *génocidaires*.<sup>199</sup> The officer told Saint-Exupéry that there were several documents discussing soldiers who did not understand the order and did not want to obey it.<sup>200</sup> According to Saint-Exupéry, the French officer reported that in the margins of one of the documents was a handwritten note saying that it was necessary to “stick to the fixed directives, so rearm the Hutu.”<sup>201</sup> According to the officer, the note was written by Hubert Védrine, Secretary General of the Élysée under President Mitterrand.<sup>202</sup>

Saint-Exupéry’s recent revelations support the suspicions held at the inception of *Opération Turquoise* by other countries about French intentions. For example, in late May or early June 1994, French officials asked the United States to join a military operation in Rwanda; the United States declined, because (in part) it was not interested in helping France slow the advance of the RPF or to prop up the IRG.<sup>203</sup> Some of the UNSC member states saw through the purported humanitarian justification for the redeployment of French troops in Rwanda and abstained from supporting the measure.<sup>204</sup> New Zealand’s representative to the UNSC, in a June 17, 1994, cable, informed his government in Wellington that the French representative to the UNSC had confided that French intervention would help the FAR.<sup>205</sup> A member of the US Mission to the UN also shared that assessment.<sup>206</sup> By June 21, 1994, the New Zealand representative had learned that “French military advisers [had] remained in the country and [had] been training some of the Hutu,” and subsequently recommended that New Zealand not support the resolution.<sup>207</sup> According to the New Zealand representative: “The evidence [had continued] to mount that this [was] a badly conceived operation with questionable motivation.”<sup>208</sup>

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<sup>199</sup> Patrick de Saint-Exupéry, *Réarmez-les! [Rearm Them!]*, REVUE XXI, 64-65, July/August/September 2017.

<sup>200</sup> *Id.* at 64.

<sup>201</sup> *Id.*

<sup>202</sup> *Id.* at 60 & 64.

<sup>203</sup> See Leave None, *supra* note 67, at 669-670 (citing interview).

<sup>204</sup> U.N. SCOR, 49th Sess. 3392d mtg., S/PV.3392, vote on S/RES/929, *available at* <http://unbisnet.un.org:8080/ipac20/ipac.jsp?profile=voting&index=.VM&term=sres929>.

<sup>205</sup> Cable no. C04641 from New Zealand Representative to the U.N. Security Council in New York, to New Zealand U.N. Security Council Representative office in Wellington 3 (June 17, 1994), *available at* <http://nsarchive.gwu.edu/NSAEBB/NSAEBB472/pdf/nzc04641.pdf>

<sup>206</sup> See *id.* at 4 & 5.

<sup>207</sup> Cable no. C04652 from New Zealand Representative to the U.N. Security Council in New York, to New Zealand U.N. Security Council Representative office in Wellington 3 (June 21, 1994), *available at* <http://nsarchive.gwu.edu/NSAEBB/NSAEBB472/pdf/nzc04652.pdf>.

<sup>208</sup> See *id.* at 5.

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Once *Opération Turquoise* began, a report from the *New York Times* confirmed the skepticism of the UNSC representatives who had expressed reservations about the French operation's purpose:

The French move to set up the safe zone and stop the rebel army, which was approved by President Francois Mitterrand, represents a substantial change in its mission. Until now, the French have said they are neutral. But in protecting a region that contains Government forces but no rebel troops, France has effectively come to the rescue of the beleaguered Hutu-dominated Government.<sup>209</sup>

UNAMIR Commander, Lieutenant-General Dallaire, was more than skeptical of *Opération Turquoise*; he openly opposed it. Lieutenant-General Dallaire did not learn of France's plan for *Opération Turquoise* until June 17, 1994, and he registered his objections, in person, to President Mitterrand's representative Bernard Kouchner.<sup>210</sup> Of France's intentions at this time, Lieutenant-General Dallaire has commented that France, under the guise of a humanitarian mission, was attempting to enable the IRG to hold onto part of Rwanda and to maintain its legitimacy.<sup>211</sup> "As far as I was concerned, they were using a humanitarian cloak to intervene in Rwanda, thus enabling the [FAR] to hold onto a sliver of the country and retain a slice of legitimacy in the face of certain defeat," Lieutenant-General Dallaire wrote.<sup>212</sup> The French "humanitarian" operation weakened UNAMIR's impact in Rwanda. Lieutenant-General Dallaire sent Francophone African UNAMIR peacekeepers home, as the presence of *Turquoise* troops (who previously had advised the FAR) endangered the neutral status of French-speaking UNAMIR peacekeepers and thus put them in harm's way.<sup>213</sup>

Additionally, statements by French soldiers who participated in *Opération Turquoise* likewise contradicted France's "humanitarian" justification for the operation. For example, Colonel Jacques Rosier, a *Turquoise* commander, reportedly summed up the purpose of the mission at the time: "The RPF is going to be very surprised. We won't call this Dien Bien Phu, we'll call it Austerlitz."<sup>214</sup> In recounting his experience in *Opération Turquoise*, Guillaume Ancel, a former French Army officer, stated, "[t]he initial order that I received around the 24th of June was very clear: prepare a raid on the Rwandan capital, Kigali, which was then almost entirely under the control of the RPF."<sup>215</sup> Ancel's unit was charged with guiding fighter jets to clear a corridor to allow troops to capture Kigali before anyone had time to react.<sup>216</sup> That plan, however,

<sup>209</sup> Raymond Bonner, *French Establish a Base in Rwanda To Block Rebels*, N.Y. TIMES, July 5, 1994, available at <http://www.nytimes.com/1994/07/05/world/french-establish-a-base-in-rwanda-to-block-rebels.html>.

<sup>210</sup> Dallaire, *supra* note 110, at 422.

<sup>211</sup> *See id.* at 425.

<sup>212</sup> *See id.*

<sup>213</sup> *Id.* at 427-428.

<sup>214</sup> Michela Wrong, *France Promises to Halt Rwandan Rebel Advance*, REUTERS, July 4, 1994.

<sup>215</sup> Interview of Guillaume Ancel by Mehdi Ba, *supra* note 7.

<sup>216</sup> *Id.*

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was superseded by further instructions.<sup>217</sup> While Ancel has said that French soldiers, including himself, carried out humanitarian missions to protect would-be victims of the Genocide,<sup>218</sup> he has also said that at the outset France characterized *Turquoise* as a humanitarian mission to “camouflage” its true purpose, which was “to fight the RPF, the Tutsi soldiers who menaced the Rwandan government, France’s ally. . . .”<sup>219</sup>

Ancel also recounted that he personally carried out orders to rearm *génocidaires* who had fled to Zaire and to shield that fact from the media:

[W]e confiscated tens of thousands of small arms from the Hutus who crossed the border, mainly pistols, assault rifles and grenades. All these weapons were stored in sea containers at the Foreign Legion base at Cyangugu Airport. Around mid-July we saw a column of civilian trucks arriving, and I was instructed to load the containers of weapons on these trucks, which then took them to Zaire and handed them over to the Rwandan government forces. It was even suggested to occupy the journalists during this time to prevent them from realizing what was happening. When I told the commander of the Legion of my disapproval, he told me that the staff major felt it was necessary to show the Rwandan army that we (the French) had not become its enemies so that it would not turn against us.<sup>220</sup>

Indeed, when *Opération Turquoise* began, Rwandan forces believed France was there to save them.<sup>221</sup> Individual FAR soldiers, militia members, and civilians greeted *Turquoise* soldiers with “welcome French Hutu” signs.<sup>222</sup> So, too, RTLM broadcasted the news that French soldiers came to help fight the RPF.<sup>223</sup> French officials also declined to stop the hate propaganda that RTLM and Radio Rwanda broadcasted; they did not jam broadcasts, but rather let them continue from Gisenyi in the French-controlled humanitarian zone, where broadcasts continued until July

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<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> Guillaume Ancel, *Génocide rwandais : pourquoi l’armée française a tardé à intervenir à Bisesero* [*Rwandan Genocide: Why the French Army Delayed Intervening in Bisesero*], LE MONDE, Feb. 17, 2016 available at [http://www.lemonde.fr/afrique/article/2016/02/16/rwanda-pourquoi-l-armee-francaise-a-tarde-a-intervenir-a-bisesero\\_4866453\\_3212.html](http://www.lemonde.fr/afrique/article/2016/02/16/rwanda-pourquoi-l-armee-francaise-a-tarde-a-intervenir-a-bisesero_4866453_3212.html) (Fr.).

<sup>220</sup> See Interview of Guillaume Ancel by Mehdi Ba, *supra* note 7.

<sup>221</sup> See, Dallaire, *supra* note 110, at 426.; Cable from Lieutenant-General Roméo Dallaire, UNAMIR Commander, to Kofi Annan, Head of U.N. Department of Peacekeeping Operations 2 (June 17, 1994, 1039h); Cable from Lieutenant-General Roméo Dallaire, UNAMIR Commander, to Kofi Annan, Head of U.N. Department of Peacekeeping Operations 2 (June 17, 1994, 2153h); Cable from Lieutenant-General Roméo Dallaire, UNAMIR Commander, to Kofi Annan, Head of U.N. Department of Peacekeeping Operations 2 (June 20, 1994); Cable from Lieutenant-General Roméo Dallaire, UNAMIR Commander, to Kofi Annan, Head of U.N. Department of Peacekeeping Operations 2 (June 25, 1994).

<sup>222</sup> PHILIP GOUREVITCH, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES 155 (1998) [hereinafter *Gourevitch*].

<sup>223</sup> See Dallaire, *supra* note 110, at 437.

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16 or 17, 1994.<sup>224</sup> French officials defended their decision to allow the radio station and its vitriolic broadcasts on the grounds that the IRG was still recognized as a legitimate government; that jamming the broadcasts was not within the UN *Turquoise* mandate; and that France could not lawfully restrict free speech rights.<sup>225</sup>

Some *Turquoise* officers and soldiers had previously been deployed in *Opération Noroît*, where they were exposed to the prevalent anti-Tutsi sentiment and likely were predisposed to believe that the *génocidaires* were their allies.<sup>226</sup> As Thierry Prunnaud, a former member of the Gendarmerie National Intervention Group who took part in *Opération Turquoise*, wrote in his book, *Silence Turquoise*, of Colonel Jacques Rosier: “Rosier’s vocabulary is not nuanced. According to him, the Tutsi are ‘invaders’ who ‘kill’ ‘all the others,’ which means the Hutus, both civilians and soldiers.”<sup>227</sup>

The existing material within the public record, regarding the knowledge and conduct of French troops at Bisesero and Murambi where thousands of Tutsi were killed, likewise has raised questions about the purpose of *Opération Turquoise*; the orders given to French troops on the ground; and the communications between the French military command and the civilian government leadership.<sup>228</sup> With so much written in the French news media about the events in late

<sup>224</sup> See *Les extrémistes de “Radio Machette”* [*The extremists of “Radio Machette”*], LE MONDE DIPLOMATIQUE, Mar. 1995 [hereinafter *Les extrémistes de “Radio Machette”*] (Fr.) (citing U.S. diplomatic sources expressing surprise at France’s decision not to prioritize destruction of RTLM transmitters and citing a response from Defense Minister François Léotard that jamming the RTLM broadcast was not part of the military’s mandate); see also Leave None, *supra* note 67, at 520 (stating that French agents were only moved to destroy some of the RTLM radio stations after the station began using propaganda hostile to French forces); see also Gabriel Périès & David Servenay, *Une guerre noire: Enquête sur les origines du génocide rwandais (1959-1994)* [A Black War: Investigating the Origins of the Rwandan Genocide (1959-1994)] 336 (2007) (citing authors’ Feb. 16, 2006 interview with Gen. Lafourcade, who said his request to shut down RTLM broadcasts was denied by the *État-major*).

<sup>225</sup> See *Les extrémistes de “Radio Machette,” supra* note 224; ANDREW WALLIS, *SILENT ACCOMPLICE: THE UNTOLD STORY OF FRANCE’S ROLE IN THE RWANDAN GENOCIDE* 173 (2014); Morel, *supra* note 17, at 1247; *Radio Mille Collines épargnée?* [*Radio Mille Collines Spared?*], LE MONDE, July 31, 1994 (Fr.).

<sup>226</sup> See MIP Tome 1 292 (citing General Varret’s testimony).

<sup>227</sup> Vulpian & Prunnaud, *supra* note 140, at 103; see also AFP, *Génocide Rwanda: l’armée française mise en cause* [*Rwandan Genocide: The French Army Called into Question*], LE VIF, Dec. 1, 2015, <https://goo.gl/DZDMur> (Fr.) (citing a *Turquoise* soldier as stating, “in particular [Colonel Jacques] Rosier, gave us the line that it was the Tutsis who were killing the Hutus” and reporting that Rosier had denied making the statement).

<sup>228</sup> See, e.g., Michel Peyrard, *Nos reporters découvrent les morts vivants de Bisesero* [*Our Reporters Discovered the Living Dead of Bisesero*], PARIS MATCH, July 14, 1994, available at <https://goo.gl/8nVqJ1> (Fr.); Sam Kiley, *Troops Ignore Killing French ‘Turned Blind Eye’ to Tutsi Massacre*, THE TIMES, Apr. 3, 1998, available at <https://goo.gl/526Lqt>; Vincent Hugué, *Dix ans après le génocide, Retour à Bisesero* [*Ten Years after the Genocide, Return to Bisesero*], L’EXPRESS, Apr. 13, 2004, available at <https://goo.gl/AXwkZA> (Fr.); Memorandum from Capitaine de frégate Marin Gillier, June, 30 1998, in MIP Tome II 400 (Fr.); Patrick de Saint-Exupéry, *Un accueil sous les vivas* [*A Welcome Under Visas*], LE FIGARO, June 27, 1994 (Fr.); Sam Kiley, *UN Dithers on Rwanda Rescuer as Tutsi Hails French Troops*, LONDON TIMES, June 27, 1994, available at <https://goo.gl/94Fzo1>; Prosecutor v. Kayishema, Case No. ICTR-95-1-T, Testimony of Patrick de Saint-Exupéry 131 Nov. 18, 1997; Patrick de Saint-Exupéry, *Rwanda : Les assassins racontent leurs massacres* [*Rwanda: the Assassins Recount Their Massacres*], LE FIGARO, June 29, 1994, available at <https://goo.gl/g1LT9d> (Fr.); Benoît Collombat, *Rwanda : les documents qui accusent la France* [*Rwanda: Documents Accusing France*], *France Inter*, November 30, 2015,

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June 1994 at Bisesero, one might expect the French government to have reviewed its actions and issued an internal after-action report. However, no such report has been disclosed to the public or shared with the Rwandan government. It is also reasonable to assume that the French government might hold correspondence, internal memoranda, calendars, diaries or documentation showing who received the much publicized June 27, 1994, fax from Lieutenant Colonel Jean-Remy Duval, which discussed the pleas of Tutsi in Bisesero for assistance from the French, and what was said internally with regard to it. While the subject of much controversy, there is information in the public record to suggest that the French military did not immediately return to Bisesero, after the June 27, 1994, fax was sent, and any French government documentation regarding internal communications on the matter should be disclosed to the public.

In its 1995 report, HRW recommended that France “[f]ully [] disclose the nature of French military and security assistance and arms transfers to the Rwandan government after May 17, 1994, including following that government’s departure from Rwanda in July 1994, in light of the fact that such actions have supported a force that is widely recognized as having committed genocide.”<sup>229</sup> In fact, France’s continuing support in defiance of the embargo is the basis for a recently lodged civil complaint in France. On June 29, 2017, three associations initiated a case against BNP Paribas, alleging complicity in genocide, crimes against humanity, and war crimes.<sup>230</sup> BNP Paribas is the successor to the *Banque Nationale de Paris* (“BNP”), which was a French state-owned bank until it was privatized in 1993.<sup>231</sup> The complaint is based on the bank’s authorization of two money transfers, totaling more than \$1.3 million, “from the BNP account of the National Rwanda Bank (BNR in French) to a Swiss UBP bank account,” in June 1994 for the purchase of 80 tons of arms by the IRG.<sup>232</sup> Citing a statement by Colonel Théoneste Bagosora, the associations have alleged that the weapons were delivered to militia in Gisenyi, Rwanda, for use

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available at <https://goo.gl/DMzTGD> (Fr.); Jacques Morel, *La découverte, l’abandon puis le sauvetage des Tutsi survivants de Bisesero, relates* [The Discovery, the Abandonment, the Rescue of the Tutsi Survivors of Bisesero] RFI, Feb.9, 2011, available at <https://goo.gl/o3L4Tj> (Fr.); Dominique Garraud, *Le nettoyage ethnique continue dans les montagnes rwandaises*, [The Ethnic Cleansing Continues in the Rwandan Mountains] LIBÉRATION, June 29, 1994, available at <https://goo.gl/ekxaCN> (Fr.); Raymond Bonner, *Grisly Discovery in Rwanda Leads French to Widen Role*, N.Y. TIMES, July 1, 1994, available at <http://www.nytimes.com/1994/07/01/world/grisly-discovery-in-rwanda-leads-french-to-widen-role.html>; Corine Lesnes, *Une semaine après le « feu vert » de l’ONU à l’intervention française au Rwanda M. Léotard craint de nouvelles difficultés pour le dispositif* [One Week after the UN’s “GreenLight” for Intervention in Rwanda M. Léotard Feared further Difficulties for “Turquoise”] LE MONDE, July 1, 1994, available at <http://francegenocidetutsi.org/LeMondeLesnesLeotard1juillet1994p4.pdf> (Fr.); GÉNÉRAL JEAN-CLAUDE LAFOURCADE, OPÉRATION TURQUOISE RWANDA 105 (1994) (Fr.).

<sup>229</sup> Rearming with Impunity, *supra* note 29, at 10.

<sup>230</sup> See Press Release, Sherpa et al., Rwandan Genocide: Sherpa, CPCRC and Ibuka France Launched a Complaint Against BNP Paribas on the Basis of Complicity in a Genocide, in Crimes Against Humanity and in War Crimes (June 29, 2017) [hereinafter Sherpa Press Release], available at [https://goo.gl/QLcGLK\\_](https://goo.gl/QLcGLK_)

<sup>231</sup> BNP took over Paribas in 1999 and merged with the Paribas group in 2000. See *History of the Group*, BNP PARIBAS, <https://goo.gl/PH26KM> (last visited July 20, 2017).

<sup>232</sup> Sherpa Press Release, *supra* note 232.

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 in perpetrating the Genocide.<sup>233</sup> According to the complaint against BNP, these transactions violated the UNSC arms embargo of May 17, 1994.<sup>234</sup>

Recently, on June 30, 2017, a reporter asked Olivier Gauvin, the French Ministry of Foreign Affairs' Press Secretary:

Is it true that the Presidency of the Republic ordered during *Opération Turquoise* in 1994 to rearm those responsible for the Tutsi massacres in Rwanda? Did the French authorities know in June 1994 that the 1.3 million dollars released by the BNP at the French central bank's request were going to be used to buy arms for the Rwandan government despite the embargo imposed by the U.N. (which is the subject of a complaint by three NGOs)?<sup>235</sup>

Mr. Gauvin replied: "We have no comment on these allegations."<sup>236</sup>

**V. SINCE THE LIBERATION OF RWANDA, FRENCH OFFICIALS HAVE BEEN PROVIDING SAFE HARBOR TO *GÉNOCIDAIRES* AND OBSTRUCTING JUSTICE.**

**A. French Officials Helped Provide Safe Passage and Safe Harbor for *Génocidaires* in Zaire.**

French officials helped open a path for the *génocidaires* to flee Rwanda for Zaire. Once in Zaire, they enjoyed material support from French officials in refugee camps. By contrast, French officials denied aid to the post-IRG government in Rwanda, thereby giving comfort to the *génocidaires*, who were plotting revenge and an overthrow of the new government.

As the RPF victory seemed assured, civilians flooded the *Turquoise Zone*, after government leaders and RTL M broadcasts warned people to flee from the advancing RPF.<sup>237</sup> Militia members and FAR soldiers also gathered in the *Turquoise Zone*.<sup>238</sup> Some of the soldiers brought with them artillery, mortars, anti-aircraft guns, and anti-tank weapons.<sup>239</sup> Yet in late July

<sup>233</sup> *See id.*

<sup>234</sup> *See id.*; S.C. Res. 918, para. 13, U.N. Doc. S/RES/918 (May 17, 1994), available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/918\(1994\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/918(1994)).

<sup>235</sup> *Quai d'Orsay: Déclarations du sous-directeur de la presse et agenda du ministre, de la ministre chargée des affaires européennes et du secrétaire d'Etat [Quai d'Orsay: Declarations by the Deputy Director of Press and the Minister's Agenda, the Minister for European Affairs, and the Secretary of State]*, LAMINUTE.INFO, June 30, 2017, available at <https://goo.gl/CgJuyT> (Fr.).

<sup>236</sup> *Id.*

<sup>237</sup> *See Leave None, supra* note 67, at 685.

<sup>238</sup> *See MIP Tome I* 343-347.

<sup>239</sup> *See Melvern, A People Betrayed, supra* note 18.

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1994, French General Lafourcade sent UNAMIR Commander, Lieutenant-General Dallaire, a memorandum confirming that French officials would not disarm FAR soldiers and militias who entered the *Turquoise Zone*, unless they posed a risk to the refugees there.<sup>240</sup>

During the first two weeks of July 1994, with French assistance, the mass exodus of Rwandans, including *génocidaires*, into Zaire began.<sup>241</sup> By mid-July, over one million refugees fled across the border to Zaire.<sup>242</sup> French troops permitted ex-FAR soldiers to pass through the *Turquoise Zone* with impunity,<sup>243</sup> and the French military transported ex-FAR to Zaire.<sup>244</sup> Many retreating FAR soldiers forced whole populations to follow them in their flight.<sup>245</sup> As a result, *génocidaires* (some still armed), civilians, and even victims of the Genocide ended up taking shelter together in the refugee camps established within Zaire, with the *génocidaires* using the cover of these camps to hide and plot an overthrow of the newly established Rwandan government.<sup>246</sup>

In July 1994, explaining that arrests fell outside of “our mandate,” French officials declined to arrest and detain *génocidaires* in Rwanda or Zaire.<sup>247</sup> Further, *Turquoise* soldiers did not attempt to disarm FAR and militia members in the camps.<sup>248</sup> Although an August 18, 1994, memorandum from the French Foreign Ministry reported that militias and ex-FAR members were disarmed in the *Turquoise Zone*, the French Parliamentary Commission found that this statement was not correct.<sup>249</sup> *Turquoise* soldiers did not attempt to disarm FAR in the region north of the Zone, so long as the weapons were not used in the Zone itself.<sup>250</sup> They did confiscate weapons from civilians who had manned roadblocks.<sup>251</sup> But French officials allowed some civilians to keep a minimum number of weapons when the camp administrators (who most frequently were *bourgmestres* and

<sup>240</sup> See Dallaire, *supra* note 110, at 457; see also MIP Tome I 345.

<sup>241</sup> See MIP Tome I 334; Letter from Lieutenant-Colonel Jacques Hogard to General Gerard Mourgeon (Oct. 23, 1998), in MIP Tome II 537 (Fr.).

<sup>242</sup> See *id.* at Tome I 334; See Florence Aubenas, *De Kigali a Gisenyi. Le grand exode des Hutu [From Kigali to Gisenyi, the Hutu Grand Exodus]*, LIBÉRATION, July 11, 1994 (Fr.).

<sup>243</sup> See Leave None, *supra* note 67, at 688.

<sup>244</sup> See Chris McGreal, *French Accused of Protecting Killers*, THE GUARDIAN, Aug. 27, 1994, available at <https://goo.gl/pQA3LB>.

<sup>245</sup> SARAH KENYON LISCHER, DANGEROUS SANCTUARIES: REFUGEE CAMPS, CIVIL WAR, AND THE DILEMMAS OF HUMANITARIAN AID 79 (2005) [hereinafter Lischer]; see also Florence Aubenas, *La longue marche vers Kigali [The Long March Back to Kigali]*, LIBÉRATION, Aug. 2, 1994 (Fr.); Special Rapporteur of the U.N. Commission on Human Rights, *Report on Violation of Human Rights and Fundamental Freedoms in Any Part of the World, with Particular Reference to Colonial and Other Dependent Countries and Territories*, U.N. Doc. E/CN.4/1995/12 (Aug. 12, 1994).

<sup>246</sup> See *Rearming with Impunity*, *supra* note 29, at 2; Raymond Bonner, *Army Routed from Rwanda now Intimidates Its Refugees*, N.Y. TIMES, Aug. 2, 1994, available at <http://www.nytimes.com/1994/08/02/world/army-routed-from-rwanda-now-intimidates-its-refugees.html?emc=eta1>.

<sup>247</sup> MIP Tome I 344.

<sup>248</sup> See MIP Tome II 447.

<sup>249</sup> See MIP Tome I 345-346.

<sup>250</sup> See *id.* at Tome I 346.

<sup>251</sup> See *id.*

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other localized leaders of the Genocide) said it was necessary for those civilians to help ensure police control and protect against raiders.<sup>252</sup>

By permitting *génocidaires* to keep their weapons, French soldiers allowed attacks from across the Zairean border, against the Tutsi and the post-IRG government.<sup>253</sup> French officials took other steps to arm and protect the *génocidaires* by, among other things, delivering confiscated FAR arms to Zairian authorities, despite knowing that Zaire was providing arms support to the retreating Rwandan forces.<sup>254</sup> Finally, French officials continued to provide military training to “Hutu militia and military personnel” hailing from Rwanda and Burundi at a French military facility in the Central African Republic.<sup>255</sup>

Meanwhile, as French soldiers protected the *génocidaires* and other extremists in Zaire and elsewhere, French officials refused to recognize and respect the new Rwandan government. For example, when, in September 1994, Rwandan President Pasteur Bizimungu rose to address a conference on Rwanda in The Hague, the French Ambassador to the Netherlands walked out “in a clear show of animosity.”<sup>256</sup> According to a November 26, 1994, report in the Economist: “[t]he French argue that Rwanda’s new government is illegitimate and tainted.”<sup>257</sup> In November 1994, French officials refused to invite both Rwanda and Uganda to a Franco-African summit at Biarritz,<sup>258</sup> a move that other African states reportedly questioned.<sup>259</sup> Bruno Delaye, an advisor to President Mitterrand, reportedly tried to justify France’s attempt to exclude Rwanda from Biarritz by stating that the new Rwandan government was “going to collapse any minute.”<sup>260</sup> As an alternative explanation for excluding Rwanda, Alain Juppé stated that Rwanda was “aggressive” towards France.<sup>261</sup>

In the Fall of 1994, the EU considered providing emergency aid to the post-Genocide Rwandan government, but France tried to block the aid package.<sup>262</sup> Such foreign aid was critical to Rwanda, as the IRG had looted the Rwandan treasury during the *Turquoise* intervention. Emissaries of the former Rwandan government stole assets from the Rwandan embassy in

<sup>252</sup> See *id.* at Tome I 346-347.

<sup>253</sup> Ian Martin, *Hard Choices after Genocide*, in MORAL DILEMMAS IN HUMANITARIAN INTERVENTION 157, 171 (Moore, ed., 1998).

<sup>254</sup> See Rearming with Impunity, *supra* note 29, at 5.

<sup>255</sup> *Id.*

<sup>256</sup> See Wallis, *supra* note 225, at 185 (citing *Billets d’Afrique*, no. 15, Oct. 1994).

<sup>257</sup> *Abandoned Rwanda*, THE ECONOMIST, Nov. 26, 1994.

<sup>258</sup> See ARTHUR J. KLINGHOFFER, THE INTERNATIONAL DIMENSION OF GENOCIDE IN RWANDA 85 (1998). See also note from Bruno Delaye, Head of the Africa Desk in the Office of the President, to President François Mitterrand (Oct. 24, 1994).

<sup>259</sup> See Howard W. French, *At French-American Conference, Dictators Got the Attention*, N.Y. TIMES, Nov. 9, 1994, available at <http://www.nytimes.com/1994/11/10/world/at-french-african-conference-dictators-got-the-attention.html>.

<sup>260</sup> See Klinghoffer, *supra* note 258, at 85.

<sup>261</sup> See *id.*

<sup>262</sup> See Melvern, *A People Betrayed*, *supra* note 18.



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Kenya.<sup>263</sup> Some stolen property would have been much more obvious to the Turquoise soldiers who were supervising the refugee streams. For example, UNHCR workers recalled seeing FAR tanks and warplanes parked at the Bukavu Airport.<sup>264</sup> Others saw refugees driving Rwandan public transport buses and at least one gold Mercedes around the camps.<sup>265</sup>

Information in the public record also shows that in the months that followed the Genocide against the Tutsi French officials continued to support *génocidaires*. On August 3, 1994, the UN Secretary General suggested that the international community should coordinate with UNAMIR to identify within the camps perpetrators of the Genocide against the Tutsi, with an eye to bringing them to justice.<sup>266</sup> But instead, French soldiers escorted and released suspected *génocidaires* in Zaire.<sup>267</sup> Between July and September 1994, French military helicopters evacuated Bagosora, along with *Interahamwe* leader Jean-Baptiste Gatete, and other ex-FAR troops and militia members, out of Goma.<sup>268</sup>

On September 1, 1994, a French officer sent a memorandum to Michel Roussin, French Minister of Cooperation, in which the officer requested visas for former Habyarimana and IRG officials living in Zaire at the time.<sup>269</sup> The officer's memorandum further stated: "a favorable outcome might perhaps be given to some of them at first . . . [to] preserve the future."<sup>270</sup> Those officials listed in the memorandum included, but were not limited to:

- Jérôme Bicamumpaka, Minister of Foreign Affairs;
- Mathieu Ndirumpatse, Secretary-General of the MRND;
- Pierre-Claver Kanyaru, Ambassador to Kampala;
- Augustin Bizimungu, Minister of Defense;
- Jean-Damascène Bizimana, Ambassador to the United Nations;
- Agnès Ntamabyariro, Minister of Commerce during the genocide;
- Stanislas Mbonampeka, Minister in the Government of Rwanda in Exile; and
- James Gasana, Minister of Defense under Habyarimana.<sup>271</sup>

Many of these officials have since been arrested, and some have been convicted, for having participated in the Genocide against the Tutsi.<sup>272</sup> So complete was French protection of the

<sup>263</sup> See *Rearming with Impunity*, *supra* note 29, at 2 n.13.

<sup>264</sup> See Lischer, *supra* note 245, at 79 (citing interview with UNHCR official, Geneva, July 15, 1999).

<sup>265</sup> See *id.* (citing interview with Eleanor Bedford, U.S. Committee for Refugees, Washington, D.C., Nov. 2, 1999).

<sup>266</sup> See U.N. Secretary-General, *Report of the Secretary-General on the Situation in Rwanda*, ¶ 29 & 31, U.N. Doc. S/1994/924 (Aug. 3, 1994).

<sup>267</sup> See *Rearming with Impunity*, *supra* note 29, at 4.

<sup>268</sup> See *id.*

<sup>269</sup> See Roussin Memorandum, *supra* note 133, at 1.

<sup>270</sup> Roussin Memorandum, *supra* note 133, at 1.

<sup>271</sup> *Id.*

<sup>272</sup> See, e.g., Mathieu Ndirumpatse, TRIAL INTERNATIONAL (June 16, 2016), available at <https://goo.gl/R6VJwi> (stating that Karemera and Ndirumpatse were convicted of genocide, among other crimes, in 2011); Jérôme

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*génocidaires*, “by the time the French troops left in August [1994], not a single *génocidaire* had been turned in, either to the United Nations or to the newly established government.”<sup>273</sup>

## **B. French Officials Obstructed the Efforts of the ICTR and the Government of Rwanda to Bring Genocide Suspects to Justice.**

French officials appear to have protected their Rwandan allies who committed genocide, despite the French government’s obligations to the contrary. Article I of the Genocide Convention, to which France is a party, requires State parties to undertake to prevent and to punish the crime of genocide.<sup>274</sup> In his address to commemorate the 20<sup>th</sup> anniversary of the Genocide against the Tutsi, ICTR Prosecutor Hassan Jallow stated: “suspected *génocidaires* . . . must, in accordance with the requirements of international law, be prosecuted by the host countries or extradited to Rwanda to stand trial.”<sup>275</sup> Thus, when French courts denied extradition for genocide for reasons other than a judicial finding of inadequate evidence supporting a prima facie case, French prosecutors were obligated under international law to undertake national prosecutions. Instead, the country now harbors dozens of individuals suspected of committing genocide.<sup>276</sup> Jallow has reportedly said that, on balance, “the French judiciary had been slow to proceed with Rwandan cases.”<sup>277</sup> France has only brought a handful of suspects to trial in the past 23 years,<sup>278</sup> despite its courts’ refusal to return to Rwanda accused *génocidaires*,<sup>279</sup> such as Agathe Habyarimana,<sup>280</sup>

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Bicamumpaka TRIAL INTERNATIONAL (June 7, 2016), available at <https://goo.gl/rLE3qt> (stating that although acquitted due to insufficient evidence, Bicamumpaka was accused of conspiracy to commit and complicity in genocide, and tried at the ICTR); Augustin Bizimungu TRIAL INTERNATIONAL (June 16, 2016), available at <https://goo.gl/qaijyF> (stating that Bizimungu was arrested on August 12, 2002, in Angola and was convicted by the ICTR in 2011); *Karwera Arrested in France for Genocide*, RWANDA NEWS AGENCY, Oct. 18, 2013, available at <https://goo.gl/WcfnY5> (Fr.) (stating that Karwera Mutwe was not arrested until 2013).

<sup>273</sup> ORGANIZATION OF AFRICAN UNITY, RWANDA: THE PREVENTABLE GENOCIDE ¶15.74 (2000).

<sup>274</sup> Convention on the Prevention and Punishment of the Crime of Genocide art. 1, Jan. 12, 1951, S. Exec. Doc. O, 81-1 (1949), 78 U.N.T.S. 277.

<sup>275</sup> Justice Hassan B. Jallow, Statement on the Commemoration of the 20th Anniversary of the Rwandan Genocide 4 (Apr. 10, 2014), available at <https://goo.gl/ErxhZb>.

<sup>276</sup> See, e.g., Maia de la Baume, *Toiling to Bring Rwanda Genocide Suspects to Justice*, N.Y. TIMES, Jan. 10, 2014, available at <https://www.nytimes.com/2014/01/11/world/africa/toiling-to-bring-rwanda-genocide-suspects-to-justice.html>.

<sup>277</sup> Melvern, *A People Betrayed*, *supra* note 18.

<sup>278</sup> See Kim Willsher, *Rwanda Former Spy Chief Pascal Simbikangwa Jailed over Genocide*, THE GUARDIAN, Mar. 14, 2014 [hereinafter *Rwanda Former Spy Chief Pascal Simbikangwa Jailed over Genocide*], available at <https://goo.gl/j471QE>; see also Lisa Bryant, *History Hangs over Rwandan Genocide Trial in France*, VOICE OF AMERICA, May 10, 2016, available at <https://goo.gl/DER2FW>.

<sup>279</sup> See *France Rejects Rwandan Extradition Request*, AL JAZEERA, Sept. 28, 2011 [hereinafter *France Rejects Rwandan Extradition Request*], available at <https://goo.gl/gVAD3Y>; see also *Rwanda Former Spy Chief Pascal Simbikangwa Jailed over Genocide*, *supra* note 280.

<sup>280</sup> See *France Rejects Rwandan Extradition Request*, *supra* note 281.

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Pierre Tegera,<sup>281</sup> Claude Muhayimana,<sup>282</sup> and Innocent Bagabo.<sup>283</sup> Nor has France complied with the ICTR's requests that it prosecute Genocide suspects found in France, such as Father Wenceslas Munyeshyaka of the St. Familles church in Kigali and Laurent Bucyibaruta, the Gikongoro prefect, both of whom were indicted by the ICTR in 2005.<sup>284</sup> Indeed, the European Court of Human Rights admonished France for the unacceptably slow pace in the prosecution of Father Munyeshyaka, a failure that particularly denied justice to his victims.<sup>285</sup> The few individuals brought to justice in French courts were tried and convicted in no small part because of the work of a non-governmental organization that gathered evidence and witnesses for the trial.<sup>286</sup>

By contrast, numerous other States have prosecuted genocide suspects and cooperated with both the ICTR and Rwandan prosecutorial authorities. Canada, for example, has extradited three suspected *génocidaires* (including Léon Mugesera) to Rwanda, and has prosecuted two persons in its national courts.<sup>287</sup> In November 2016, the Netherlands extradited two accused *génocidaires* to Rwanda – one accused of being a leader of the *Interahamwe* militia (Jean-Claude Iyamuremye), and the other of compiling lists of Tutsi to be killed and attacking victims around Kigali (Jean-Baptiste Mugimba).<sup>288</sup> In July 2014, Denmark extradited Emmanuel Mbarushimana, who has been accused of leading massacres in Butare.<sup>289</sup> Norway extradited several *génocidaires* to Rwanda including Charles Bandora in 2013.<sup>290</sup> In that same year, Norway prosecuted *génocidaire* Sadi Bugingo for his participation in the Genocide and sentenced him to more than 21 years in prison.<sup>291</sup> Likewise, the United States has returned to Rwanda accused *génocidaires* Leopold Munyakazi,<sup>292</sup>

<sup>281</sup> See James Karuhanga, *French Court Turns down Another Extradition Request*, THE NEW TIMES, Apr. 11, 2014, available at <https://goo.gl/umWPHQ>.

<sup>282</sup> See *France to free Rwandan Genocide Suspect, Kigali Request for Extradition Earlier Rejected*, MAIL & GUARDIAN AFRICA, Apr. 4, 2015, available at <https://goo.gl/Gd9yP8>.

<sup>283</sup> See *France: l'Avis Favorable à une Extradition Vers le Rwanda Annulé [France: The Favourable Decision for an Extradition to Rwanda Vacated]*, AFP, Oct. 16, 2015 (Fr.).

<sup>284</sup> See *Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, Decision on the Prosecutor's Request for The Referral, (Nov. 20, 2007), available at <https://goo.gl/ooENV5>; *Prosecutor v. Laurent Bucyibaruta*, Case No. ICTR-2005-85-I, Decision on the Prosecutor's Request for the Referral, (Nov. 20, 2007), available at <http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-05-85/trial-decisions/en/071120.pdf>.

<sup>285</sup> See *Affaire Mutimura v. France*, Eur. Ct. H.R. 12 (2004), available at <https://goo.gl/QncEUW> (Fr.).

<sup>286</sup> See, e.g., *Fighting for Rwanda's Justice in France*, NATIONAL PUBLIC RADIO, Apr. 6, 2014, available at <http://www.npr.org/2014/04/06/299503308/frances-rwandan-genocide-hunter-dafr>.

<sup>287</sup> See *Canada-Rwanda Relations*, High Commission of Canada in Kenya, <https://goo.gl/CZ815r> (last visited May 29, 2017).

<sup>288</sup> See *Landelijk Parket, Rwandan Genocide Suspects Extradited to Rwanda*, OPENBAAR MINISTERIE, Nov. 12, 2016, available at <https://goo.gl/craFeq>.

<sup>289</sup> See James Karuhanga, *Denmark Extradites Genocide Suspect*, THE NEW TIMES, July 4, 2014, available at <https://goo.gl/RcYRUC>.

<sup>290</sup> See Solrun F. Faull, *Charged with Genocide and Being Extradited to Rwanda*, NORWAY TODAY, June 24, 2016, available at <https://goo.gl/aPYwDa>.

<sup>291</sup> See *id.*

<sup>292</sup> See *U.S. Extradites Baltimore Professor to Rwanda to Stand Trial for Genocide*, NBC NEWS via REUTERS, Sept. 28, 2016, available at <https://goo.gl/FmxbP8> <http://www.nbcnews.com/news/world/u-s-extradites-baltimore-professor-rwanda-stand-trial-genocide-n656401>.

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Enos Kagaba,<sup>293</sup> Marie Claire Mukeshimana,<sup>294</sup> and Jean-Marie Vianney Mudahinyuka.<sup>295</sup> As it closed, the ICTR returned Genocide suspects to Rwanda as well.<sup>296</sup> Meanwhile, by failing to prosecute dozens of genocide suspects, or return them to Rwanda or the ICTR (when it was open), French officials persistently denied justice to the Rwandan people, a denial that continues today.

## VI. CONCLUSION AND RECOMMENDATION

Based on the public record alone, senior French officials were aware of and aided the actions and goals of both the Habyarimana government and the *génocidaires* who seized power after at the inception of the Genocide against the Tutsi. Also, French officials have continued to interfere with efforts to achieve truth and justice for the victims of the Genocide against the Tutsi. Accordingly, a complete investigation into the full extent of the knowledge, conduct and complicity of French officials is warranted.

France should fully cooperate with the Government of Rwanda's investigation. There is no doubt that French archives are filled with documents and materials without which the full history of this era will never be known. For decades, French military and civilian officials regularly and expansively reported on Rwandan matters to the government in Paris. Many of the materials were classified as secret and withheld from public disclosure. No doubt, good reasons attached to some of the decisions to classify and withhold. Now, almost a quarter century after the Genocide, those decisions serve little purpose.<sup>297</sup>

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<sup>293</sup> See Press Release, U.S. Immigration and Customs Enforcement, Human Rights Violators & War Crimes Center Significant Human Rights Case Accomplishments 2003 to 2013, at 1 (Dec. 2, 2013), *available at* <https://www.ice.gov/doclib/news/releases/2013/131202washingtondc3.pdf>.

<sup>294</sup> See Press Release, U.S. Immigration and Customs Enforcement, ICE deports convicted Rwandan to serve sentence for role in 1994 genocide (Dec. 21, 2011), *available at* <https://www.ice.gov/news/releases/ice-deports-convicted-rwandan-serve-sentence-role-1994-genocide>.

<sup>295</sup> See Press Release, U.S. Immigration and Customs Enforcement, ICE Deports Rwandan Wanted for Committing War Crimes during 1994 Genocide, (Jan. 29, 2011), *available at* <https://www.ice.gov/news/releases/ice-deports-rwandan-wanted-committing-war-crimes-during-1994-genocide#wcm-survey-target-id>.

<sup>296</sup> See Judge Vagn Joensen, Final Report on the Completion Strategy of the International Criminal Tribunal for Rwanda, Address to the United Nations Security Council (Dec. 9, 2015), *available at* <https://goo.gl/RUKtmD>.

<sup>297</sup> To date, the French government has denied requests to declassify and disclose many key documents related to the Genocide against the Tutsi. As recently as September 15, 2017, the French Constitutional Council denied access to François Mitterrand's archives to François Graner, a researcher with an interest in the role of French officials in Rwanda. See *Rwanda genocide: France keeps 1990s archives secret*, BBC, Sept. 15, 2017, *available at* <https://goo.gl/BoJJen>. This rejection came more than two years after French President François Hollande decided to declassify documents in the Mitterrand archives but released only an inconsequential subset of relevant documents; see also *France's Hollande to declassify Rwanda genocide documents: source*, REUTERS, April 7, 2015, *available at* <https://goo.gl/xPypvn>.

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Finally, we urge the Government of Rwanda to seek France's cooperation in this endeavor. To this end, France should make available its archives, documents, physical evidence and officials (current and former). Any investigation by the Government of Rwanda should evaluate what occurred in the 1990s, as well as what has happened since then, including France's cooperation with this investigation into French complicity in the Genocide.

Respectfully submitted,

Robert F. Muse  
Joshua A. Levy  
Daren H. Firestone  
Margaret E. Whitney  
Yannick B. Morgan

Cunningham Levy Muse LLP

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