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A Fake Inquiry on a Major Event. Analysis of the Mutsinzi report on the 6th April 1994 attack on the Rwandan President's aeroplane.

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May 2010

¹ Republic of Rwanda, Independent Committee of experts charged with investigation into the crash on 06/04/1994 of Falcon 50 Aeroplane, registration number 9XR-NN, *Report of the investigation into the causes and circumstances of and responsibility for the attack of 06/04/1994 against the Falcon 50 Rwandan Presidential Aeroplane, Registration number 9XR-NN*, Kigali 20 April 2009. The report is available in French, English and Kinyarwanda on <http://mutsinzireport.com>.

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ABSTRACT

The report of the Mutsinzi commission attempts to show that President Habyarimana's airplane was not downed by the RPF, as the French investigating judge Bruguière concluded but by Hutu radicals who were close to the main victim of the attack. The report raises a number of serious questions. The Mutsinzi committee claims to be impartial, but all the commissioners are members of the RPF, which means that it is both judge and party. This is made abundantly clear from the beginning of the report and is subsequently confirmed throughout the body of the report, which treats as solid evidence testimonies showing the complicity of Hutu extremists, but systematically disregards the evidence pointing towards the RPF.

While the committee claims to have interviewed hundreds of witnesses, the validity of their testimonies must be considered with caution. Of those identified, many are members of the former government army FAR; all of them were interviewed while convicted or detained, or fearing arrest, in full awareness of what those in power expected them to say, and of the price to be paid if they did not. Their testimonies are thus of doubtful quality. The committee uses certain documents, for instance from Belgian judicial files, in a selective and sometimes dishonest way. Numerous examples in the report show that the method used by the committee raises serious doubts. The committee generally proceeds by first presenting unsubstantiated hypotheses or even downright untruths as facts; the accumulation of these "facts" is then used to establish the "truth". The conclusion the committee reaches is not credibly based on the information emanating from the enquiry, and the fraudulent way in which the report was made rather reinforces the suspicion that the RPF committed the attack.

There are now two radically opposed versions of the truth as to who is responsible for the downing of the presidential plane: one is in the findings of the Bruguière inquiry, the other in the Mutsinzi report. Both point fingers at suspects, albeit different ones, and both indicate that a crime has been committed. The natural way of dealing with such findings is to conduct a contradictory debate in a court of law. However, it would seem that both Rwanda and France, in their attempt to improve relations, are intent on sacrificing justice on the altar of political expediency. The Rwandan people deserve better.

RÉSUMÉ

Le rapport de la commission Mutsinzi a pour objet de démontrer que l'avion du président Habyarimana n'a pas été abattu par le RPF, comme l'a conclu l'instruction du juge français Bruguière, mais par des radicaux hutu proches de la principale victime de l'attentat. Le rapport soulève nombre de questions importantes. Le comité Mutsinzi se targue de son impartialité mais tous les commissaires sont membres du RPF, ce qui le rend juge et partie. Ceci est très clair dès les premières pages et se confirme à travers l'ensemble du rapport, puisque l'enquête ne va que dans une seule direction, celle des extrémistes hutu, alors que les données mettant en cause le RPF sont systématiquement ignorées.

Le comité dit avoir interrogé des centaines de témoins, mais la crédibilité de leurs déclarations est sujette à caution. Parmi ceux identifiés, des dizaines sont des membres de l'ancienne armée gouvernementale FAR ; entendus alors qu'ils étaient condamnés ou détenus ou qu'ils craignaient l'arrestation et sachant très bien ce que ceux au pouvoir voulaient leur entendre dire, leurs témoignages ne sont guère probants. Le comité utilise certains documents, notamment des dossiers judiciaires belges, de façon sélective et parfois malhonnête. De nombreux exemples dans le rapport montrent que la méthode employée par le comité n'est pas sans soulever de sérieuses réserves: celui-ci présente d'abord des hypothèses non prouvées voire même des contrevérités comme des faits, et l'accumulation de ces « faits » permet ensuite de dégager la « vérité ». La conclusion à laquelle aboutit le comité ne trouve pas de fondement crédible dans les données qui se dégagent de l'enquête, et la façon frauduleuse dont le rapport a été fait renforce plutôt les soupçons qui pèsent sur le FPR .

Nous sommes dès lors aujourd'hui confrontés à deux « vérités » sur l'attentat : celle issue de l'instruction Bruguière et celle du rapport Mutsinzi. Les deux désignent des suspects, même s'ils sont différents, et constatent qu'un crime a été commis. La façon naturelle pour aborder un problème pareil est de mener un débat contradictoire devant une juridiction pénale. Il semble cependant que tant le Rwanda que la France, souhaitant normaliser leurs relations, soient entraînés à sacrifier l'exigence de justice à l'opportunisme politique. Le peuple rwandais mérite mieux.

1. INTRODUCTION

The Mutsinzi committee was created by Prime Ministerial decree on 16 April 2007, thirteen years after the event which it had to investigate, but only five months after the publication, on 17 November 2006, of Judge Bruguière's findings to which it had to provide a response. The committee report, dated 20 April 2009, was issued to the Rwandan government on 7 May 2009. A Rwandan ministerial communiqué pointed out that it "will be made public in the next few days"¹. However, publication was delayed, and one can only hypothesise as to the reasons for the delay. In November 2008, Rose Kabuye, one of the nine people involved in the judge's inquiry, was arrested in Germany and transferred to France where she was indicted. This gave Rwanda access to the dossier, and it is probable that the report was adapted, or even amended in the light of elements obtained from the Parisian file, which is cited several times in the report. After a long wait, *Continental Magazine*, taking advantage of a leak, published excerpts of the report in its 4 December 2009 issue, seven months after the text was given to the Rwandan government². The report became available on the internet on 7 January 2010 but was not officially published by the Rwandan government until 11 January 2010.

I hereby offer an analysis of the report, based both on the report itself and on other elements known from other sources regarding the downing of the presidential plane. It is essential to clarify three facts before I begin the analysis. The first point concerns the "independent" character of the committee, as suggested by its name. It is important to note from the outset that the committee was set up and its members were appointed by a party, the RPF, which largely dominates the current government and which was suspected in the affair which it was supposed to investigate. According to the available information, all committee members were members of the RPF. This is as if one were to ask a murderer to act as judge in his own trial.

The second concerns the approach of the inquiry. In fact, the committee does exactly what the Rwandan regime reproaches Judge Bruguière for doing; rather than being unbiased it leads its investigation in one way: it aims to show RPF innocence and the guilt of extremist Hutus, helped "somewhat" by certain French. The tone of the report is set from the first pages onwards. Under the title "Methodology used", the committee "notices that the Rwandan Authorities of the post genocide period (...), probably did not measure the prejudicial impact of ideological accusations by the genocide perpetrators and their allies, repeatedly uttered in the powerful negationist networks in different countries". The committee observes that "this propaganda had new repercussions with the issue of an indictment by the French Judge Jean Louis Bruguière in November 2006, resulting from a biased investigation, started on the initiative of a mercenary³ in the service of the family of former Rwandan President, the late Juvenal Habyarimana and conducted without crosschecking sources, verification, equity and

¹ Fondation Hirondelle, "Rwanda/enquête – Le rapport sur l'assassinat d'Habyarimana remis au gouvernement", Kigali, 7 May 2009.

² "Rwanda/Attentat du 6 avril 1994 – L'enquête qui accuse les extrémistes hutu", *Continental Magazine*, 4 December 2009.

³ Reference to Captain Paul Barril, who nevertheless played no role in launching the case. It was indeed the daughter of J.P. Minaberry, one of the crew members, who instigated the court case by filing a criminal complaint on 31 August 1997. Other families of the crew members, as well as members of President Habyarimana's family later joined the case.

credibility” (French version, p. 6; this portion is not translated in the English version)⁴. In the second part entitled “Responsibilities”, the report dedicates exactly two pages to the “incrimination of the Rwandan Patriotic Front” and subsequently concludes that “the Committee sifted through the various hypotheses and ended up being convinced that the responsibility of ex-FAR members was fully involved in the preparation and carrying out of the attack” (p. 104), which it tries to demonstrate later in the report.

Thirdly, just as in the Mucyo report⁵, the validity of witnesses’ testimonies raises serious doubts. We do not know in which conditions these witnesses were interrogated and they cannot be cross-examined. Many testimonies were obtained from former members of the Presidential Guard, which played a major role in the genocide: one can only imagine the pressure brought to bear on these extremely fragile people (many of whom are detained or constantly under threat of being prosecuted for their real or imaginary role in 1994). As a consequence, some former FAR members made statements to the committee that were the opposite of their testimonies before the ICTR. I will come back to this issue whose influence on the credibility of the report is fundamental.

In a report such as this, everything depends on the facts being genuine; interpretation follows and is based on these facts. Herein lies the main weakness of this report. Just as with the Mucyo commission, “charged with gathering proof showing the involvement of the French State in the genocide”, the Mutsinzi committee starts from the premise that it is charged with gathering proof showing the innocence of RPF and the guilt of FAR in the attack. We shall see that it leads the committee to go about things in a similar fashion all along: it uses unproven speculation and sometimes even falsehood which it establishes as “facts”; and then it uses these “facts” to obtain “the truth”.

I will now go through the report, following its structure. I shall consider important passages, dwelling only briefly on numerous upsetting details, notably where the committee selectively used its sources, keeping only what supported its thesis and ignoring anything that implicated the RPF, for instance in the account on “Political context prior to the attack of 06 April 1994” (p. 9-16).

⁴ Obviously, “the Committee laid down for itself the rule of constantly looking for evidence which meets the criteria of objectivity, impartiality and credibility” (p. 6).

⁵ République du Rwanda, Commission nationale indépendante chargée de rassembler les preuves montrant l’implication de l’Etat français dans le génocide perpétré au Rwanda en 1994, *Rapport*, Kigali, 15 novembre 2007. The name of that commission, just as “independent” as the Mutsinzi committee, is eloquent.

2. PLOT AGAINST PRESIDENT HABYARIMANA

The first part of the report is entitled “The circumstances of the planned attack and its execution” (p. 17-93). The section “The revelation of a plot targeting the imminent assassination of President Habyarimana before the attack against his aeroplane” (p. 18-27) contains data which has already been known for a long time, and which has been proven to be unreliable. For example, an article appeared in the *Kangura* newspaper (in December 1993) special number 53 under the headline “Habyarimana will die in March 1994” but this article says that he was to be killed as follows: “1. being shot during mass; 2. being shot during an important meeting which he will have attended with other leaders of his time.” This proved to be a hoax. For the rest, the report mentions rumours, ideas, intentions, but no concrete plan or preparations. Moreover, when certain people, among whom the Belgian lawyer Johan Scheers, warned the President, fears of an attack against the plane could as well relate to threats from the RPF. When addressing the preparations for the resumption of the war, the committee selectively quotes sources pointing to the FAR, but fails to quote other sources, and even passages in the same sources showing that the RPF was intent on resuming the war⁶.

The section “The organisation and issues of the Dar es Salaam Summit” (p. 28-38) contains many speculations, particularly on the reasons why the FAR Chief of Staff, General Nsabimana was on the aircraft. Asked by the committee, Runyinya Barabwiriza gave the obvious answer: “It was the defence minister who was supposed to go (to Dar Es Salaam), (...) but he was not there⁷. I believe that Nsabimana had been appointed to replace him” (p. 31)⁸. Nothing “revealed that the sending of General Nsabimana to Dar Es Salaam was decided by Bagosora with the very specific aim of finding the freedom to execute a genocide plan that Nsabimana *did not completely support*.” (p. 31)⁹. Quite to the contrary: Enoch Ruhigira, who was Habyarimana’s *directeur de cabinet* at the time, is well placed to know that “orders for missions abroad were signed by the President personally, and he did sign General Nsabimana’s order (...) Bagosora did not sign such mission orders”¹⁰. Even the travel of the personal secretary of President Habyarimana, Colonel Sagatwa –despite being considered to be part of the Bagosora camp-, is suddenly a mystery. According to a witness, Colonel Sagatwa was to travel to the United States and “I therefore could not understand this last-minute turnaround in sending Sagatwa to Dar Es Salaam” (p. 34). Had the latter not subscribed to the

⁶ Examples can be found in *Réaction des détenus du Tribunal Pénal International pour le Rwanda (TPIR) au Rapport d’enquête sur l’attentat contre l’avion du Président Habyarimana établi par le “Comité Mutsinzi” mis en place par le gouvernement de Kigali*, Arusha, 18 February 2010, p. 13-15. While this text, written by people indicted or convicted for their role in the genocide, must of course be read with great caution, it is nevertheless a very detailed and well documented analysis of the Mutsinzi report. When used with the necessary precaution, it offers a great deal of useful insights.

⁷ He was on a State mission in Cameroon.

⁸ According to Colonel Aloys Ntwiragaba (Officer G2 in the FAR headquarters), General Nsabimana was informed of the mission by the Minister of Defence himself as early as March 29. According to him, after this notification, Nsabimana came to the G2 Office to have photos taken for his diplomatic passport. I am not saying that I prefer this version to that of the committee, but the latter –by only taking into account sources that arrange its conclusion- does not allow the question to be resolved.

⁹ Italics added. Indeed, the Committee must constantly switch between on the one hand, showing that some people (including Nsabimana, or even Habyarimana) had to be eliminated in order to commit the genocide easily and on the other hand, avoiding presenting them as victims of their opposition to the genocide project. In the same vein, witness Tharcisse Nsengiyumva, “mere corporal of the FAR”, says having learned of Major Kazenga that “Bagosora (...) has decided to send Nsabimana because he, along with President Habyarimana *to a lesser extent*, were opposed to the idea of a total genocide” (p. 34; italics added).

¹⁰ E. Ruhigira, *Le rapport Mutsinzi sur l’attentat contre l’avion du Président Habyarimana*, s.l., 26 January 2010.

total genocide project? Reality is much simpler, since Colonel Sagatwa always accompanied the Head of State on all his foreign missions; one therefore does not understand the astonishment of the committee. When it comes to the late time of the return flight to Kigali, crew members state intelligence on threats of an attack (p. 35-36), but no testimony specifies the origin of this threat. This is understandable since the crew feared an attack by the RPF. I will return to this issue.

3. SEQUENCE OF THE ATTACK

The next section is called “The execution of the attack and its repercussions.” As often in the past, the irrelevant enigma of the black box comes up again. The Committee reached some “convincing conclusions on the subject of knowing whether the Falcon 50 was equipped with it and if so, knowing the person or institution in whose possession it is thought to be” (p. 42). It is important to note first that the existence or not of “black boxes” in itself is irrelevant when establishing responsibility for the attack, because even if it had been possible to analyze them, they would have yielded no information on the identity of the perpetrator. The Committee wants to show that French military, commander de St Quentin in particular, recovered the black box. However, firstly, the report does not show that the aircraft was equipped with a black box¹¹: the cited sources are dubious (press articles for most of the time, sometimes testimonies of people without expertise in this matter¹²), and testimonies mostly discuss the attempts on the part of the French to recover it, but none say that they indeed found and took it. This part of the report does not reach any “convincing conclusions”, but rather concludes with a simple assumption: “Would they have recovered the remains of the missiles without also thinking about recovering the black box? It seems unlikely” (p. 51).

The section “The sequence of events of the attack reported by eye witnesses” wants to appear more concrete. Testimonies of the “people living in the hills near the site of the attack” are evacuated in four lines. “Due to a lack of basic technical knowledge, their accounts are not very clear on the nature of the phenomena observed and are sometimes even unlikely. Some of these witnesses confuse what they learnt from others with what they saw themselves, so their testimonies are not of great interest” (p. 51). As we will see, the committee wants the missiles to be launched from the Kanombe military camp, and any other information has to be excluded. However, witnesses that I myself interviewed at Masaka in October 1994 are clear: the missiles were launched from the valley between Masaka Hill and the road to Rwamagana-Kibungo, close to the place called “La Ferme”. I will return to this. Then follow testimonies from “airport technicians” and “soldiers of the presidential guard who were present at the airport”, which do not teach us much other than that the situation was confused and that the presidential guard was brutal, enraged and uncoordinated. Some talk about two missiles, others mention three. Shots “were heading towards the front of the aeroplane” (p. 55) “seemed to come from the foot of the airport” (p. 56) “went underneath the aeroplane” (p. 56) “did not go up towards the front of the aeroplane or behind it, but rather from its left side” (p. 57).

¹¹ Reference is sometimes made to one black box, the CVR (Cockpit Voice Recorder), sometimes to two, the second being the DFDR (Digital Flight Data Recorder).

¹² For example Spérancie Mutwe, who at one time was responsible for communication at the Presidency of the Republic, and where we find the “revelation” in the anti-Belgian campaign conducted by the MRND (“the presidential guard had to drive away by force the Belgian paras who attempted to recover it (the black box) from the wreckage”, p. 44).

Similarly, the “UNAMIR blue helmets posted at the airport and the members of the Belgian technical military cooperation” are not very helpful. Corporal Gerlache was on the platform of the old control tower, at a height of about six metres. He saw two points of light “leaving the ground in a place located at the Kanombe military camp” (p. 58). It is important to note here that the military camp is located at the foot of the airport and that “La Ferme” is in the same direction beyond the camp. He says that he “could see all the runways¹³ but not the FAR camp, as that was lower down” (p. 58). How could he then see the missiles “leaving the ground” from the camp? Another Belgian soldier locates the missiles as “from the left side of the aircraft”, which, from his point of view (Rutongo Hill, to the north-west of the airport) may relate as much (and probably more) to “La Ferme” than the military camp of Kanombe (at least if one considers “left” as being the side of the aircraft, otherwise his testimony has no meaning, because, from his point of view, the missile could not have come from the right side of the aircraft, even if it had been launched from the camp or from “La Ferme”). This witness, located twenty kilometres away from the scene also affirms that the missile firing angle was 70 degrees. According to military experts I have consulted, it is not possible to measure seriously at a glance the distance between the position of an aircraft and the trajectory of a missile. Based on this hazy data, the committee concludes that this angle “corresponds to the military domain of Kanombe, whereas the CEBOL (“La Ferme”) corresponds to an angle of 30 degrees” (p. 60). Dr. Massimo Pasuch, Lieutenant-Colonel of the Belgian CTM who lived in a villa at Kanombe camp was in his living room when he heard a “blast” noise. The “blast noise was followed by two detonations”, but he did not see the launch of the missiles.

Based on these limited and contradictory data, the committee considers that “Kanombe testimonies concur specifically on several points”, including that “the shots came from a place near the site where the airplane exploded” (p. 64). It should be noted that the report does not say “close to the place where the aircraft crashed”, i.e. on the side of the Kanombe camp. In reality, therefore, none of the evidence argues credibly that the missiles were launched from the camp, a conclusion that the committee will nevertheless reach (cf. *infra*).

Many elements contradict the committee’s findings on this crucial point. For instance, it does not explain why not a single of the thousands of people living in Kanombe camp and its immediate vicinity actually saw the missiles being fired from there. It also fails to explain why the airplane was hit while the control tower was discussing “the final indications in preparation for the landing” (p. 53). According to a Rwandan military pilot¹⁴, this procedure takes place when planes overfly the beacon at Kabuga (rather than, as the committee seems to believe, a few seconds before touchdown), which placed the aircraft between Kabuga and Kanombe, i.e. at the level of Masaka valley, at the time it was hit. The committee uses statements made in a Belgian inquiry in a selective and blantly dishonest fashion, making witnesses say the opposite of what they actually stated. A survey made by the ICTR detainees shows that none of the witnesses quoted by the committee placed the launch of the missiles in Kanombe camp or the presidential residence, but that they rather saw them come from the

¹³ There is only one runway at Kigali airport, also see below.

¹⁴ J. Kanyamibwa, *La camp Kanombe n’est pas le lieu de départ des missiles qui ont abattu le Falcon 50 de Habyarimana*, Toulouse, 3 February 2010.

Masaka area¹⁵. Given the need to be cautious with this document (cf. *supra*), I have checked the documents of the Belgian case file, and they confirm the observations made by the ICTR detainees. On the basis of its inquiry, the office of the Belgian military prosecutor consistently arrived at the conclusion that the missiles were fired from the vicinity of “La Ferme”¹⁶. Major Daubresse, who was with Lt. Col. Pasuch at the time, stated that he saw the missiles move toward the airplane from right to left, at a distance of maximum 5 km and of minimum one km, which places the launch outside of Kanombe camp and in the direction of Masaka hill (Auditorat militaire, Pro Justitia, 13 April 1994). Lt. Col. Pasuch confirmed the declaration of Daubresse (Auditorat militaire, Pro Justitia, 13 April 1994). However, the committee mentions neither the statement of Daubresse nor the confirmation of Pasuch. Finally, the committee does not seem to see the inherent absurdity of the FAR launching the missiles from Kanombe camp, which would have pointed to themselves as perpetrators of the attack, while they could have used other, more discreet sites that would not have aroused that suspicion.

4. ACCESS TO THE CRASH SITE

Two sections, one entitled “The Refusal for the UNAMIR to access the site of the attack”, the other “Preferential access to the site of the attack granted to French soldiers” lead the committee to ask the question “why refuse for this site to be guarded by a neutral party in the conflict other than to hide something compromising” (p. 73). The answer is probably simpler than the committee thinks: UNAMIR in general and the Belgians in particular were not regarded as neutral by the FAR; the Belgians were even suspected, wrongly, of having been involved in the attack. The fact that access to the wreckage had been forbidden to them must not, therefore, come as a surprise. However, the French were deemed allies; but even Lieutenant-Colonel de Saint Quentin could only access the crash site “accompanied by a Rwandan officer he knew and who granted him safe conduct to cross the posts of the Presidential guard who had become very nervous” (p. 74). We should remember that this episode takes place in a context of great emotion when the families of the victims of the crash were still identifying the bodies.

5. CLEARING THE RPF

The next section, entitled “The RPF’s Situation at the National Development Council” is one of the strangest parts of the report. Indeed, the Committee considers that “no one could move from CND to Masaka without the FAR’s intelligence officers knowing about it” (p. 75), while it had just “proved” that the missiles were not launched from the Masaka area. When the report mentions the “Surveillance and monitoring by UNAMIR”, it correctly describes the procedures in force concerning entry and exit at the CND and escorts and shuttles between the CND and Mulindi, but it assumes that these checks actually and always took place. This is far from the case. Thus, the report said that “a register was deposited at the CND’s southern entrance, on the Gishushu side, the only route through reserved for the RPF delegation and its visitors” (p. 75), but the domain was large and at the end of March 1994, the Tunisian UNAMIR detachment commander notified Colonel Marchal of the discovery of various holes in the CND

¹⁵ *Réaction des détenus...*, *op. cit.*, p. 24-31.

¹⁶ Reports of 25 May and 1 August 1994, photography file of 1995, all annexed to *réaction des détenus...*, *op. cit.*

fence¹⁷. Colonel Marchal cites other examples that show that the checks carried out by the Bengali Rutbat elements was symbolic at most. Thus, in full daylight “two RPF vehicles manage (...) to leave the CND under the eyes of Rutbat. The guard on the gate does nothing to prevent passage and simply looks on as the vehicles loaded with armed men pass”¹⁸. With regard to the shuttles to and from Mulindi, the report says that checks by UNAMIR were constantly carried out, both at the time of “all loading of supplies, fire wood and other materials” and on the return to the CND where vehicles “were subjected to a search by UNAMIR at the entrance” (p. 76). This is once again contradicted by Colonel Marchal. He observes that “once at Mulindi, the freedom of movement of our staff is limited, so that the truck cannot be kept under continuous surveillance”. Similarly, the “check at the entrance of the weapons secure area” could not be done¹⁹. The title of the chapter in question in Marchal’s book (“Strange transport of wood”) captures reality well: contrary to the assertions of the committee, the monitoring of RPF movements was less than perfect. Colonel Marchal adds another illustration in reaction to the Mutsinzi report: “On 22 February 1994, when the (RPF) convoy that returned from Mulindi was ambushed at Gatsata cell, those who first arrived on the spot were RPF elements. Neither General Dallaire nor I myself were informed that they had left the CND without escort”²⁰. Obviously the committee does not want to know these facts, and it is significant that it did not hear the testimony of any witness, especially those cited in Judge Bruguière’s inquiry, stating that the RPF movements were all but effectively checked.

I do not find it useful to analyze in detail testimonies reproduced in the passage “Discreet and constant surveillance of the CND by the presidential guard” (p. 77-81). The dozen witnesses from the FAR, especially the Presidential Guard provide similar testimonies which tend to show “close surveillance which was carried out on the CND (...) they conclude from this that infiltration seems almost impossible” (p. 80). Coming from people who were convinced at the time of the fact that the RPF (with the help of the Belgians) had shot down the aircraft, this belief, newly acquired as part of an “investigation” of which they knew the aims is suspicious to say the least. The description of the “RPF’s situation at the CND on the evening of the attack and in the following days” (p. 81-83) is full of proven untruths. The report first resumes the theme of extensive checks carried out on the RPF making “it totally impossible for weapons and munitions to be infiltrated into the CND including the six SAM16 anti-aircraft missiles which were allegedly taken into the CND when they were travelling back and forth from the RPF headquarters in Mulindi” (p. 82). We have seen that this does not correspond to reality. Then, according to the report, “infiltrations of RPF troupes (sic) in the capital RPF did not take place” (p. 82); witness Patrick Mazimpaka states as evidence that “if our men had been in areas of Kigali, several people would have been saved” (p. 82). However, many stories of these rescues are known. A former member of the RPA, Ntaribi Kamanzi, mentions an extension of “a security zone to accommodate those extracted from the hands of the killers” as early as 11 April²¹. According to Human Rights Watch, by 1993 the RPF had disseminated hundreds of cells, each six to twelve members strong²².

¹⁷ L. Marchal, *Rwanda: la descente aux enfers*, Bruxelles, Editions Labor, 2001, p. 111.

¹⁸ *Idem*, p. 104.

¹⁹ *Idem*, p. 107.

²⁰ L. Marchal, *Analyse du rapport Mutsinzi*, s.l., s.d. (February 2010), p. 9.

²¹ Ntaribi Kamanzi, *Rwanda. Du génocide à la défaite*, Kigali, Editions Rebero, 1997, p. 131.

²² *Leave None to Tell the Story. Genocide in Rwanda*, New York, Human Rights Watch, 1999, p. 130.

With regard to the ban on flying over the CND area, the report claims that it was “an ordinary security measure since it would have been very unwise to let either civilian or military aeroplanes fly over a building sheltering RPF officials” (p. 83). That does not hold water. A plane taking off or landing on the city side (i.e. to the West on axis 10 of the runway – see below) does not fly over the CND²³. However, it passes sufficiently close to the CND to be reached by surface-to-air missiles launched from this area, and it is for this reason that the use of this axis was forbidden. An instruction to Air France crews mentioned a surface-to-air threat from the RPF and, for this reason, imposed to maintain a distance of at least one kilometre²⁴. The measure was not therefore inspired by concerns of RPF security in the CND, but rather by considerations of air traffic safety. On this issue, the committee reproaches Judge Bruguière for having bad knowledge of the area. By referring to the prohibition of the use of the airport runway 10 axis, he would not have realized that there is only one runway (p. 83). This is not what he said, since he refers to the two orientations of the one and only runway 10/28. It is therefore not Judge Bruguière, but the committee which is mistaken about the numbering of the runway.

The possibility of “Putting together of radio-messages by the FAR and their attribution to the RPF” (p. 84-88) cannot be excluded. Well before the publication of the report, leaks had already reported declarations by the RPF radio transmissions listening post operator, Richard Mugenzi, witness to both Bruguière’s inquiry and the Mutsinzi committee, who says today that some messages he had “picked” were fakes (p. 88). Messages involving the RPF in the attack, cited in Bruguière’s inquiry would be part of these fakes dictated by Lieutenant-Colonel Anatole Nsengiyumva. Interrogated on the question of why it is only now that he states this, while he was questioned about it by Judge Bruguière and by the Office of the Prosecutor of the ICTR, and while he testified in the Bagosora trial under the pseudonym ZF, Mugenzi said that he was not asked the question. Especially with regard to his contacts with the Office of the Prosecutor, it is surprising that Mugenzi has not mentioned Nsengiyumva’s manipulation since it would have provided further useful elements, especially on the issue of genocide planning, a charge on which the prosecutor was dismissed by the ICTR. Even if Mugenzi had told the truth about the radio-messages to the Mutsinzi committee, the report draws risky conclusions: “the FAR were already preparing instruments of propaganda about the attack at the end of 1993” (p. 88), while Mugenzi himself “revealed the usual existence of an activity similar to listening which consisted of creating false messages and distributing them within FAR units to galvanise them against the RPF” (p. 86). From an instrument of propaganda, the committee deduces that there was an assassination plot.

6. ATTACK WEAPON

The section entitled “Course of the main questions relating to the shooting down of the aeroplane Falcon 50” suffers from noticeable weaknesses. The report says that “the aeroplane did not pass over Masaka Hill as suggested by certain writers” (p. 88). This is obvious, but the place called “La Ferme” is located between Masaka and the road to Rwamagana-Kibungo and furthermore nobody claims that the missiles were launched from a place situated under the axis of the aircraft. The committee then uses speculations from Jean-

²³ This is acknowledged in the report: “the CND is not in line with the landing strip, so why try to fly over it?” (p. 83).

²⁴ 23 February 1996 communication of Mr E. De Greef, Air France station manager in Kigali at that time.

François Dupaquier and Jean Goûteux²⁵ to suggest that the aircraft was fired at by a rocket: “Falcon 50 was simply shot down by a volley from Hutu soldiers placed in ambush in line with the runway and equipped with RPG7s (Rocket-Propelled Grenades)” (p. 89). A simple search on Google would have shown the whimsical nature of this assertion, since the maximum range of a RPG7, which is an anti-tank weapon, is 300 metres for a moving target. A few lines below, the report cites two other witnesses who claim that “the leader of the French explained to us that the aeroplane was shot down by a Stinger” (p. 90). This is more reasonable, since the Stinger is an American surface-to-air missile which has characteristics comparable to the SAM 16. The confusion in the report is complete, and we will see that this is one of the few issues on which the committee cites a British technical report that was specially commissioned.

The committee finally quotes my book *Rwanda. Trois jours qui ont fait basculer l'histoire*, but does not read it correctly. The committee mentions a passage where I discuss the “point of impact of the aircraft” and seems to think that I am discussing the place where the aircraft was hit, while I am referring to the place where it crashed, i.e. in the garden of the Presidential Residence²⁶. The committee deduces that “the site where the aeroplane was hit by missiles²⁷ is not a significant distance from that Presidential Residence” (p. 91). According to the report, the aircraft would therefore have fallen steeply at the time it was hit. This is also the view of “the majority of witnesses living in Rusororo and Masaka in particular” (p. 91) whose testimonies were however discarded because they “do not represent a great interest (sic)” (see above).

7. RESPONSIBILITIES OF THE FAR

The second part of the report is titled “Responsibilities”. I will not elaborate on the section “Different hypotheses put forward about the perpetrators of the attack” (p. 94-104) because it discusses nothing new. Let us note nevertheless that everything which points to the FAR, and incidentally France, is highlighted, while other tracks are discarded. The report even seriously tells the implausible story that, on the evening of 6 April 1994, the French Embassy’s automatic answering machine is reported to have said “It was the Belgians who shot down the aeroplane” (p. 94)²⁸. In the same vein, the report repeats the “information” contained in a letter (reproduced in the report, p. 101) of 29 May 1994 to Colette Braeckman by a certain Thaddée, presented as being a militia leader in Kigali and who says that the aircraft was shot down by two French military acting on behalf of some CDR leaders. I already criticised this document fifteen years ago: the “Thaddée” letter, which is in fact anonymous, could have been written by any fantasist or someone willing to conceal the truth, and it cannot possibly be taken seriously²⁹. Finally, the committee mentions Colonel Bagosora’s indictment before the ICTR (p. 103), but fails to specify that, with regard to the count of conspiracy, he was acquitted (p. 103, note 313).

²⁵ It should be noted that these two French journalists have systematically defended the RPF cause.

²⁶ I obviously am not in a position to know precisely where the aircraft was hit.

²⁷ The report no longer mentions the RPG7.

²⁸ It is obvious that, even if some French had been convinced of it, the embassy would not have been so foolhardy as to disseminate this accusation through an answering machine. Furthermore, Colette Braeckman, cited as a source by the report does not mention an answering machine. According to her, when a crew member’s wife called the Embassy, “a voice answered: ‘It was the Belgians who shot down the aeroplane’” (C. Braeckman, *Rwanda, Histoire d’un génocide*, Paris, Fayard, 1994, p. 177).

²⁹ F. Reyntjens, *Rwanda. Trois jours qui ont fait basculer l’histoire*, Paris-Bruxelles, L’Harmattan-Institut Africain, 1995, p. 31.

The next section addresses the “Evidence of the involvement of the FAR and Akazu dignitaries in the preparation and execution of the attack”. I have already made it clear that from here, significantly more yet that elsewhere in the report, the committee operates exclusively as a prosecutor. The report first examines the motive for the attack (p. 105-108). The theory that the Hutu extremists wanted to undermine the implementation of the Arusha Agreement is reasonable, but the report does not mention the fact that the RPF, knowing that it could not come to power via the ballot box had an equally strong motive. The witnesses cited do not mention anything new on this issue, and some are even subject to serious caution. Thus, Major Bernard Ndayisaba of Kanombe camp’s Military Engineering Company mentions the establishment of an “association initiated by extremist officers which was called AMASASU the characteristic of which was to energetically fight the Arusha Accords” (p. 105). Used in January 1993 in a virulent anonymous pamphlet, the term AMASASU had been known for a long time, but Ndayisaba cites a number of officers as being part of this association, while the office of the prosecutor of the ICTR, which was highly interested, has never been able to identify the author of this letter. The same witness says that this group “threw pamphlets into the street, above all in the military camps, to turn soldiers against Habyarimana” (p. 105). This phenomenon had never been mentioned in the past³⁰, and it is surprising to see it appear, fifteen years later, through the testimony of a person in a fragile situation. Regarding preparations for the resumption of the war mentioned by Belgian military witnesses, they are known and undeniable, but the RPF was doing the same and these preparations teach us nothing about the attack.

Then the committee discusses “the methods used to carry out the attack” (p. 108-128). The first method is “the provocation for the withdrawal of the UNAMIR’s Belgian contingent” (p. 108-113). This observation seems indisputable, but no link with the attack is shown in the report, so it does not need to be discussed, except to again point at dishonest use of evidence. The report indeed refers to the indictment of General Ndindilyimana before the ICTR to show that a meeting took place on 7 January 1994 where a decision was reached to “provoke the Belgians by various means” (p. 109). The committee fails to mention that the indictment was amended on this point, and that it makes no longer reference to this meeting. The second method “Preparations for going into action in the days prior to the attack” (p. 113-128) seems more concrete. The report cites the former Governor of the National Bank, Jean Birara, who reported “on the basis of information which he holds about the high hierarchy in the FAR, Colonel Bagosora returned to Kigali to refine preparations for murdering the Head of State” (p. 113)³¹. The only member of the “high hierarchy in the FAR” cited by Birara is Colonel Rusatira, whom I contacted and who denies Birara’s story. According to the latter, the conversation with Rusatira took place on 4 April, but Birara says that “(Bagosora) got back to Kigali on 5/04/1994 in the evening. It was he who took the decision to shoot down the President’s aeroplane and call back Serubuga, Buregeya and Rwagafirita (the three unhappy officers)” (p. 113). Even if Birara had spoken to Rusatira, it would have been difficult for the latter to say what Bagosora was going to do the next day. It is also highly unlikely because Rusatira, regarded as an opponent of Bagosora and other cited officers, would have been aware of their sinister plans.

³⁰ My sources within the ex-FAR claim that even anti-Habyarimana remarks expressed verbally would have been unthinkable in military installations.

³¹ It should be noted that the report mentions the “refining” of these preparations, while the report shows nowhere else previously that Bagosora was preparing the attack.

According to various witnesses, UNAMIR was denied access to Kanombe camp on 5 April, while the French were allowed in (p. 114-116)³². This measure would have been used to hide the movement of heavy weapons in violation of the rules of KWSA (Kigali Weapons Secure Area). This may be possible, but the link with the attack is not made. We have already seen that both parties were involved in preparations for a resumption of the war. The same can be said about the next method: “The monitoring and abrupt modification of military communication” (p. 116-119). Indeed, the frequency change was not exceptional, and the report itself says it “was a practice initiated by the French instructors since the time of Noroît in 1990, when they noticed that the RPF could pick up their communications. The French then taught the FAR techniques to regularly modify the frequencies” (p. 117); these techniques are nothing special and the link with the attack is again hypothetical. Concerning the subject of communications, the report also notes that the Presidential Guard had its own communications network, which is correct³³. The committee then deduces that “therefore it should not be excluded that on the evening of 6 April 1994 the commander of the presidential guard, Major Protais Mpiranya, had profited from his privileged position to give all the information to Colonel Bagosora about the Falcon 50's flight” (p. 119). The problem of what the committee presents as a hypothesis is that Bagosora was at the UNAMIR Bangladeshi contingent HQ from 18.00 hours and that he only left after the attack.

There is also the question of the forced evacuation of the market in Mulindi near Kanombe by the FAR during the day of 6 April. To my knowledge, this is the first time that this event has been raised. The committee does not quite seem to know what to do with this information, and it ends up formulating a hypothesis: “if the FAR had planned the attack against President Habyarimana's aeroplane, it is very likely that they would not have wanted to have people around the sites where the action was going to take place” (p. 120). This however supposes that the missiles were launched from the Kanombe camp, which is not shown by the committee (see also below). What is more, one looks in vain for a link with the attack, since the Mulindi market is located on the other side of the road to Rwamagana-Kibungo, in the direction of Ndera, and it is separated from the military camp by the crest of a hill. If the FAR had wished to evacuate “inconvenient witnesses”, it would have been more logical to do so on the side of Kanombe commune. The report also mentions the deployment of military personnel and gendarmes immediately after the attack, or even before it took place. This has been known for a long time, but I remind what I wrote elsewhere: “(these roadblocks) are routine and installed every day at the beginning of the evening”³⁴.

The committee itself demonstrates hesitation as to the weight of these indications for the identification of the authors of the attack, since it concludes that the extremists “were preparing to carry out an exceptional event which *could have been* the elimination of the President of the Republic” (p. 126, italics added). The same applies to “Other actions which

³² Colonel Marchal, whom I have questioned about this, is surprised by this information. He does not remember it and believes that, if this had been the case, he would have been informed by the chain of command of the military observers under his orders. He added that such violations of the provisions of the KWSA would have been reported to him.

³³ This was a Motorola network; however, according to my information, the OPS network was used by the entire FAR.

³⁴ F. Reyntjens, *Rwanda. Trois jours...*, op. cit., p. 27. I add a reference to an appendix to Alexandre Goffin's book (*Rwanda, 7 avril 1994: 10 commandos vont mourir*, s.l., a.s.b.l. in memoriam “J'avais dix camarades”, 1995) which reproduces a Kigali map showing the daily mounting of roadblocks, eight in the city centre and three elsewhere.

reveal the preparation for the attack by the FAR” (p. 126-128). For instance, the committee finds it suspect that parachuting exercises were “unexpectedly” cancelled, which it sees as an indication that the FAR were up to something (p. 126). However, the reason was obvious and quite down to earth: the only Noratlas plane of the Rwandan army left for Dar-Es-Salaam on the morning of 6 April, and was not available for the exercise.

The next sections discuss the “Coup d’état on the night of 06 April 1994, revealing the motives for the attack” (p. 128-132) and the “Reactions revealing the prior knowledge of the plan for an attack” (p. 133-134). They shed no new light on the authors of the attack, and I do not believe that it is useful to dwell on them.

8. BACK TO THE MISSILES ISSUE: THE FAR HAD THEM

The following sections are much more concrete, since they deal with the theme of the possession of missiles and the ability to use them. First, “the FAR had specialists in anti-aircraft artillery” (p. 134-136). There was indeed an anti-aircraft battalion (known as LAA: Light anti aircraft and not Lutte anti-aérienne as said in the report) in Kanombe but it only had DCA cannons according to the report itself (based on the French parliamentary fact-finding mission report) but no surface-to-air missiles. It is not clear what the report is based on when it says that “the technicians of the anti-aircraft battalion were trained in the use of surface-to-surface and surface-to-air missiles” (p. 135), nor why it is relevant to know that recognition battalion specialists were allegedly trained in the use of Milan (p. 135) since this is a surface-to-surface missile that cannot be used against planes. It is true that in 1992 Colonel Serubuga had recommended surface-to-air missile acquisition (p. 136-137), but apparently they were never purchased.

Indeed, a section devoted to “the possession of missile launchers and missiles by the FAR” (p. 136-143) addresses purchase orders for missiles and launchers. I will discuss them in the order they are mentioned in the report. On 21 September 1991, a meeting of senior officers of the FAR *proposed* the acquisition of anti-aircraft missiles (p. 136); On 31 July 1991 the Ministry of Defence *requested* missiles SAM 16 from the USSR (p. 137), *a request reiterated* on 22 October 1992 (p. 137) ; On the same day, a letter *solicited* similar armament to North Korea (p. 137); On 27 July 1992, the Ministry of Defence stated it was willing to receive a Russian delegation in Kigali to *discuss the equipment to be obtained* (p. 137); On 17 January 1992, the FAR Chief of Staff *reminded* the Minister of Defence of the need to acquire some SAM 16 (p. 137); On 12 January 1992 the Rwandan Ambassador to China reported that the Chinese side was willing to *consider* the Rwandan request; On 30 January 1992, the Chinese Government asked Rwanda for *a list of the weapons and munitions required by the Rwandan Army* (p. 139); On 1 February 1992, the Foreign Minister asked the Minister of Defence “to get down to work so that the list of weapons and munitions to buy in China is available as soon as possible” (p. 138); On the same day, Colonel Ndindilyimana specified requirements to be addressed to the Chinese and the Brazilians, including some SAM 16 (p. 139); Finally, an undated and unreferenced report from the Minister of Defence on the “situation with regard to Franco-Rwandan military cooperation” between 1992 and 1993 *reiterated a request* for the acquisition of surface-to-air missiles. All these exchanges show that, even if it had wanted to acquire them, Rwanda had not obtained surface-to-air missiles, certainly not by February 1992 and probably not even by 1993. The report shows nowhere that these missiles were obtained later. Instead the committee states, on the basis of testimony from the French journalist Patrick

de Saint Exupéry that at the end of 1993 and early in 1994, the Government of Rwanda tried to obtain two surface-to-air missiles, first from Dominique Lemonnier, a French arms dealer and then from a French company specialising in exporting warfare equipment (p. 141). Again, nothing shows that these attempts led anywhere, and the report does not indeed suggest it. Clearly short of arguments, the committee states that “the serial numbers mentioned in the pro-forma invoice³⁵ are the same as those on the battery that the Rwandan army stated it had collected in Masaka” (p. 142). However, these are generic numbers (identifying the type of handle, missile and launcher), not individual weapons numbers. Indeed, the production period indicated on the pro-forma (1990/91) is different to that of missiles found at Masaka (04-87).

I will not go into too much detail on the confidence made by a close aide of Colonel Nsengiyumva to “witness” Richard Mugenzi (see above) that “these missiles came from a lot that the French had recovered during the war in Iraq” (p. 142). I know where this “information” comes from because I was the first to discuss it in my book *Rwanda. Trois jours qui ont fait basculer l'histoire*. Even at that time, I used the conditional tense and I warned: “with every caution necessary, since it is a second hand source - British at that - and we can never exclude manipulation in this very sensitive matter where intoxication is never far away (...)”³⁶. This information in fact proved false, since the serial numbers of SAM 16 recovered by France in Iraq are far from those recovered near Masaka. It is true that these numbers were not published in the French parliamentary fact-finding mission report (probably because France did not want to formally admit to recovering SAM 16 in Iraq, but I was able to consult the list), however the committee errs when it writes that “this omission does not seem innocent, since Mugenzi Richard’s testimony is a credible source, aiming to show that France could have delivered some of the missiles taken in Iraq to the FAR” (p. 142-143). In reality, Mugenzi cannot know what he is talking about and his testimony is not credible at all.

The committee mentions two reports that really rely on one source on the issue of missiles, showing the surface-to-air missiles status in the FAR stocks after their withdrawal into Zaire. A list drawn up by UNAMIR Captain Sean Moorhouse contains 40 to 50 SAM 7; a Human Rights Watch report, even though it is based on Moorhouse’s data, adds 15 Mistrals. Therefore, contrary to the claims made by the committee (p. 140), the two sources do not agree on the presence of Mistrals “which are weapons just as effective as SAM-16” (p. 140) in these stocks. There is no mention of SAM 16s in these sources. Though there is no doubt that the Belgian C130 which was to land at Kanombe on the evening of 6 April was equipped with an anti-missile ECM system, there is nothing in the report to indicate that the Belgian army feared an attack by the FAR. The committee also reproduces a passage from a report from the Belgian Senate which refers in general terms to “fear of attacks by anti-aircraft rockets against our C130s on missions in Africa” (p. 141). Why would this threat come from the FAR and not, for example, from the RPF? Finally, the committee does not mention the report of enquiry of the Belgian army which stated that “it is very unlikely that the FAR had missiles and even more unlikely that they had qualified personnel to use them. On the other hand the RPF appears to have possessed SA7 and personnel capable of using them”³⁷. The committee had this report, but it is once again guilty of selectively using evidence.

³⁵ The nature of this document is unfortunately not specified in the report. We therefore do not know its date and reference, but it is likely that it is the one mentioned by the Committee on page 138.

³⁶ F. Reyntjens, *Rwanda. Trois jours...*, op. cit., p. 45.

³⁷ Forces Armées, Etat-Major Général, *Rapport d'enquête. Sinistre aérien du 06 AVR 94 à Kigali-Falcon 50*, 1 August 1994.

9. BACK TO THE MISSILES ISSUE: THE RPF DID NOT HAVE THEM

The next section is worded as a premise: “The possession of missiles by the RPA is not an established fact.” The first argument comes from the “weakness of evidence from the French Parliamentary Commission of Inquiry” (p. 143-145). This argument attempts to play on the words and does not deserve too much attention. Indeed, the committee mentions that, in a letter dated 22 May 1991, the defence attaché at the French Embassy in Kigali wrote that “the headquarters of the Rwandan army is prepared to hand over an example to the defence attaché” (the text continues: “of the Soviet S.A. 16 surface-to-air missile (...) recovered from the rebels on 18 May 1991 during a clash in the Akagera National Park”), and concludes that “the FAR had several missiles of this kind since they were prepared to entrust only ‘an example’ to the French.” (p. 144). This is obviously ridiculous: a single weapon was found, and in fact in a note dated 23 May 1991, cited by the report (p. 157), General Quesnot says that “a large amount of equipment was recovered on the ground, including a recently designed portable SAM 16 surface-to-air missile” (p. 144). This is further confirmed by a note sent on 7 July 1998 to the French Parliamentary Commission of Inquiry cited in the report, which mentions “the discovery of an apparently new SA 16 in the AKAGERA National Park” (p. 145). The committee’s conclusion that all this “clearly implies that the FAR had recovered several new SA 16 missiles from the RPF and that consequently, if this recovery is true³⁸, the FAR had them in its arsenal in April 1994” (p. 145) has no basis in fact.

Three more observations must be made about this passage of the report: (i) the seized missile would have been of no use to the FAR, since it was faulty; (ii) the missile came from the same batch as both those apparently used in the attack and those listed by the French Parliamentary Mission of Inquiry as being in the possession of the Ugandan army; (iii) if the FAR had owned several SAM 16 missiles, why would they have made so much seemingly unsuccessful efforts (see above) to acquire them after they had “found” some? The committee clearly recognises the problem since it immediately tries to show that the FAR could not have retrieved weapons from the RPF during the period (“False story of the discovery of a missile in Akagera in 1991”, p. 146). However in that case, the assertion that this recovery (which therefore would not have occurred) had helped the FAR to acquire SAM 16 missiles obviously sounds very hollow.

Having discussed “suspicious” or “misleading” declarations by General Quesnot and Colonel Cussac, and General Nindiliyimana’s “doubts”, the analysis of which does not deserve more time, the committee arrived at conclusions that are not based on facts, such as that the FAR did not recover an RPF surface-to-air missile and at the same time that this SAM 16 missile “supposedly discovered in the Akagera National Park” was, at the time of the attack, in the hands of the FAR or French soldiers (I have already mentioned the contradiction between these two positions), that the FAR possessed Mistral type missiles, that France provided the

³⁸ In this small part of the sentence, the committee wants everything and its opposite: on the one hand, it wants to prove that the FAR had some SAM16s; on the other hand, it does not want to admit that the RPF had them. However, if the RPF did not have them, the FAR could not have retrieved them.

FAR with SAM 16 missiles recovered in Iraq, etc. (p. 149). None of this can be considered to be established on the basis of the report itself.

10. RETURN TO THE PLACE OF THE FIRING

The committee then returns to “the site from which the missiles were fired” (p. 149-160) (let us recall that it had already “found” that this place was the Kanombe military camp). It first starts by reiterating the reproach made to Judge Bruguière who, mentioning runways 10 and 28, did not know that there was only one runway (see above). I also said that, contrary to the claims of the report “the RPF simply requested, for their own security, that aeroplanes did not fly over close to the CND building” (p. 150), the ban on landing from the West side (runway 10) was inspired by the fear that the RPF had surface-to-air missiles.

Regarding the possibility for the RPF to access the place called “La Ferme” (or CEBOL in the report), the committee mentions Mr Paul Henrion’s testimony which has been known for a long time. I questioned him myself in October 1994. He told the committee that when travelling to Lake Muhazi on the morning of April 6 (according to the report around 8 hours; according to what he told me between 10 and 10.30 hours), he noticed Rwandan soldiers, of which two were wearing their beret “in the French style”³⁹ on the side of the road to Rwamagana-Kibungo, at the junction with the dirt road towards Masaka. He saw “an anti-aircraft gun and an anti-armour weapon” (p. 151) (in our interview in October 1994, he mentioned a “quadruple machine gun”); when he returned at around 20 hours, this position was still in place and the “cannon” was now turned towards the airport. A few metres further, Henrion recalled seeing “a group of French soldiers who were under observation”⁴⁰ (p. 151), but he does not clarify whether it was in the morning or in the evening (he did not mention it in our conversation). The report concludes that this evidence “is one of the additional pieces of clear evidence that the road between Kigali, Masaka and Kabuga was well guarded and controlled by units of the Rwandan army” (p. 151). However, this is the main road to Rwamagana-Kibungo and not the track that connects this road to Masaka Hill.

The committee then focuses on the “alleged discovery of missile launch tubes in Masaka” (p. 152-160). The report says that “while the missile launchers (...) were recovered at the CEBOL between 07 and 08 April 1994, it was only on 25 April 1994 that Lt. Engineer Augustin Munyaneza identified the two missile launchers which were allegedly used to shoot at the presidential aeroplane”(p. 152). The report makes a case for the launchers’ discovery date to be absolutely between 7 April and 10 April at the latest. A witness I met in Masaka in October 1994 (and who is also among those who saw the missiles being fired from the neighbourhood of La Ferme) stated that this discovery took place “about a month” after the attack, which is certainly closer to 25 April than to 7-10 April. Here, just like the information about the place from where the missiles were fired, there is a large discrepancy between, on the one hand, civilian witnesses near Masaka and, on the other hand, the military witnesses. Two civilian witnesses saw the launchers at the place of discovery with their own eyes, however according to the committee, “their respective stories contain significant inconsistencies on the date, placing the event between ten days and six weeks after the plane crash, which is unlikely”

³⁹ While the Rwandan army, like the Belgian one, wears their berets pulled down on the right-hand side, the French army wears them pulled down on the left.

⁴⁰ The right translation would be “who were observing”.

(p. 154). Collected fourteen years after the facts from people who have only their memory to guide them, these testimonies and the gap between them are not so unlikely and they confirm in any case that the launchers were not recovered in the first days following the attack. Having disqualified the testimonies of civilians living in the vicinity, the committee favours those of FAR soldiers who demonstrate considerable unanimity, and sometimes even astonishing memory, fourteen years after the facts: one of them remembered having learned on 7 April at 1 p.m. that launchers had been found, another knew that he saw *three* launchers on 7 April around 9 a.m. (p. 154). All other ex-FAR soldiers interviewed broadly confirm this information⁴¹, and state facts, according to the report, “which make it legitimate to think that the weapons presented as having been used to shoot down the aeroplane were actually collected from the CEBOL between 07 and 11 April 1994, and were shown to the units of the FAR” (p. 156). It must be noted that the soldiers, as previously stated, were in a delicate situation with regard to the mandate of the committee. However, in reality, this is not important, since the committee concludes an “alleged discovery” of launchers, since “the witnesses living close to the site of the alleged discovery, put forward different dates which are so far apart that there seems to be a manipulation” (p. 156). It is useful to remind that when I questioned witnesses at Masaka in October 1994, they did not know the numbers of launchers and nobody knew that the research would one day point in the direction of the RPF.

The committee then cites wrong data which was sometimes advanced to clear the RPF. Indeed, the committee cites the French fact-finding mission report⁴²: “it is probable that the launchers containing the missiles have never been fired (...) there is therefore little chance that the missiles identified by (Filip Reyntjens) are the same as those which were actually used to shoot down President Juvénal Habyarimana’s aeroplane” (p. 157-158) (I quote the Mutsinzi committee report; the text of the report of the fact-finding mission is somewhat different). However, this is not what emerges from the survey conducted by the fact-finding mission. Indeed, an 11 December 1998 letter from General Mourgeon on photographs of the missiles stated: “It is impossible to say whether or not this missile was fired. On photocopies of photographs, the tube is intact, caps at its ends are in place, the trigger and the battery are present; but we cannot know whether there is a missile in the tube at the time when these photographs were taken and no clues did conclude that a missile has been launched from this tube”⁴³. Contrary to the assertion of the committee and the report of the fact-finding mission, based on the photo it is therefore simply impossible to say whether or not the launcher had been used. Note also that Lt. Munyaneza, who discovered the launchers and was heard by Judge Bruguière in 2002 asserted that the launchers were empty.

Having thus eliminated “La Ferme” as the place from where the missiles were launched “for the compelling reasons which have already been given” (p. 159), the committee picks up a “more plausible hypothesis” (p. 159) already explored, that of the Kanombe camp or its immediate vicinity. Six witnesses, members of the FAR, declare that the shots were carried out “from the fences around the presidential residence or very close to this residence” (p. 160); six other former soldiers locate nearby places as being the shots’ point of departure (p. 162); other military personnel speak of “the immediate surroundings of the camp” (p. 162). However

⁴¹ According to ex-FAR sources living abroad, but who were not questioned by the committee, the discovery of launchers was “an event” which took place around 25 April

⁴² The reference provided by the Committee is wrong: it is page 218 of the report and not page 271 of the appendices.

⁴³ Document 6D11, Appendices, p. 259.

the testimonies are contradictory: some locate the shots' point of departure on the left side of the aircraft (p. 162), others saw them "towards the aeroplane, and were fired from in front" (p. 163), others say that the "the two projectiles (...) were heading towards the aeroplane and their direction was from right to left" (p. 164); a Belgian soldier says that shots "came from the left towards the right" and even specifies that "the firing angle was more or less 70 degrees" (p. 165). Captain Sean Moorhouse (see above) who was not in Rwanda at the time of the facts is reported to have said to the committee that "the information they gathered (later) enabled his team to establish that "the Rwandan president's aeroplane had been shot down by three Whites with the help of the Presidential Guard and that the shots from weapons which brought down the aeroplane were fired from the Kanombe military camp" (p. 165); the committee does not specify how Moorhouse is supposed to have come to this conclusion, nor why, while the information is supposed to have been collected on behalf of UNAMIR, we would have had to wait fifteen years to hear about this.

On the credibility of witnesses, the report recognises that the ex-FAR "present the disadvantage of belonging to an army many of whose elements were the main perpetrators of the genocide and massacres" (p. 165). Having said that, the committee accepts the fact that they "locate the point from which the missiles were fired as the presidential residence itself, either on the immediate area around its fence, or from the perimeter of the presidential area" (p. 166), without questioning the paradoxical nature of this shooting position, practically in front of the approach axis of the aircraft which logically would have crashed on top of the perpetrators of the attack (the aircraft effectively crashed in the garden of the residential residence). With regard to a Belgian "key-witness", Mathieu Gerlache: he was on the platform of the old control tower at a height of about six metres from which he could not see the Kanombe camp. I have already mentioned that he did not see the missiles leaving the ground and that La Ferme is in a visual extension of the Kanombe camp. In addition, none of the eyewitnesses present in the compound of the Presidential Residence, neither Habyarimana's family members nor soldiers from the Presidential Guard who guarded the place, was heard by the committee. However, according to my information, all these witnesses saw the missiles leaving from the vicinity of Masaka⁴⁴. With regard to the authors of the attack, having thus "proven" that the missiles departed from the military camp or even the presidential residence, the report concludes: "in addition, it is impossible to imagine that, during this period of extreme tension resulting from four years of war between the RPF and the FAR, elements outside the Rwandan armed forces could have infiltrated and carried out the attack in the military area in Kanombe, where the main units of the army are, and a few metres from the presidential residence. What is more, that there was no combat against the aggressor! Consequently, in the opinion of the committee, there is no possible doubt that the missiles fired at the presidential aeroplane were fired from the military area in Kanombe, where no unauthorised persons could enter. Consequently the Rwandan armed forces are responsible for the attack" (p. 167). QED: Hypothetical and often faulty data thus lead to a definitive conclusion.

11. THE BRITISH EXPERTS' INVESTIGATION

⁴⁴ It will be recalled that one of President Habyarimana's sons, Jean-Luc, described to *Jeune Afrique* "les trajectoires lumineuses des fusées depuis Masaka", well before the launchers were discovered and the involvement of the RPF was taken seriously. Or does the committee assume that he was part of the conspiracy to murder his father?

It will be noted that the report barely mentions a British team's investigation⁴⁵, which, under the terms of the contract reproduced in its Appendix A, cost the Rwandan taxpayers at least 10,000 pounds. When reading this technical inquiry report, one understands why it is only cited twice. It offers an opinion on only two issues, and on neither of these is its opinion decisive or even relevant. First, the experts examine the technical credibility of testimonies about the place from where the missiles were launched. It is interesting to note that the only evidence submitted to these experts are those locating this place in Kanombe camp or its immediate vicinity. The experts group these as follow:

- a) Witnesses placing the launch of the shots at/in the Kanombe Military Camp.
- b) Witnesses placing the launch of the shots in the immediate area of the Kanombe Military Camp.
- c) Witnesses placing the launch of the shots at the fence of the President's Residence⁴⁶.

Testimonies locating the shooting place at "La Ferme" (CEBOL) are therefore not subject to assessment by experts; we have seen that these testimonies were summarily discarded by the committee. It is also necessary to note that the experts did not themselves meet witnesses and that they only considered the statements submitted by the committee: "Following examination of the witness statements and making site visits, it was not thought necessary by the authors for them to interview witnesses"⁴⁷. Apart from a few exceptions, the experts felt that witnesses could have seen what they said they saw, based on the view they had from the place where they were. The experts do not say that the witnesses did actually see these things. It is obvious that, if the committee had asked the experts whether witnesses in the vicinity of Masaka, whose observations are excluded from the report, could have seen what they claim to have seen, the answer would have been just as positive. It also raises the question of why it was necessary to hire experts from the Defence Academy to see what any person with normal eyesight can observe, i.e. that someone located in one place is able to see another place.

The second issue is only addressed in the conclusion, and it relates to the use of missiles and the place where the aircraft was hit. The experts first note what we have known for a long time: "the aircraft was destroyed by possibly two surface-to-air missiles whilst on its final approach"⁴⁸. With regard to the missiles used, the experts state that the fragments recovered and analyzed, eight in total, are not consistent with the composition of a SAM 16. This tells us very little, since spectroscopic analysis was not performed on all of the debris found at the spot; the experts also indicate that "cultivation and weathering of the site, theft and possible vandalism of parts of the wreckage and restoration to sections of the President's Residence have all combined to reduce the worth of the available forensic and visual evidence"⁴⁹ and that "after 15 years of unprotected exposure nearly all of the smaller items of wreckage from the aircraft were not present"⁵⁰. The experts also continue in the rest of their findings using the

⁴⁵ Defence Academy of the United Kingdom, Cranfield University, Investigation into the crash of Dassault Falcon 50 registration number 9XR-NN on 6 April 1994 carrying former President Juvénal Habyarimana, 27 February 2009.

⁴⁶ *Idem*, p. 15.

⁴⁷ *Idem*, p. 7.

⁴⁸ *Idem*, p. 31.

⁴⁹ *Idem*, p. 8.

⁵⁰ *Idem*, p. 9.

assumption that a SAM 16 was the weapon of the attack⁵¹. Finally, with regard to the point of impact on the aircraft, the experts note that statements cannot be corroborated by physical evidence, since “the physical evidence (the front of the aircraft) that could have confirmed this presumptive conclusion (...) is no longer present for examination”⁵². The British expertise therefore contributes nothing substantial to the committee’s inquiry.

12. UNSTUDIED HYPOTHESIS

We saw that despite its weaknesses and contradictions and not, as it claims, after “a thorough investigation, search of witnesses and crosschecking of sources” (p. 167), the committee, as expected, points to the FAR as being responsible for the attack. In a few lines, it eliminates the assumption that it had to refute, namely the responsibility of the RPF. Yet, based on the elements which were known, especially based on Bruguière’s inquiry, at least it could and should have reviewed some concrete facts pointing in that direction. I only mention some of them. On page 5, the Bruguière order states that Sixbert Musangamfura mentioned, in the presence of Lt. Col. Karenzi Karake, Paul Kagame’s angry resistance to the organisation of an investigation into the attack; the Mutsinzi committee does not seem to have found it necessary to question either Musangamfura or Karenzi Karake⁵³. The order cites several (former) RPF members or military personnel (Barahinyura, Hakizabera, Kagiraneza, Marara, Mberabahizi, Mugabe, Musoni, Ruyenzi, Ruzibiza, Ruzigana), as well as outsiders (Arbour, Hall, Hourigan, Lyons). These persons claim, usually in great detail, that it was the RPF that shot down the aircraft; none of these people were questioned to confirm or refute their accounts. Similarly, the order mentions four RPA military personnel as being the direct perpetrators of the attack: Frank Nziza, Eric Hakizimana, Patiano Ntambara and Didier Mazimpaka; none of these people were heard by the committee, which could and should have checked, for example, where they were at the time of the facts. Regarding the provenance of surface-to-air missiles, the order reports, based on my evidence, that they come from Ugandan stocks and that the Ugandan Army gave them to the RPF; this was based on credible information from Ugandan military and intelligence sources. The committee could and should have checked this information with the Ugandan services and the Mbarara military camp. The committee refused also to wonder about the causes of the delay in the departure of the presidential flight from Dar-Es-Salaam and the role played by President Museveni in how the Summit dragged on, forcing President Habyarimana to travel at night.

⁵¹ *Idem*, p. 32.

⁵² *Idem*, p. 32.

⁵³ In the same vein, then Justice Minister Alphonse Nkubito expressed the intention of requesting an international inquiry through the representative of the United Nations in Rwanda. Kagame reacted so angrily to the idea that it had to be abandoned.

13. COVERAGE OF THE REPORT BY THE PRESS

It is not surprising that the Rwandan press close to the regime welcomed the report favourably⁵⁴. The RDF (Rwandan Defence Forces) and the survivors associations close to the regime had the same reaction⁵⁵. What is however surprising is that the foreign press took as gospel the “revelations” of the committee without asking the sort of critical questions that had once accompanied the publication of Judge Bruguière’s inquiry. Even before the publication of the report, Mehdi Ba in the 4 December 2009 issue of *Continental Magazine* covered the report and published excerpts from this “inquiry (which) helps underpin a thesis diametrically opposite to the one sustained for the last ten years by the French judge Jean-Louis Bruguière.” Based on this leak, Colette Braeckman welcomed the fact that “the Rwandan inquiry joins assumptions made by *Le Soir* during the first weeks following the attack”, without expressing any reservations⁵⁶. After the release of the report, Colette Braeckman continued her momentum. She claimed “exclusive coverage”⁵⁷ of the document which “is from now on an essential contribution”⁵⁸. *Libération* gave an account of the report without submitting it to a critical examination, but observed that “Opponents and critics of the Rwandan regime disqualify this work in advance, believing that the commission is not independent and that testimonies of military personnel from the former regime are anything but independent, given that some of them are still in prison and others fear for their lives”⁵⁹. In *La Libre Belgique*, Marie France Cros reflected the gist of the report, once again without asking any questions⁶⁰. However, *Le Monde* expressed “concern that France-Rwanda reconciliation has been performed at the price of the progressive cover-up of the investigation into the attack (...). The right to the truth about the 1994 events must prevail”⁶¹. Across the Atlantic, Philip Gourevich, an unconditional supporter of the RPF, enjoyed himself in *The New Yorker*. Admitting that “I have not yet had time to absorb the new multiple report and its annexes in their entirety”, he “read around in it enough to offer some initial thoughts about this extraordinary historical and political document.” It would have been better if he had read and analysed the report properly, but he was content with a summary reading. Not noticing the countless contradictions and fabrications, he found that the report “lays out this story (exonerating the RPF and condemning the extremist Hutus) in remarkably convincing detail” and he picked up the “thoroughness and seriousness of the underlying investigation.” By saying that this shows that the “new Rwandan government (is) achieving a level of sophistication, skill and effectiveness in commanding international respect that has rarely, if ever, been seen before in Africa”, Gourevich once more showed his colours⁶². Another RPF supporter offered a similar, and painfully biased and uncritical endorsement of the Mutsinzi

⁵⁴ Some titles in the daily *The New Times* which is a mouthpiece of President Kagame, are eloquent: “The plane crash report clears the mystery” (11 January 2010); “Habyarimana killed by his own forces. The truth revealed in Habyarimana’s death” (12 January 2010); “Mutsinzi Report finally puts end to speculation” (12 January 2010).

⁵⁵ “RDF welcomes Mutsinzi report”, *The New Times*, 13 January 2010; “Genocide survivors’ groups welcome plane crash report”, *The New Times*, 14 January 2010.

⁵⁶ C. Braeckman, “Rwanda. Kigali a mené l’enquête sur l’attentat qui a tué l’ex-président rwandais”, *Le Soir*, 14 December 2009.

⁵⁷ While the report was available to everyone on the Internet.

⁵⁸ C. Braeckman, “Habyarimana a été abattu par les siens”, *Le Soir*, 7 January 2010. Not even in brackets, this title says it all.

⁵⁹ C. Ayad, “Rwanda: le rapport qui contredit la justice française”, *Libération*, 8 January 2010.

⁶⁰ M.-F. Cros, “Rwanda. Habyarimana a été ‘tué par les siens’”, *La Libre Belgique*, 8 January 2010. Contrary to Colette Braeckman, Marie-France Cros has the decency to use brackets.

⁶¹ “Retour au Rwanda”, *Le Monde*, 9 January 2010.

⁶² P. Gourevitch, “The Mutsinzi Report on the Rwandan Genocide”, *The New Yorker*, 8 January 2010. Also see P. Gourevitch, “New report by experts names Habyarimana killers”, *The Independent*, 15-21 January 2010.

report. Gerald Caplan wrote that “the Commission’s report is largely persuasive (and) a major contribution to settling the great question of who was responsible. (It) documents the logic most of us have accepted since the start”. While “there’s no point in trying to prove anything else to these deniers and extremists (who) have no interest in the truth (...), for those genuinely seeking for the most convincing answer to this great political murder mystery, the strength of the committee’s report overwhelmingly outweighs its few unfortunate flaws”, without seemingly realising that fatal flaws can be found on nearly every page of the report. For Caplan however, things are now very clear: “We know who shot Habyarimana’s plane down. We know why they did it. We know how they did it”⁶³.

14. CONCLUSION

Even if one accepted unconditionally the witness statements on which the report is based, which it would be foolish to do when seeing the selective and often outright dishonest nature of their use and the position of dependency of the “witnesses”, the work of the Mutsinzi committee demonstrates strictly nothing, certainly not that the missiles were launched in the vicinity of Kanombe camp or the presidential residence by elements of the ex-FAR. The technique used by the committee members is consistent: on the basis of fabrications and assumptions, often based on patent untruths, it puts forward “facts”, and the accumulation of these “facts” is then used to construct a “truth”. It is interesting to note that those who stand accused in the report have for many years consistently insisted that the ICTR should investigate the attack, thus suggesting that they did not fear the truth, while those exonerated by the committee have opposed such an independent inquiry throughout.

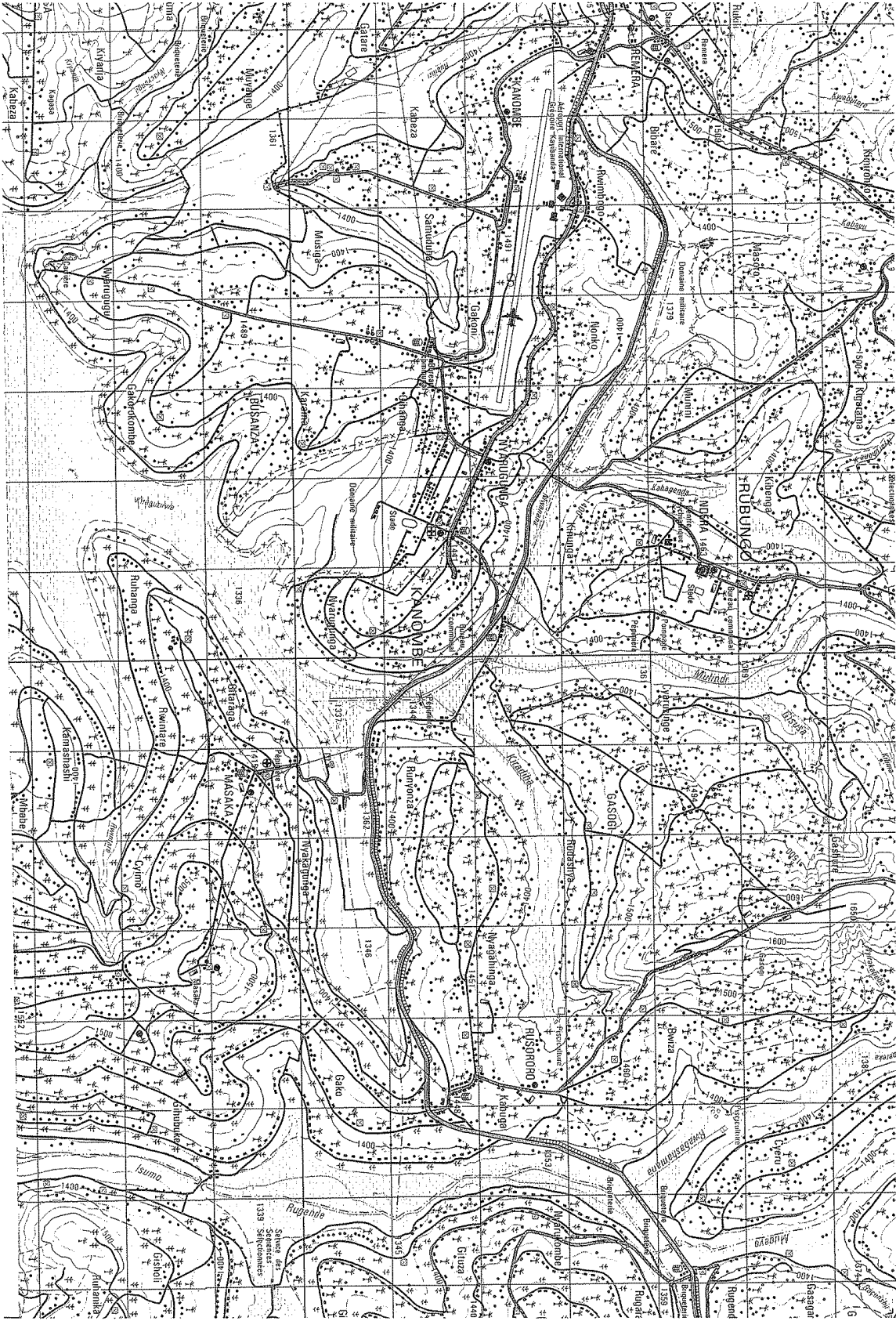
Despite the criticism that can be made about Judge Bruguière’s inquiry, it at least has the merit of proposing concrete elements, which can be verified, confirmed or rebuffed. Two examples: Bruguière cites by name those he suspects of being the direct perpetrators of the attack and he describes the itinerary of missiles used to commit it. In contrast, the Mutsinzi report does not even try to identify the authors, while the committee heard dozens of ex-FAR “witnesses” (according to the report, “everyone knew”, thus one would expect to see at least the name of one suspect⁶⁴); Similarly, after having passed through a number of assumptions that are mutually exclusive, the committee makes no conclusive proposition concerning the murder weapon. As a matter of fact, the many flaws in the report and the deliberate tampering with evidence by the committee lead to the opposite conclusion than the one that inspired its putting into place, as it reinforces the conviction that the RPF committed the attack rather than discrediting the Bruguière inquiry.

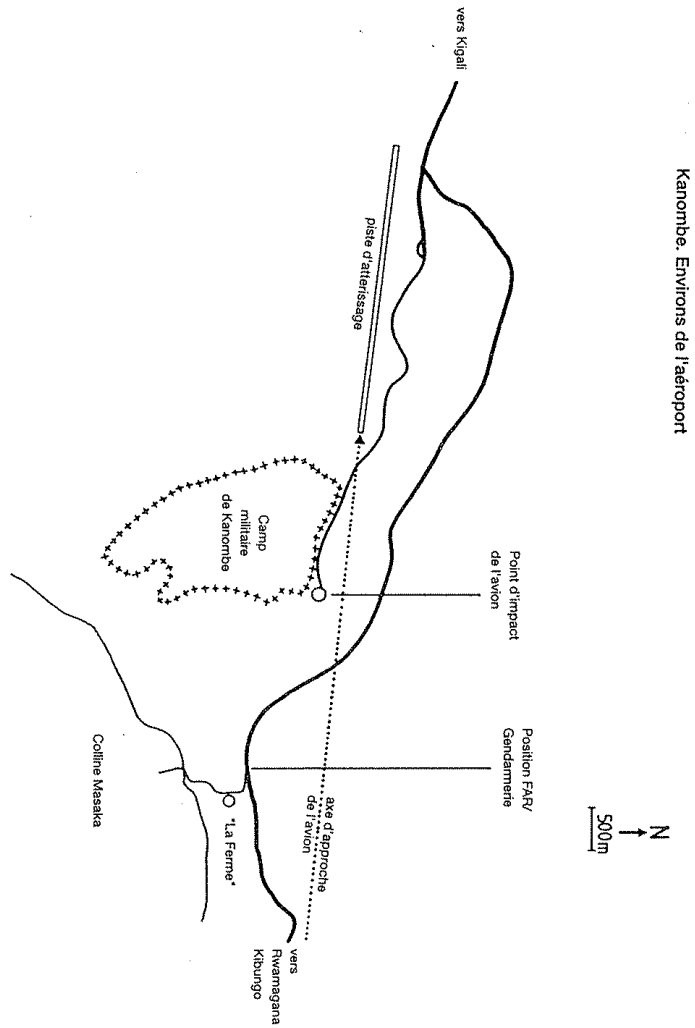
After the report of Mucyo Commission (cf. *supra*), that of the Mutsinzi Committee is the second Rwandan counter attack to the Bruguière inquiry. Suffering from the same flaws as the Mucyo committee, this counter attack is not at all convincing. It is a fairly transparent manipulation, and it is embarrassing for Africa that the President of the African Court of Human and Peoples’ Rights, Jean Mutsinzi, has presided over this farce. Does this mean that the only truth is to be found in the Bruguière inquiry? Certainly not, but the only thing that is opposed to it

⁶³ G. Kaplan, “Who killed the president of Rwanda?”, *Pambazuka News*, 21 January 2010.

⁶⁴ It is interesting to note in this context that, while several sources from within the RPF claimed that it committed the attack, not a single source from the ex-FAR did the same. Yet the ex-FAR are not a homogeneous group, and it is very likely that such an accusation would have been made if elements among them had perpetrated the attack.

is a political and opportunistic report of more than dubious quality. It is only through contradictory debate, as usually held in the courts of law, that the truth will emerge. Both the Bruguière inquiry and the Mutsinzi report (as well as the Mucyo report) mention individuals suspected of having committed crimes. It would therefore logically be the mission of the legal systems in Rwanda and in France to decide the truth. However it seems likely that the public will not be given the right to the judicial determination of this crucially important issue. Everything seems to indicate that the two countries concerned are prepared to cynically sacrifice justice on the altar of political expediency. The Rwandan people deserve better.







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