

Chapter 4

The challenges of understanding Kinyarwanda key terms used to instigate the 1994 genocide in Rwanda

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Criminal words

Language is a double-edged sword. It can heal or kill. In the case of the 1994 genocide in Rwanda, the effect of language was lethal. It is generally believed that the hate media, such as the RTLM¹ and the *Kangura* newspaper, played a key role in the instigation of genocide and other crimes against humanity committed in this small central African country. There exists a wide range of research on the hate media which paved the way for the 1994 Rwandan genocide.² A number of judgments rendered by the ICTR, in particular the so-called "Media Trial,"³ have brought into the limelight the powerful role which language can play in the commission of crime. However, in a number of ICTR genocide cases, the debate around some recurrent polysemic Kinyarwanda key terms which were used during or even before the 1994 Rwandan genocide is not only to determine whether these words belong in the hate media, but also what they actually mean. Since the use of such key words relates directly to the offenses of genocide and instigation to commit genocide, the TC has to determine their meaning.

Law and linguistics

In criminal cases, the prosecution has to convince the judges beyond reasonable doubt that the accused committed the alleged offense. In the case of the offense of "direct and public incitement to commit genocide"⁴ which many persons tried by ICTR are accused of, the prosecution's task is even more challenging. It has to prove that: (1) the accused uttered certain words; (2) the words uttered belong in the hate media; (3) they were meant to instigate the commission of crime; and (4) the speaker was aware of this effect.

At the ICTR, none of the judges (and most of the main lawyers in the prosecution and defense teams) speaks Kinyarwanda, which is the only language most witnesses use in the courtroom. Arbitration between the parties and determination of some key issues depend largely on the linguistic input provided by interpreters, and in some cases, by expert witnesses. While interpreters are neutral, the same cannot always be said of witnesses who are called by parties to bolster their cases.

In general, at the ICTR, the defense seldom agrees with the prosecution as to the interpretation of the language used. As will be shown in this chapter, the defense tends to interpret polysemic key terms in a narrow sense, rejecting figurative and extended usages.

Media language during and before the Rwandan genocide

It is important to stress that, owing to the proliferation of print media from 1990, the war, and the introduction of multiparty democracy, by 1994, a number of Kinyarwanda terms had acquired new extended or broader meanings to accommodate the numerous new realities. This explains why some of the extended meanings of the key words being analyzed in this chapter cannot be found in a pre-1994 Kinyarwanda dictionary.

Communication challenges in ICTR proceedings: cultural collision

Culture and tradition often affect intercultural communication. In an international tribunal such as the ICTR, while the divergence between the basic legal systems, namely the common law and civil law, has posed "manageable" problems in proceedings, cultural differences have never been tamed and their overtones are often a source of mishaps in the courtroom. In the ICTR courtroom, there are times when cultural collision results in communication breakdown.

The ICTR law men (including judges, prosecution trial attorneys and most defense lawyers) know very little, if anything at all, about Rwandan culture and tradition prior to joining the ICTR. They were trained to try cases, ask questions, research facts, contradict allegations and the like. Like most of us, they were brought up, trained and conditioned to think and behave in a particular way. They never understand why a witness who alleges to have been near a scene of crime fails to answer a simple question such as "How far were you from the scene?" This type of question, which they expect to be answered in terms of meters or kilometers, or even yards and miles, for a country which was using the metric system, is rarely answered in anything different from *not far, quite close*, etc. Getting non-educated Rwandans to answer questions on delicate issues, especially on cross-examination, is a tricky matter and can even be irritating at times. Not only do they have a very rudimentary, and far from accurate notion of time, space and numbers (for large amounts), but also their answers are seldom straightforward.

Ignorant as they are of Rwandan culture, traditions and practices, and with no induction course in this area to help them understand these cultural matters, ICTR lawyers tend to use standard yardstick and measurements, which are not only inadequate, but also equally irritating for ordinary non-educated Rwandans who, also out of ignorance of court practices, often find the type of questions asked "stupid" or "irrelevant."

These cultural communication challenges are as old as the Tribunal itself. In the *Akayesu* case, the first to be tried by ICTR, the TC noted:

[. . .] it is a particular feature of the Rwandan culture that people are not always direct in answering questions, especially if the question is delicate. In such cases, the answers given will very often have to be “decoded” in order to be understood correctly. This interpretation will rely on the context, the particular speech community, the identity of and the relation between the orator and the listener, and the subject matter of the question. The Chamber noted this in the proceedings. For example, many witnesses when asked the ordinary meaning of the term *Inyenzi* were reluctant or unwilling to state that the word meant cockroach, although it became clear to the Chamber during the course of the proceedings that any Rwandan would know the ordinary meaning of the word. Similar cultural constraints were evident in their difficulty to be specific as to dates, times, distances and locations.⁹

Unfortunately, there is no indication that these cultural problems are better addressed today than they were a decade ago. Even if in many judgments, the challenges posed by cultural disparity and even interpretation are acknowledged, the TCs have failed to develop a coherent jurisprudence which can accommodate them.

Let us first of all look at two recurrent cultural features which sometimes cause communication difficulties.

Estimating time and distance

An American friend once asked me how Rwandans measured time and distance before the advent of modern units of measurement. I responded with the following question: “If you tilled a certain area of your land from sometime in the morning until sometime in the afternoon, why on earth would you need to know that the portion of land you tilled was 12.5 square meters, had 127 furrows, and well, that you worked on it from 6:23 a.m. until 13:45 p.m.?”

As a communication tool, language is need tailored. It seldom extends beyond its users’ needs. For an illiterate Rwandan, the day begins when the cock crows for the first time and ends when the night falls. In order to refer to a particular stretch of time in the day, reference is made either to a particular routine activity usually conducted then, or the particular intensity of daylight which characterizes that stretch of time. Before the advent of watches, this type of time telling was adequate for the type of time precision required.

As the following exchange shows, it is fruitless (although there is no harm in trying) to ask a non-educated Rwandan witness to tell you exactly when a given event occurred:

Q: Did you happen to recall what time of the day you left Kibuye on your way to – you left Mabanza on your way to Kibuye on this day?

A: No, I do not recall the hour.

Q: Do you recall roughly how long the journey from Mabanza to Kibuye took on this day?

A: How can I tell you this? I wasn't wearing a watch and I didn't ask anybody what time of day it was.¹⁰

This witness failed to answer the question either because he honestly did not remember or perhaps because he was being economical with the truth. More generally, however, many non-educated Rwandan witnesses eventually come up with some very rough indication of time of the day, such as morning or evening, middle of day, etc. It would be too easy to blame them for not remembering exactly when particular events occurred. Memory erodes with time and the traumatic conditions of genocide and war are particularly favorable for selective amnesia. As one witness put it, had he known that one day, he would be asked how many people were with him during the attack, he would have counted them.

In court proceedings, witnesses are also frequently required to provide distance estimates. If they allege to have seen the accused or heard them utter certain words, they may be required to describe where they were vis-à-vis the accused in order to have been able to see or hear them distinctly. This is a crucial issue which together with some other considerations, make the witness credible or unreliable as the case may be.

For non-educated Rwandans, there is no practical way of estimating longer distances. Asking a witness whether Area X is within walking distance is not helpful for a witness who had probably never been in a car at the time of the event referred to. After all, for such a witness, any distance was a walking distance. The Kinyarwanda language has such words as *far*, *very far*, *close*, etc., but they are not always helpful for a lawyer who expects an answer in meters or yards. In the next example, the presiding judge must have been more than frustrated:

MR. PRESIDENT: Madam Witness, how far is the *conseiller's* house from the *secteur*?

THE WITNESS: There's a big distance between the *secteur* office and the *conseiller's* house.

MR. PRESIDENT: In terms of kilometers, if you can say; how many miles or kilometers, two, three, four, five?

THE WITNESS: Look, it is really difficult for me to come up with an estimate. It was a great distance.¹¹

This exchange is by no means atypical. In the mind of this witness, who is no doubt non-educated, the question is properly answered since "great distance," whatever that means, shows that it is not close. Needless to say, the presiding judge who expected enlightenment in the form of miles or kilometers was left in the dark.

If witnesses could estimate how long it took them to walk from point A to point B, then perhaps the lawyer can calculate the distance between A and B using the *time/distance/speed* formula. Unfortunately, there is no guarantee that this will always be fruitful as the next example shows:

Q: And how far is it from Murambi to Mubuga?

A: It's a long distance.

Q: How long did it take you to get to that place, in terms of time?

A: I cannot tell you how long it took me because I left during the night.

Q: Did you arrive the same night or the following morning?

A: I arrived before morning.¹²

First of all, "long distance" (which is another way of saying *far*) cannot be a satisfactory answer to the "how far" question since it is too imprecise. Second, the witness says he cannot estimate how long the journey took because it occurred during the night, as if time stood still in the dark. Third, "before morning" is ambiguous. Does it mean that he arrived early in the morning or that it was still during the night? We could note in passing that *night* and *day* do not always cover the same temporal reality even among educated people. Is 2 a.m. morning or night?

To the non-initiated, the above exchange seems to flout at least two maxims of Grice's Cooperative Principles, that of relevance and that of manner. The witness seems uncooperative. It is as if he said: I will not answer your questions, full stop.

For shorter distances, non-educated Rwandans often use deictic physical clues. This rudimentary but practical technique is sometimes used at the ICTR. Instead of wasting time and energy requesting witnesses to estimate the distance in meters while this word does not even exist in their vocabulary, it would make more sense if one used the courtroom physical setting for comparative purposes. The answer like *the accused was standing like where you are, and I was where the judges are seated*, may not be economical, but it is far better than *very close* or *near*.

The evidence from the ICTR court transcripts shows that many ICTR lawyers continue to waste time by attempting to elicit very precise time and distance data from Rwandan witnesses who, visibly, are non-educated.

Interpretation challenges

Conducting court proceedings in three languages is a daunting task. This becomes even more of a challenge when one of the languages is Kinyarwanda, a Bantu language which, in 1994, was far from straightforward, and the players involved (witnesses, judges and lawyers) come from a wide range of cultural backgrounds. With cultural differences, linguistic difficulties are bound to occur.¹³ It can never be taken for granted that a message which the witness utters in Kinyarwanda and

which the first interpreter puts in French before the second puts it in English, will not be distorted along the way. Also, even with the best interpreters, misinterpretations are bound to occur.¹⁴

These sociolinguistic difficulties of interpreting from Kinyarwanda into English/French or vice-versa were acknowledged even during the *Akayesu* judgment, where the TC noted:

[. . .] the interpretation of oral testimony of witnesses from Kinyarwanda into one of the official languages of the Tribunal has been a particularly great challenge due to the fact that the syntax and everyday modes of expression in the Kinyarwanda language are complex and difficult to translate into French or English. These difficulties affected the pre-trial interviews carried out by investigators in the field, as well as the interpretation of examination and cross-examination during proceedings in Court. Most of the testimony of witnesses at trial was given in the Kinyarwanda language, first interpreted into French, and then from French into English. This process entailed obvious risks of misunderstandings in the English version of words spoken in the source language by the witness in Kinyarwanda.¹⁵

In the case of polysemic words such as *enemy* or *Inyenzi*, the Kinyarwanda French/English interpreters have no choice but to stick to the basic meaning, that is, the one which is less interpretative, leaving it to the parties to make more committed interpretations of the terms. Other semantic aspects of the terms, such as connotation and pejoration, are also left out. Thus, a term such as *Inyenzi*, when translated will become *cancrelat* in French and *cockroach* in English, but the offensive and pejorative aspects of the original Kinyarwanda meaning, which is culture and context dependent, will be lost through translation. This kind of omission is a heavy loss inherent with conducting trials in foreign languages (see Figure 4.1).

Kinyarwanda key terms in ICTR judgments: socio-political and historical background

In order for the reader to understand the various meanings of the key words under study, it is necessary to place them in their socio-political and historical context.

As far back as the thirteenth century, Rwandan population comprised three ethnic groups, the Hutus (80–85 per cent), the Tutsis (14–20 per cent) and the Twas¹⁶ (about 1 per cent). Unlike tribal groups elsewhere in Africa, Hutus, Tutsis and Twas speak the same language, share many other cultural values and live side by side. In terms of physical appearance, the three ethnic groups are differentiated by a few stereotypic traits: Tutsis are said to be tall, with a small nose, while the Hutus are said to be short with a big nose, the Twas being even smaller. It is very important to stress the subjective nature of these physical differences since there are many Hutus who are tall or have a small nose and many Tutsis who are not tall



Figure 4.1 Title page of *Kangura*, No. 26, November 1991.

Exhibit P7 in *The Prosecution v. Ferdinand Nahimana* (ICTR-96-11-T), *Jean-Bosco Barayagwiza* (ICTR-97-19-T) and *Hassan Ngeze* (ICTR-97-27-T). See, also, Alison des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, New York, NY: Human Rights Watch, March 1999, p. 72. The caption from the book: "A photograph of Grégoire Kayibanda, leader of the Hutu Revolution and first president of Rwanda, accompanied by a machete, a cynical comment about Tutsi being the race of God, and a question about what arms can be used to defeat the *Inyenzi* once and for all."

Courtesy of Editions Karthala (Paris), Robert Ageneau, and Jean-Pierre Chrétien.

or who have a big nose. Also, intermarriage between these groups weakened whatever relatively objective differences might have existed between them. The 1994 genocide in Rwanda targeted the Tutsi ethnic group and the perpetrators thereof were largely from the Hutu majority group.

Before independence in 1962, most ruling elite, including all the kings, were from the Tutsi ethnic group. After independence and up to the genocide in 1994, most ruling elite, including all the presidents, were from the Hutu ethnic group. When the Belgians colonized Rwanda, they rigidified the differences between ethnic groups by, among other actions, issuing identity cards which specifically referred to the owner of the identity card as Hutu, Tutsi or Twa. After independence, this practice continued and was even reinforced later on by the ethnic quota system practised in many sectors during President Habyarimana's rule.

In the late 1950s and early 1960s, some of the Tutsis who had been forced into exile in neighboring countries by repetitive pogroms which targeted them started launching attacks against Rwanda. Those rebels who attacked the country were known as the *Inyenzi* (literally: cockroach).

In October 1990, when the RPF-Inkotanyi attacked Rwanda, they were qualified by some as being basically the same as the *Inyenzi* who had attacked the country in the sixties. Even if they were not the same combatants who had invaded Rwanda more than two decades earlier, Habyarimana's regime (including President Habyarimana himself) was convinced that this war, like the *Inyenzi*'s, aimed at seizing power and reinstalling the feudal system which the Hutu Revolution had abolished some 30 years earlier. Objectively, there were two important similarities between the two rebel movements: (1) they had all attacked the country and were thus to be treated as the *enemy*; and (2) they were essentially from the Tutsi ethnic group.

In 1994, there were many groups in Rwanda, some more radical than others, which had formed along belligerent, ethnic, political, and/or regional lines. Officially, at the national level, there were two belligerent forces: The Rwandan Armed Forces and the RPF-Inkotanyi. The Hutu hardliners from President Habyarimana's northern region considered the *Inkotanyi*, the Hutus from the southern part of the country who were in the political opposition parties, Tutsis and all their sympathizers as one enemy block. Those who refused to rally the Hutu cause or to support Habyarimana's regime were also labeled "accomplices of the enemy," it being assumed that they supported the RPF-Inkotanyi, which was not necessarily the case. In fact, there were Hutus who were against the *Inkotanyi*'s war and Habyarimana's regime. For some moderate Hutus and Tutsis, the enemy consisted of the Hutu hardliners.

This brief history shows why, in the minds of the Hutu hardliners, the words *Inyenzi*, *Inkotanyi*, *enemy* and *accomplice* were closely associated with the Tutsi ethnic group. This association has been widely documented.¹⁷

Polysemy

Words which have more than one meaning are said to be polysemic. The word *mouse* is a good example. Before the advent of computers, sentence (1) below was meaningless. But how do we know whether we are referring to the computer mouse or the animal? The answer is in the context. While the context in sentence 1 is unambiguous (since you cannot connect an animal), the same is not necessarily true with sentence 2. Even in sentence 3, where the word *cat* could tempt the reader to choose the animal rather than the gadget, there is still a possibility that the cat could be playing with the computer mouse:

- 1 Plug in the *mouse*.
- 2 Bring the *mouse*.
- 3 The cat is playing with the *mouse*.

There are many ways in which words broaden their meaning, one of them being generalization. As will be shown below, the extended meaning of the polysemic Kinyarwanda terms under study shares at least one semantic or functional feature with the basic meaning.

Various words and phrases have been used in ICTR judgments to refer to the polysemic nature of these key words. They include *code words*,¹⁸ *double meaning*, *true meaning*, *implicit or tacit meaning*, *figurative meaning*, *underlying meaning*, *veiled reference*, etc.

Definition of key terms

Let us now look at the various meanings which the Kinyarwanda polysemic terms had acquired by 1994. It is important to stress that these words do not always mean the same thing in all contexts. This may appear evident since they are polysemic. However, for various reasons, there is an unfortunate tendency among researchers and court witnesses to favor one interpretation over the others, sometimes against the context. The various meanings listed below were arrived at by taking into account not only the context in which the terms were used, but also the determination of interpretation by the various TCs and the opinions expressed by expert and non expert witnesses both inside and outside the courtroom.

Inyenzi

- 1 cockroach; the rebels who attacked Rwanda in the 1960s (basic meanings);
- 2 The Inkotanyi (by analogy to 1);
- 3 The Inkotanyi's accomplices (by association);
- 4 The Inkotanyi's sympathizers (by extension);
- 5 Tutsis in general (by association and generalization);
- 6 Hutu opposed to Habyarimana's regime (by overgeneralization).

Up to the early 1960s, the word *Inyenzi* meant "cockroach." In the early 1960s, this word acquired another meaning through coinage;¹⁹ it broadened to include the mainly Tutsis rebels who were attacking the country. When the attacks seized, this second meaning did not die, but it was not in use in everyday language. When the Inkotanyi attacked the country in 1990, this second meaning was reactivated. For Hutu extremists, the word came to be generalized to Tutsis as an ethnic group. After all, a cockroach cannot beget a butterfly, they would say, arguing that the *Inyenzi* are the same as the Inkotanyi. Eventually, the meaning of *Inyenzi* was extended further to include even Hutus who were opposed to the Hutu hardliners. The word *Inyenzi* acquired a pejorative or derogatory connotation and was used mainly by Hutu extremists and rarely, if at all, by anybody else.

Inkotanyi

- 1 RPF members and combatants (basic meaning);
- 2 Same as points 2 to 6 in *Inyenzi* above.

The word *Inkotanyi* existed in the language even before 1990, but was not in everyday use. As we saw earlier, the group that attacked Rwanda from Uganda in October 1990, known as liberators for some, and invaders for others, were refugees who had settled in neighboring countries in the sixties and seventies, fleeing the atrocities which had targeted them. They were mainly of Tutsi ethnicity. They were termed *Inyenzi-Inkotanyi* by Hutu extremists, or simply called *Inyenzi*. In the hate media, the terms *Inyenzi* and *Inkotanyi* came to mean the same thing and were used interchangeably, although the former was derogatory, while the latter was not.

Icyitso

- 1 Accomplice (basic meaning);
- 2 RPF supporter and/or sympathizer;
- 3 Tutsis in general;
- 4 Anyone opposing Hutu hardliners.

Following the RPF-Inkotanyi's attack on the country in October 1990, President Habyarimana's regime rounded up several thousand people suspected of being RPF's accomplices. These were predominantly Tutsis, and Hutus originating from the south of the country but who, as it turned out to be, were mainly innocent. From then on, the Hutu hardliners, mainly from the northern part of the country, considered Tutsis in general and Hutus opposed to the then regime, to be RPF accomplices.

Since, as indicated before, the RPF-Inkotanyi were mainly Tutsis, in the anti-Tutsi propaganda, the Tutsis from inside the country came to be regarded as their accomplices.

Umwanzi

- 1 Enemy (basic meaning);
- 2 RPF combatants;
- 3 Tutsis in general.

When the RPF-Inkotanyi attacked the country, they were naturally viewed by many inside the country as being the *enemy* or the belligerent force. A commission set up to define the enemy did so along ethnic lines, pointing among others, to Tutsis inside the country. With many Hutu hardliners alleging publicly that the war being fought was between Hutus and Tutsis,²⁰ it is no wonder if the latter were treated as enemy.

Gukora

- 1 To work (basic meaning);
- 2 To destroy somebody's property;
- 3 To kill Tutsis.

The verb *work* and the derived noun *work* are highly polysemic. Of interest here is how these words came to refer to the killing of Tutsis. During the late 1950s and early 1960s, Hutus attacked Tutsis and burnt their homes, killing many of them. When the Inkotanyi attacked, similar acts targeting Tutsis were again committed, but this time on an unparalleled scale. The destruction of property and homes extended to the extermination of Tutsis.

Analysis and discussion

As indicated above, in the anti-Tutsi media, the terms *Inyenzi*, *Inkotanyi*, *accomplice*, and *enemy* were, in some contexts, associated or even equated with Tutsis as an ethnic group. Many factual and expert witnesses pointed this out and the various TCs made this determination. In many cases, the defense contested this determination, restricting the meanings of these terms to the basic ones. Let us now look closely at the treatment of these terms across the various ICTR judgments.

In analyzing the treatment of these key terms in various ICTR trials, account will be taken of the following aspects: (1) whether the TC was aware of the polysemic nature of the key terms; (2) whether in the determination of meaning, the TC relied on factual and expert witnesses' interpretation and/or ICTR jurisprudence; and (3) the type of context, if any, that was relied on in the determination of meaning.

Context here is to be understood in the broader sense. It includes all the environment surrounding the speech act, including the specific words used, the speaker, the addressee, the language used, the tone of voice, the physical setting, the social, political, historical and cultural aspects, etc. Where the TC relied on context, it will also be necessary to examine whether all relevant contextual

aspects have been taken into consideration and, if applicable, the relative weight accorded to each of these aspects.

Inyenzi, Inkotanyi, accomplice and enemy

It is significant that the *Akayesu* judgment, which is the ICTR's first criminal case, goes to some length to analyze the nature of language and the meaning of some of the key terms used during the Rwandan genocide. For the judges and the parties, none of whom was a Kinyarwanda speaker, a number of key terms, including *Inyenzi*, *Inkotanyi* and *accomplice* which were recurrent throughout the trial of this case, could only have appeared confusing. The TC therefore "relied substantially on the testimony of Dr. Mathias Ruzindana, an expert witness on linguistics, for its understanding of these terms."²¹ With regard to the term *accomplice* for example, in the indictment, the prosecutor had alleged that:

During the morning of April 19, 1994, following the murder of Sylvere Karera, Jean Paul AKAYESU led a meeting in Gishyeshye sector at which he sanctioned the death of Sylvere Karera and urged the population to eliminate accomplices of the RPF, which was understood by those present to mean Tutsis. Over 100 people were present at the meeting. The killing of Tutsis in Taba began shortly after the meeting.²²

In this quotation, the prosecution alleges that over 100 people who attended the meeting convened by Akayesu, the accused, understood the phrase "accomplices of the RPF" as meaning Tutsis. Obviously, not everyone among the more than 100 people who attended the meeting was called to testify in this case. The prosecution cannot therefore prove that all the people who attended the meeting understood the term "accomplice" in the same way. However, the fact that Tutsis were attacked following this meeting by those who attended it is further evidence that RPF accomplices in this particular context was understood as meaning Tutsis in general, so the TC determined.

The TC therefore took due account, in accord with Dr Ruzindana's expert testimony, that, in ascertaining the specific meaning of some terms and expressions in Kinyarwanda, "it is necessary to place them contextually, both in time and in space."²³

It is important to stress that the mere recognition of context as a determining factor leaves many questions unanswered. In the example cited above, it can be argued that the message understood by the people who attended the meeting is not the one intended by the speaker (i.e. the accused), and that the killing of Tutsis that occurred after the meeting could have been triggered by some other factors. Naturally, if the defense does not present its case along these lines, the TC will make its determination on the basis of the evidence and arguments presented by the parties. Still, the TC should have indicated the precise contextual elements which led to the choice of its interpretation.

This trial established broad rather than precise jurisprudence in these matters which subsequent trials were expected to draw on. Unfortunately, as will be shown below, this approach was not necessarily adopted in all subsequent trials.

In the *Niyitegeka* judgment, witness KJ testified that the accused had referred to the body of a dead woman as being an *Inyenzi*. This witness indicated that "At the time, *Inyenzi* was used to refer to the Tutsi, or anyone opposed to the government at that time."²⁴ The TC concluded that the "Accused referred to the woman as 'Inyenzi' which the Chamber is satisfied was meant to refer to Tutsi."

The TC accepted this witness's testimony and qualified him as being credible. It did not indicate why it was satisfied that "Inyenzi" in this context meant Tutsis.

In the *Kayishema and Ruzindana* judgment, the TC seems to recognize that the key terms *Inkotanyi* and *Inyenzi* can have more than one meaning, but as shown below, it tends to favor one type of interpretation for no apparent reason.

The TC either makes what appears to be unsubstantiated generalization, or relies heavily on factual witnesses, whose testimony was not rigorously analyzed in terms of polysemy. In paragraph 293, it states the following:

After the crash of the President's plane, the atmosphere quickly began to change. The Hutu population began openly to use accusatory or pejorative terms, such as *Inkotanyi* (Kinyarwanda for RPF accomplice/enemy) and *Inyenzi* (Kinyarwanda for cockroach) when referring to the Tutsis.²⁵

In this quotation, the TC states erroneously that *Inkotanyi* is the Kinyarwanda term for RPF accomplices/enemy. It also states, without analysis or substantiation, that the terms *Inkotanyi* and *Inyenzi* were used to refer to Tutsis, and refers the reader (in a footnote) to the "testimonies of Witnesses G, U and Z" explaining that *Inkotanyi* meant "all the Tutsis" or the *enemy*.²⁶ Similarly, it affirms that it "heard evidence of Ruzindana's anti-Tutsi utterances to the assailants," saying that the Tutsi refugees were "the enemy."²⁷

The TC relied on the above claims to deduce the accused's intent to commit crime:

Kayishema's utterances, as well as utterances by other individuals under his direction before, during and after the massacres, also demonstrate the existence of his specific intent. Tutsis were called *Inkotanyi* meaning an RPF fighter or an enemy of Rwanda, *Inyenzi* meaning cockroach.²⁸

The TC does not indicate which contextual elements, if any, it relied on in its determination of meaning. Given the complexity of interpreting these Kinyarwanda polysemic terms, one expected the TC to substantiate its choice of interpretation. It is not being argued here that the TC drew the wrong conclusion. Rather, it is being shown that it failed to draw on previous jurisprudence, notably the kind of caution that was expressed in the *Akayesu* judgment regarding the interpretation of this type of language.

The TC seems to have relied on the testimony of factual witnesses, but does not take due precaution to ensure that these witnesses were aware of the polysemic nature of these terms used by the accused.

In the *Karera* judgment, the TC was aware of polysemy. However, its determination of meaning relied almost exclusively on factual witnesses' testimony and made no reference to ICTR jurisprudence in these matters. In a footnote, the TC made the following observation:

The Trial Chamber notes that the terms *Inyenzi* or *Inkotanyi* are commonly associated with Tutsis and the RPF, but could also encompass moderate Hutus. For example, Prosecution Witness BLX testified that the *Inkotanyi* was the armed wing of the RPF. He testified that the term "accomplices" referred to Tutsis who supported the *Inkotanyi* as well as to Tutsis and Hutus who opposed the MRND. . . . In addition, Prosecution Witness BMB testified: ". . . during the genocide, the term *Inkotanyi* and the term 'Tutsi' were used together . . . the moderate wing of the MDR²⁹ was considered as an accomplice of the *Inkotanyi*."³⁰

The fact that this TC's interpretation of the polysemic terms appears in a footnote with no analysis or comments in the main text and no reference to available ICTR jurisprudence says it all.

In the so-called "Media Trial," as expected, the language used in the various media that were owned, controlled, or utilized by the accused was a subject of heated debate.³¹

The polysemic key words under study here figured prominently both in oral (mainly the RTLM radio) and print media (such as the *Kangura* newspaper (see Figure 4.2)). In the "Media Trial" alone, the words *Inyenzi*, *Inkotanyi*, *enemy* and *accomplice* occur 195, 234, 180 and 128 times, respectively. As expected, the interpretation of these key terms was contentious, not only between the parties and their respective experts, but also between the defense and the TC; this debate even reached the appellate level.

The TC relied mainly on expert witnesses' opinion and on the overall context in which the terms were used. However, in many cases where the interpretation was expected to be contentious, the TC failed to identify the elements constituting context and their relative weight. In these circumstances, the opposing party was justified in challenging the TC's interpretation, at least from the procedural viewpoint.

Referring to the interpretation that the TC in the "Media Trial" made concerning RTLM broadcasts, one defense counsel remarked that:

[. . .] the meaning that the judges attributed to these broadcasts was based on their interpretation of a language of which none of them had any mastery (Kinyarwanda) and on an assumption that was only hypothetical. They were operating in the shifting sands of interpretation, with their judgment at the mercy of contrary winds.³²



Figure 4.2 Title page of Kangura, No. 6, December 1990.

PEREZIDA YAVUZE KO HARI ABIGIRA BA NYONI NYINSHI. *The President said that some people pretend that they know nothing.* **ESE ABA BAGABO HARI ICYO BAZABIMUFASHAMO???** *Do you think that these people will provide him [Habyarimana] any assistance ???* **KA KANAMA KARI KAYOBOWE NA NKUBITO ALPHONSE NGO AKA KARAREKUYE INKOTANYI N' IBYITSO BYAZO. KIYUHA ICYUYA KURUSHA ABAKIBIZE BAZIFATA** *This small committee lead by Nkubito Alphonse who has released the Inkotanyi and their accomplices, is sweating more than the ones who sweated to arrest them.* (Translated from Kinyarwanda by Yvonne and Pierre Galinier).

Courtesy of Montreal Institute for Genocide and Human Rights Studies at Concordia University. Online. Available HTTP: <http://migs.concordia.ca/links/kangura_files.htm> (accessed 8 February 2011).

Let us now look in some detail at one interpretation of the polysemic term *Inkotanyi* which turned out to be so controversial that it was settled by the Appeals Chamber.

On 4 June 1994, RTLM journalist Kantano Habimana told listeners:

They should all stand up so that we kill the *Inkotanyi* and exterminate them . . . the reason we will exterminate them is that they belong to one ethnic group. Look at the person's height and his physical appearance. Just look at his small nose and then break it.³³

The TC concluded that this excerpt was a direct appeal to listeners to kill Tutsis, which the defense refuted. The TC also used it as a proof of genocidal intent. On appeal, the Accused Barayagwiza challenged the TC's interpretation of the above excerpt. He argued that "no evidence was adduced that RTLM journalists directly and specifically equated the Tutsi[s] with the enemy and that the terms *Inyenzi* and *Inkotanyi* varied according to the context."³⁴ He further contended that the RTLM excerpt "did not call on people to kill the Tutsi[s], but rather to take action against those whom RTLM perceived as enemies."³⁵

The Appeals Chamber confirmed the TC's interpretation:

The Appeals Chamber would begin by pointing out that the broadcasts must be considered as a whole and placed in their particular context. Thus, even though the terms *Inyenzi* and *Inkotanyi* may have various meanings in various contexts (as with many words in every language), the Appeals Chamber is of the opinion that it was reasonable for the Trial Chamber to conclude that these expressions could in certain cases be taken to refer to the Tutsi population as a whole. The Appeals Chamber further considers that it was reasonable to conclude that certain RTLM broadcasts had directly equated the Tutsi with the enemy.³⁶

It is worth pointing out that Nahimana's Lead Counsel conceded that this excerpt constituted direct incitement to commit genocide:

In the heart of Kigali, at the very time when acts of genocide were being perpetrated there, Kantano Habimana, RTLM's star broadcaster, called on the militiamen at the barriers to identify the "small noses" and kill them. This is direct and public incitement to commit genocide.³⁷

Accused Nahimana also condemned "all [RTLM] broadcasts that gave the impression that people should be killed."³⁸

It is, however, clear that the TC did not present all the contextual aspects which can compel the listener to opt for only one interpretation of the term *Inkotanyi* in this excerpt. The TC should have shown that the interpretation chosen is the only one reasonable in the given context.

The TC should have listed at least the following contextual features which, taken together, irrevocably point to the fact that the word *Inkotanyi* as used by the RTLM journalist in the above excerpt, unambiguously means Tutsis as an ethnic group rather than RPF combatants:

- 1 The journalist uses the words "kill" and "exterminate" rather than "vanquish" as one would expect in a war. It would be unusual, though not inconceivable, if the purpose of fighting a war was to exterminate the enemy. Furthermore, the war situation at the time this broadcast was made does not indicate that the Rwandan Armed Forces were defeating the Inkotanyi combatants, quite the contrary. Tutsis, and not the Inkotanyi combatants, were being exterminated.
- 2 He makes reference to ethnicity (they belong to one ethnic group), which is dangerously misleading since there were Hutus among the Inkotanyi and not all Tutsis were members of the Inkotanyi army.
- 3 He describes the enemy in terms of height and physical appearance. The journalist refers to physical traits which typically define Tutsis. These, especially "the small nose," were the basic stereotypic features which were widely known and would leave no possible ambiguity for the listeners.
- 4 "Breaking the nose" presupposes that the attacker would be using some traditional weapon involving close physical contact. It would be unusual for a fighter using a gun to just aim at the nose with the purpose of breaking it.
- 5 Knowing the term *Inkotanyi* to be polysemic, the RTLM journalist would have taken some precaution to disambiguate his message, if indeed, for him, it was ambiguous at all.

In a number of other instances, the TC draws a conclusion regarding its interpretation of key terms before quoting a relevant excerpt which supports it. In all such cases, no analysis of the context is presented.

Let us now look at a few other judgments in which these key terms were interpreted with caution, that is, indicating the specific contextual elements which led to the determination of meaning.

In the *Bagilishema* judgment, the prosecution had alleged that in a letter addressed to the prefect, the accused used the term *Inyenzi-Inkotanyi* to refer to Tutsis in general. In that letter, the accused had also stated that there were no more accomplices in his *commune*. He said:

[. . .] what we presently needed the most is their unity to face the *Inyenzi-Inkotanyi*. We cannot fight against the *Inyenzi-Inkotanyi* who are threatening to attack from Gitarama *Préfecture* and, at the same time, counter-attack the Hutu from KAYOVE and RUTSIRO.³⁹

First of all, it is evident that the TC is aware of the polysemic nature of the term *Inyenzi-Inkotanyi* since, in its analysis, it indicates that "[. . .] this letter can be interpreted in various ways"⁴⁰ and that "In the present case, the Prosecution

did not produce any evidence concerning the use of 'double language' in Rwanda."⁴¹

In its analysis, the TC does not rely on any evidence from expert or factual witnesses to determine the meaning of the key terms. Instead, it relies on the context: "Read alone, this could convey the impression that the Accused was fighting Tutsi in general, but it follows from the context that he was referring to attackers coming from another prefecture and not Tutsi inside his own *commune*."⁴²

Elsewhere, however, the TC fails to indicate whether it agrees or disagrees with witness Z's assertion that when the accused told him that it was necessary to mount a roadblock to apprehend the "enemies" who were escaping, he understood that by *enemy*, the accused meant "Tutsis." This witness alleged that:

He [accused] didn't need to explain anything to me because we had been made to understand over a long time that the enemy was the Tutsis and he in fact used the [term] *Inyenzi* and at that point in time, *Inyenzi* referred either to Tutsis or a member of the RPF or a sympathizer thereof.⁴³

Even if the TC finds this witness unreliable, it is felt that his assertion that by *Inyenzi* the accused meant Tutsis warrants analysis. This witness's claim was too important to be dismissed without justification.

In the *Simba* judgment, the TC was aware of the polysemic nature of the key terms being discussed here. As the following excerpt shows, the context in which the polysemic word is used was carefully analyzed:

The Chamber also observes that raising money to fight the RPF is not in itself incriminating. The formulations *Inyenzi* and "chase away snakes" could of course have a double meaning, referring to all Tutsi[s], including civilians. However, Witness ALS, a Tutsi, did not understand the remarks in this way during the meeting. The presence of Frédéric Nzamurambaho, a moderate Hutu member of the PSD⁴⁴ who was assassinated shortly after 6 April 1994, also speaks against this interpretation.⁴⁵

The TC took into account relevant contextual elements such as the participants to the meeting and indicated why one particular interpretation of the speaker's words could not be envisaged. According to the witness and the TC, the word *Inyenzi* does not mean Tutsis in this context. However, one could still argue that the accused actually meant "Tutsis" and that other participants understood him this way. This being hypothetical, the TC is justified in choosing the interpretation which favors the accused.

In the *Kajelijeli* trial, the TC heard, but did not rely on, an expert witness's testimony in determining the meaning of recurrent polysemic key terms. Dr Bangamwabo, a Kinyarwanda expert linguist, defined some of the key terms being discussed here. He made a number of unsubstantiated claims which tend to negate the broadening of meaning of the key terms being discussed here. He alleged notably that:

- 1 the term "*Inkotanyi* was not given a broader meaning during the war;"⁴⁶
- 2 the terms "*Inkotanyi* and *Tutsi* do not have the same meaning;"⁴⁷
- 3 [...] the terms *Inyenzi* and *Tutsi* do not have the same meaning;"⁴⁸
- 4 "he had no evidence of any newspaper in which the terms *Inkotanyi* or *Inyenzi* made reference to Tutsis."⁴⁹

The TC was not impressed by this witness, who was called by the defense. It drew the following conclusion:

Considering also the demeanour of the witness, the Chamber finds that Dr Bangamwabo was not neutral in his testimony. The Chamber therefore was left with the clear impression, at the end of Dr Bangamwabo's testimony and after a review of his report, that he is neither an objective nor an independent expert witness who may assist the Chamber in its quest for the truth.⁵⁰

It is not clear whether this expert witness deliberately attempted to mislead the TC. Whatever the case, the TC exercised caution. This expert had sought to restrict the meaning of *enemy* to the warring sides, namely the RPF-Inkotanyi and the Rwandan armed forces. As the following excerpt shows, in interpreting the meaning of this term, the TC took due account of the context, including the particulars of the speech:

The Accused seized the leading role in the meeting, and addressed those persons present—who were all of Hutu ethnic origin. And he said to them "[Y]ou very well know that it was the Tutsi that killed—that brought down the Presidential plane. What are you waiting for to eliminate the enemy?" By "the enemy," Witness GDD understood the Accused to mean the Tutsi ethnic group. This is also the understanding and the finding of the Trial Chamber, given the particulars of that speech, and the circumstances under which it was made.⁵¹

Work

The last polysemic key term which we will look at is "work," which, according to several witnesses both factual and expert, was used euphemistically or as a code word during the genocide period to mean "killing Tutsis."

In the *Kanyarukiga* judgment, the TC did not discuss the meaning of this key term. Having found witness CBR credible, it also accepted his interpretation of the key term:

Witness CBR testified that Kanyarukiga was with Ndahimana when Ndahimana stated that the attackers were to "start working" and "begin work," which was understood to mean "kill the Tutsi." The Chamber notes its discussion of this witness and his credibility in paragraphs 591 to 595. Given the Chamber's view

that Witness CBR is generally credible, it finds it established that Kanyarukiga was with Ndahimana when he asked the attackers to “start working” or “begin work.”⁵²

In the *Karera* judgment, “Accused Karera asked whether the ‘work’ in Rushashi had been completed. When the *bourgmestre* replied affirmatively, he requested to know why Vincent Munyandamutsa was still alive.”⁵³

The TC rightly concluded that “work” in the above excerpt means “killing.” In fact, as the context shows, there is no doubt that *work* in this excerpt means something sinister. The fact that Accused Karera asks why, if work in Rushashi had been completed, Vincent Munyandamutsa was still alive, leaves no shade of doubt as to the meaning of “work.”

In a number of other ICTR trials, witnesses indicated that by “work” they understood “killing Tutsis.” In all the cases noted, the TCs do not bother to analyze context, even when it is not unequivocal. Referring to the speech by Interim President Sindikubwabo made in Butare on 19 April 1994, one TC went as far as declaring that he “told the people of Butare to ‘get to work’ in the Rwandan sense of the term by using their machetes and axes.”⁵⁴ This is of course not the Rwandan sense of the term. It is not clear whether the TC is using a certain witness’s language or whether this is its own understanding of this key term. It probably meant no harm, but the language used here is inappropriate; it is unnecessarily offensive for Rwandans. Expert testimony in the so-called Butare trial (judgment pending) has shown that the speech by President Sindikubwabo referred to here is not necessarily unambiguous, contrary to what this TC seems to imply.

Moving forward

For over 15 years now, ICTR TCs have grappled with the interpretation of the polysemic Kinyarwanda terms discussed in this chapter and some others. No glossary has been produced that could offer basic guidelines in this area. There is no solid jurisprudence to go by. Some TCs rely on factual witnesses’ testimony to determine the meaning of the key terms and to infer the accused’s intent to instigate the commission of genocide. Others, while acknowledging that meaning is context dependent, seldom define context. It could be that, compared to the main charges in the indictment, the interpretation of these key terms is considered secondary and does not warrant detailed analysis. It could also be that the interpretation of these Kinyarwanda key terms is taken for granted, which would be unfortunate, given their semantic complexity. Whatever the reason, the various TCs lack a clear approach of interpreting these recurrent Kinyarwanda terms.

We believe that the best way to move forward would be to go back to where it all started: the Rwandan culture and language. ICTR judges and other lawyers need not learn Kinyarwanda, but an induction course into the Rwandan culture would go some distance.

Notes

- 1 Radio Télévision Libre des Mille Collines.
- 2 See in particular J.P. Chrétien, J.F. Dupaquier, M. Kabanda and J. Ngarambe, *Rwanda: les médias du génocide*, Paris: Karthala, 1995, which presents a vivid and detailed analysis of oral and print media in Rwanda, both before and during the genocide in Rwanda. The book contains an impressive amount of illustrative material. Of all available publications to date, A. Thompson, *The Media and the Rwanda Genocide*, London: Pluto Press, 2007, contains the most multi-faceted presentation of this hate media by lawyers, journalists, human right activists, and academics. For general review on this hate media, see J.P. Ntawizeruwanone, *Hate Propaganda at Work: The Case of "Radio Television Libre des Mille Collines" (RTL) Broadcasts during the Rwanda Genocide* (unpublished thesis), Leicester: University of Leicester, 2008, p. 2.
- 3 *Nahimana et al.*, Case No. ICTR-99-52-T. All the judgments referred to here are available on ICTR website. *Publishing on the Internet*. Online. Available HTTP: <<http://www.ictr.org>> (accessed 19 January 2011).
- 4 Article 2(c) of the ICTR Statute.
- 5 Usually, it is the parties (the prosecution or the defense) rather than the judges, who call for the expert witnesses. This explains why some of the expert witness's testimony appears to be tailored so as to "defend" the party's case. Even in the case of Kinyarwanda expertise, the judges have to remain watchful for bias. Not an easy task considering that they do not speak Kinyarwanda.
- 6 Linguistic expertise is fairly common at ICTR. In the *Akayesu*, *Kajelijeli*, *Nahimana et al.*, *Nyiramasuhuko et al.*, *Muvunyi*, and a few others cases, parties presented expert linguistic testimony. Also, during court proceedings, Kinyarwanda interpreters often intervene on request, to clarify non-contentious linguistic issues or even to spell Kinyarwanda words. Unfortunately, misspellings of Kinyarwanda words and names and mistranslations are still noticed in ICTR judgments. For example, in the *Nahimana et al.* judgment, the word "Inyenzi" is defined as, inter alia, "[a] group of refugees set up in 1959 to overthrow the new regime" (p. iv). This is a factual error since there was no new regime in 1959 in Rwanda. It is also alleged in the glossary that "gutsembatsemba" means "kill them" in the imperative form (p. iv). This is erroneous since the Kinyarwanda verb is in the infinitive rather than imperative form. Its precise meaning is "to exterminate."
- 7 There are a few other contentious Kinyarwanda key terms such as *Interahamwe* (youth wing of the MRND party) and *rubanda nyamwinshi* (majority people, sometimes used to refer to Hutus), which will not be examined here.
- 8 L. Nkusi, M. Ruzindana and B. Rwigamba, 'The Kinyarwanda Language: Its Use and Impact in the Various Media during the Period 1990–1994. A Sociolinguistic Study', Internal report, Arusha: ICTR, 1998.
- 9 *The Prosecutor v. Jean Paul Akayesu*, Judgment, Trial Chamber I, Case No. ICTR-96-4-T, 2 September 1998, para.156.
- 10 *The Prosecutor v. Ignace Bagilishema*, Court Transcript, Case No. ICTR 95-1A-T, 10 February 2000.
- 11 *The Prosecutor v. Augustin Ndingiriyimana, Augustin Bizimungu, François-Xavier Nzuwonemeye and Innocent Sagahutu*, Court Transcript, Case No. ICTR-00-56-T, 20 September 2005.
- 12 *The Prosecutor v. Elizaphan and Gérard Ntakirutimana et al.*, Court Transcript, Cases No. ICTR-96-10 and ICTR-96-17-T, 24 September 2001.
- 13 Discussing the difficulties of translating between English and Kinyarwanda, Ruzindana argued in *Translating from English into Kinyarwanda: The Componential Analysis Approach* (Unpublished Thesis), Butare: Université nationale du Rwanda, 1981, that if the intended response (by the Kinyarwanda encoder in the source language) is different

from that of the reader or the listener (the decoder in the target language), then translation has failed. In this regard, the word "Inyenzi" in Kinyarwanda should trigger the same response as its equivalent translation "cockroach" in English. This being seldom the case owing to cultural differences, then, in a way, we can say that our translation has failed to get the message across. In other words, translating between languages which are culturally very different entails heavy loss in meaning, if there is no compensation.

- 14 In *Rôle de l'interprète dans les procès devant le TPIR. Cas particulier de l'interprète de la cabine kinyarwanda*, paper presented at the "ICTR Model or Counter Model for International Criminal Justice The Perspective of the Stakeholders" conference, Geneva, July 2009, Session 3, pp. 39–48, A. Mpatwenumugabo showed that at ICTR, the problems of interpreting to and from Kinyarwanda are further compounded by the lack of adequate documentation, the obscure language used by some of the witnesses and their past psycho-traumatic situations, and the constant switch between three languages.
- 15 *The Prosecutor v. Jean Paul Akayesu*, Trial Chamber I, Judgment, Case No. ICTR-96-4-T, 2 September 1998, para. 145.
- 16 Some authors treat the words Hutu, Tutsi and Twa as being invariable and write them without the "s" plural marker. We will use the plural marker to distinguish the singular from the plural forms.
- 17 In the *Nahimana et al.* judgment, the TC found that "In a number of RTLTM broadcasts, the terms *Inyenzi* and *Inkotanyi* were explicitly associated or equated with the Tutsi population, and the struggle for power was characterized in ethnic terms" (para. 358) and that "*Kangura* and RTLTM explicitly and repeatedly, in fact relentlessly, targeted the Tutsi population for destruction [. . .], equating the ethnic group with "the enemy," (para. 963).
- 18 In *Hate Propaganda at Work*, p. 43, J.P. Ntawizeruwanone indicates that genocide perpetrators "sometimes used code language that could only be understood by targeted listeners in order to avoid being reprimanded by human rights organisations and the international community" (see also Nkusi, Ruzindana and Rwigamba, *The Kinyarwanda Language*). Many witnesses testifying in ICTR cases have indicated that the words being studied here were widely understood in their contentious interpretations, by both perpetrators and victims. In this respect, they can hardly be considered "code words," at least for most Rwandans listening to RTLTM or reading anti-Tutsi printed media.
- 19 According to Ntawizeruwanone in *Hate Propaganda at Work*, p. 25, "The term has a double origin. First, 'cockroaches' are household pests of the *Blatta orientalis* order. They are mainly nocturnal and run away when exposed to light. Second, 'Inyenzi' was a nickname coined by Rwandan guerrillas of the 1960s who called themselves 'Inyenzi'. The nickname is a Kinyarwanda acronym whose initials stand for 'INGangurarugo ziYEMEje kuba ingeNZI' (Brave Men Determined to be the Elites). However, the majority of Rwandans ignored the acronym and understood it as an ordinary Kinyarwanda word meaning 'cockroaches'".
- 20 In a broadcast on 15 May 1994, the RTLTM Editor-in-Chief Gaspard Gahigi said: "[. . .] they trumpet, they say the Tutsi are being exterminated, they are being decimated by the Hutu, and other things. I would like to tell you, dear listeners of RTLTM, that the war we are waging is actually between these two ethnic groups, the Hutu and the Tutsi."
- 21 *The Prosecutor v. Jean Paul Akayesu*, Trial Chamber I, Judgment, Case No. ICTR-96-4-T, 2 September 1998, para. 146. (In this and all subsequent quotes, footnotes have been omitted.)
- 22 *The Prosecutor of the Tribunal Against Jean Paul Akayesu*, Amended Indictment, Case. No. ICTR-96-4-T, ¶ 146.

- 23 *The Prosecutor v. Jean Paul Akayesu*, Trial Chamber I, Judgment, Case No. ICTR-96-4-T, 2 September 1998, para. 146.
- 24 *The Prosecutor v. Eliézer Niyitegeka*, Trial Chamber I, Judgment and Sentence, Case No. ICTR-96-14-T, 16 May 2003, para. 273.
- 25 *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 293.
- 26 *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 538.
- 27 *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 542.
- 28 *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 538.
- 29 Mouvement Démocratique Républicain (Democratic Republican Movement).
- 30 *The Prosecutor v. François Karera*, Judgment and Sentence, Trial Chamber I, Case No. ICTR-01-74-T, 7 December 2007, para. 449.
- 31 In the judgment, with reference to the offense of direct and public incitement to commit genocide, the TC tries to draw the line between, on the one hand, legitimate war propaganda and freedom of speech presented by the accused in their defense, and hate media and criminal speech acts, on the other (see para. 980 onwards).
- 32 J.M. Biju-Duval, 'Crimes against Humanity and Genocide: Opportunities Missed by the International Criminal Tribunal for Rwanda', in A. Thompson (ed.), *The Media and the Rwanda Genocide*, London: Pluto Press, 2007, p. 458.
- 33 *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Judgment and Sentence, Case No. ICTR-99-52-T, Trial Chamber I, 3 December 2003, para. 396.
- 34 *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Judgment on Appeal, Case No. ICTR-99-52-A, 28 November 2007, para. 732.
- 35 *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Judgment on Appeal, Case No. ICTR-99-52-A, 28 November 2007, para. 732.
- 36 *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Judgment on Appeal, Case No. ICTR-99-52-A, 28 November 2007, para. 739.
- 37 Thompson, *The Media and the Rwanda Genocide*, p. 460.
- 38 *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Judgment on Appeal, Case No. ICTR-99-52-A, 28 November 2007, para. 460.
- 39 *The Prosecutor v. Ignace Bagilishema*, Trial Chamber I, Judgment, Case No. ICTR-95-1A-T, 7 June 2001, para. 323.
- 40 *The Prosecutor v. Ignace Bagilishema*, Trial Chamber I, Judgment, Case No. ICTR-95-1A-T, 7 June 2001, para. 323.
- 41 *The Prosecutor v. Ignace Bagilishema*, Trial Chamber I, Judgment, Case No. ICTR-95-1A-T, 7 June 2001, para. 325.
- 42 *The Prosecutor v. Ignace Bagilishema*, Trial Chamber I, Judgment, Case No. ICTR-95-1A-T, 7 June 2001, para. 324.
- 43 *The Prosecutor v. Ignace Bagilishema*, Trial Chamber I, Judgment, Case No. ICTR-95-1A-T, 7 June 2001, para. 928.
- 44 Parti Social Démocrate (Social Democratic Party).
- 45 *The Prosecutor v. Aloys Simba*, Trial Chamber I, Judgment and Sentence, Case No. ICTR-01-76-T, 15 December 2005, para. 215.
- 46 *The Prosecutor v. Juvénal Kajelijeli*, Judgment and Sentence, Case No. ICTR-98-44A-T, 1 December 2003, para. 72.
- 47 *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-T, 1 December 2003, para. 74.
- 48 *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-T, 1 December 2003, para. 75.

- 49 *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-T, 1 December 2003, para. 76.
- 50 *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-T, 1 December 2003, para. 81.
- 51 *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-T, 1 December 2003, para. 469.
- 52 *The Prosecutor v. Gaspard Kanyarukiga*, Judgment Case No. ICTR-2002-78-T, 1 November 2010, para. 472.
- 53 *The Prosecutor v. François Karera*, Judgment, Case No. ICTR-01-74, 7 December 2007, para. 382.
- 54 *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment, Case No. ICTR-95-1-T, 21 May 1999, para. 279.

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- The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze*, Case No. ICTR-98-22-PT.