

# Genocide against the Tutsi has passed moral, legal, and political tests

Every April, the genocide denialist movement rears its ugly head by engaging in denialist rhetoric that it tries to conceal as political criticism. It tries to sow doubt and bad faith in people of goodwill by creating controversy where there is none. This year was no different. The movement bombarded everyone with vile rhetoric along all forms of genocide denial, including the distortion of historical facts and the creation of ambiguity that constitutes the continuation of genocide by other means.

It is “genocide by other means” because the denial, distortion of facts, and ambiguity around genocide is an attack on collective memory, and that of survivors; it is the refusal of perpetrators and their sympathizers to account for the crimes they committed. On the other hand, precision around genocide is essential in taking stock of what went wrong, holding perpetrators to account, and reassuring survivors that they are no longer under attack. The tool for tracking all forms of genocide denial – trivializing and distortion of facts, for instance – is the precision in the terminology of genocide. It is through precision that we are able to trace those who are attempting to trade places between survivors and perpetrators, and why.

Crucially, precision helps to nurture the collective consciousness needed to take ownership as a society that the tragedy that befell us should never happen again – it prevents recurrence. The counterpoint to precision is the ambiguity of terminology. It is a fertile ground for nurturing the recurrence of genocide. The sides are clear for all the people of goodwill: it is either solidarity with the memory of

victims and survivors through the precise use of the terminology of genocide or solidarity with killers and their benefactors around ambiguity. Any bystanders will be assumed to have taken the side of killers and their enablers who believe that they have a job to complete. "Never Again" will only remain a slogan without linking it to precision in terminology.

Consequently, clarity around genocide holds serious implications for the Rwandan society and for the global humanity. Discussions on genocide are often politicized because genocide deniers, as a tactic, conceal their denialist rhetoric in the veil of political criticism. If they were legitimate critics, they wouldn't feel the need to turn to denial as a method of political activism. This very strategy takes the moral basis out of any legitimate criticism they may hold and removes the veil, exposing them for what they really are and the aims that drive their actions. Further, the merit of their criticism is measured against their ability to grasp the basic understanding that there is no ambiguity around the 1994 genocide against the Tutsi. Neither at the moral, the political, nor the legal basis.

Let's start with politics. The international community settled any political contentions around the 1994 genocide against the Tutsi when it established the International Criminal Tribunal for Rwanda (ICTR) to prosecute persons responsible for the genocide between 1 January 1994 and 31 December 1994. The court was established politically through this UNSC Resolution no 955 of 8 November 1994 and the very decision to establish the court reflects this political consensus.

Legally, on 16 June 2006 the Appeals Chamber of the ICTR in the trial of Prosecutor v. Karemera Ngirumpatse and Nzirorera (ICTR-98-44-AR73 (C)) ruled that "all the current and pending trials before the Trial Chambers of the ICTR" are to refer to a set of three facts "as established beyond any dispute and not requiring any proof." The judicial notice in

question outlined the following as irrefutable facts:

- 1) The existence of Twa, Tutsi and Hutu as protected groups falling under the Genocide Convention;
- 2) The following state of affairs existed in Rwanda between 6 April 1994 to 17 July 1994: there were throughout Rwanda widespread or systematic attacks against a civilian population based on Tutsi ethnic identification. During the attacks, some Rwandan citizens killed or caused serious bodily or mental harm to person[s] perceived to be Tutsi. As a result of the attacks, there were a large number of deaths of persons of Tutsi ethnic identity;
- 3) Between 6 April 1994 and 17 July 1994 there was genocide in Rwanda against Tutsi ethnic group.

In other words, by underscoring that these facts are “beyond any dispute” the court observed that there is no source that can be taken as being of greater or transcending value or weight than the evidence it had in its possession upon which its decision was grounded.

No reasonable person would argue that the standard of proof of political decisions is higher than that of court processes. This high bar is the significance of the decision of the Appeals Chamber noted above. In arriving at its ruling, the court subjected the political decision of the UNSC to legal scrutiny.

Naturally, had the Appeal Chamber found the UNSC decision to be mediocre and wanting it would have challenged it. On the contrary, the trial chamber’s ruling reinforced the UNSC position and declared the facts of the genocide against the Tutsi, as outlined in the judicial notice, incontrovertible.

Second, the judicial notice was an instrument that established facts beyond the mere considerations of accused individuals, such as Bagosora or Nahimana. These were facts that apply in

every case that no individual can debate or question.

Third, the judicial notice was taken in 2006 after many years of accumulating facts and evidence. By that time, at least 30 cases had already been decided, including those that had confessed to the crime. The delay from the time the court was established to the time of the judicial notice shows that the decision was not intended to merely create evidence for the convenience of prosecution. If this was the case, it would have come much earlier before the 30 cases were decided. It was due to rigor; it was well considered.

The delay was to ensure that the court assembled as much evidence as possible for an incontrovertible conclusion that would set the record straight for posterity, an irreversible judicial decision, to act as an instrument to counter denialist rhetoric and prevent the recurrence of genocide.

Clearly, therefore, the denialists movement has neither political, legal, nor moral basis. The shaky moral grounds are self-evident in the definition of genocide whose facts were confirmed by the political (UNSC resolution) and legal (judicial notice) findings. the genocide against the Tutsi of Rwanda has passed the most strenuous tests in history. It is the only genocide that has been subjected to independent political and legal tests, had a judicial notice was issued, under a neutral (UN) arrangement, and without a victorious superpower behind it. While it is not proper to compare genocides, it is important that this denialist movement understands this critical point.

The denialist movement also tried to bring ambiguity to the designation by the UNGA (Resolution A/72/L.31) of April 7 as the International Day of Reflection on the 1994 genocide against the Tutsi in Rwanda. They referred to the sentence that the UNGA "also recalls that during the 1994 genocide against the Tutsi, Hutu and others who opposed it were also killed" as redemptory for the denialist discourse.

Belgian and Senegalese UN Blue helmets were killed during this time. The RPA lost soldiers in the battle to rescue the Tutsis from getting wiped out. The catholic church, which had killers among priests and nuns, also had nuns and priests killed. Hutu politicians. So were journalists. In all these, some people were killed because they were Tutsi and others were killed for resisting the killing of the Tutsi.

All these deaths happened *during* the genocide. However, not all of them died *of* genocide. The cause of death – the reason they were targeted – is essential in the precision of terminology of genocide and its evasion is key for genocide deniers. Consequently, one who centers those who were targeted for different reasons other than the intent to eliminate them as a category is involved in belittling the genocide.

Accordingly, genocide commemoration is about public – or collective – memory for the category that was targeted for elimination. It is not the sum total of individual memory. It certainly is not a moment for individual remembrance that can – and should be – be done privately. Everything – including testimonies – done with the aim of centering the targeted group is public, collective, and constitutes genocide commemoration. Therefore, precision with the terminology of genocide shows that this period is for the commemoration of the group that was targeted for extermination.

Moreover, it is factually wrong, and therefore a distortion of history and facts – to claim that genocide started with the killing of politicians. It started with hate ideology in the 1950s, decades of dehumanization, trial killings, mass executions, and now continues through the denialist movement. It is misleading and feeds ambiguity, which is a fertile ground for the recurrence of genocide. I am of the view that Hutu politicians who are remembered on the 13th of April should be recognized on Heroes Day on February 1 every year just like it is done with the Inyange Heroes.

However, it is also true that not all of them will meet the requirements of a Hero. Certainly not all were like the former Prime Minister Agathe Uwilingiyimana who took a clear stand and now rests among the national heroes. The same applies to the courageous journalists. There may need to be an occasion for remembering and honoring people who do not belong to the group that was targeted for extermination but who clearly demonstrated courage of conviction and do not fit the criteria of national heroes. This position is against that of the RPF government. However, I also understand the RPF's imperative for reconciliation and its efforts to make commemoration "inclusive." On the other hand, these efforts for inclusion shouldn't open a window for introducing ambiguity and denialist rhetoric during commemoration.

Most importantly, if the denialist movement was honest about speaking up for all those who were killed during the genocide, they wouldn't limit themselves to the Hutu politicians. They would clamor for the inclusion of all the groups noted above – including the fallen RPA soldiers – among those to remember during genocide commemoration. Otherwise, it becomes obvious that the denialist movement has never been about those who were killed during the genocide.

On the contrary, its aim is to negate the genocide against the Tutsi – the category targeted for elimination – by conjuring an alternative story that suggests that Hutus were targeted for elimination. It is an argument that should be extended to all the categories noted above – including RPA soldiers – that they refuse to acknowledge despite fitting their own definition.

Invariably, the strategic aim of the denialist movement is to suggest that there was no genocide since everyone was killing everyone, which helps them to avert criminal and moral responsibility, with the resultant impunity emboldening them into preparing another genocide – and the entire cycle starts over.