Let us into the house of the dead

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A soothsayer was brought from his dwelling far off in the hills. When he arrived, the venerable man, a great initiate into the secrets of time, greeted the rain, turned to the wind and began to listen to the angered spirit. He heard the story of his murder, the humiliations and torture which he had undergone before he was beheaded.
When the spirit fell silent, the diviner offered many words of appeasement. Then he added: "Even as I weep, I know that my pain can never reach even the outer limit of your suffering, you who have been mown down by cruelty. I come to humbly ask you and all the dead to receive me into the house of slice and mourning, in this dark night where memories open up like wounds."

(Tadjo 2002, 43)

THE NOISE OF DEATH AND INJUSTICE

A genocide is a noise from afar that swells, a din that renders the killers and those who will soon be dead crazy: a rumble of hatred, jealousy, and contempt, amplified over decades by a cruel North wind ; the whistling of the plane's jet engines as it approaches the Kigali airport, 6 April 1994 at 8:00pm, carrying the Rwandan and Burundian Presidents; the launch of two surface-to-air missiles, the impact on the cabin, the plane crashing, the firefighters' sirens spinning in circles, and the shouts of men who do not know what to shout. Then, there's the howling of the *Radio-télévision Mille Collines* (RTLM), trained weeks ago: it says to "work"; orders listeners to kill; demands that the *inyenzi*, those Tutsi cockroaches, be crushed. And barriers are erected everywhere. They bark only, show me your ID card, what's the ethnicity listed there, you have the nose of a

(1)The historical context of the Rwandan genocide is still controversial today. A reliable analysis is that which constitutes part of the grounds for the International Criminal Tribunal for Rwanda's *Akayesu* judgement (ICTR-96-4, 2 October 1998, §§ 78 ff.). Founded on the hearings of many experts and witnesses, it underlines the responsibility of Belgian authorities, who exacerbated ethnic divisions when Rwanda was a UN Trust Territory under Belgian administration (see Guichaoua 2010).

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cockroach. The machine runs until it overheats. The dogs bark against those who have attempted to take refuge in the swamps, whose remains they will perhaps eat. Then the pleas, the cries of men, women, children, and the elderly; the thud of a machete that splits a skull, tears flesh, cuts into a bone – but if you pay for my gun's bullet, you'll die more quickly and with less pain and I won't rape your daughter before your eyes. More than one hundred days of noise, during which the UN, Belgium, and France choose the silence of cowards, the bureaucratese of chancelleries, or the venomous discourse of traitors, already contributing to the denial of the genocide in the vain search for a justification for this scandalous inertia.

Then the crying that we can still hear today; anguish that grips even those who weren't yet born then; tears that run towards the long, long, long path that leads to the silence of the dead, the silence of absence. Progressively too, one must hope, there's the silence of contemplation, the life that returns without our hearing it because the rising lifeblood and the un-spilt blood that lives in the small child's new body make no noise. Perhaps, one day, who knows, there will be the silence of peace. But no one is required to forgive, and it is not possible to silence the howling that remains in the soul if forgiveness is not asked for, and it so rarely is.

_ Illustration from Marie Fierens' book, *Le négationnisme du génocide des Tutsi au Rwanda.*

No one can say that it isn't true: the actors, the victims, the witnesses, the journalists, the politicians and the tribunals know that it happened.

It was not until 7 April 2000, during an official trip to Kigali, that Guy Verhofstadt, the Belgian Prime Minister at the time, offered Belgium's apologies and asked forgiveness in the name of "his people" for their responsibility, according to him, in the genocide. A few hours earlier, in a ceremony that took place on the site where ten Belgian Paracommandos had been massacred on 24 April 1994, Guy Verhofstadt acknowledged that the government at the time had failed in its fundamental mission: to protect those it in its charge. Guy Verhofstadt's initiative asks the ethical and political question of whether he had the authority to ask for forgiveness in the name of the Belgian people, who themselves do not bear any responsibility for the events.

France's role was problematic as well. As the organizer of *Opération Turquoise*, authorized by the UN Security Council Resolution 929 of 22 June 1994, it has been accused of having covered up the escape of perpetrators of the genocide into Zaire [now the Democratic Republic of Congo] (Brana & Cazeneuve 1998). In April 2014, during the 20th anniversary commemoration of the genocide, president Kagame

accused the French army of direct participation in this affair. The question recently resurfaced following the April 2015 declassification of the Élysée archives pertaining to the French intervention in Rwanda.

THE STAMMERINGS OF THE *LOGOS*

Men live in language. Words must be put over all this noise, perhaps first of all because speaking heals – just ask the psychologists and psychoanalysts. Because even those who were not mixed up in these events have been wounded by them in one way or another. But also because our human condition – its beauties and its abjection – is alive with words. Old Aristotle taught that *logos* is what distinguishes man from all other living beings, this ability to say what is right and what is not and to agree on this subject (Aristotle s.d., 10-12). This is what the expression "crimes against humanity" tried to do in 1945, however awkwardly, but some things are not easy to say. The classification of "crimes against humanity" appears for the first time in Article 6 of the Nuremberg Tribunal Charter. Jackson, the American prosecutor who was the main drafter of the Charter, explained that the expression had been suggested to him by an "eminent professor of international law", identified as Sir Hersch Leuterprach. In international law, the definition of crimes against humanity has always been particularly unstable, unlike the definition of *genocide*, and is proof of the semantic and legal difficulties it continues to prompt. A few years later, we stammered "genocide", at Raphaël Lemkin's instigation (Lemkin 1934). The word was not an attempt to give a reason for what happened in the camps or on the plains of the USSR, because if genocide is explainable, even rational, it is never reasonable. There can be no reason to decide to annihilate those who did nothing, to definitively reproach some for (simply) living – which is to say, to reproach them for nothing – and at the same time, to claim to punish those whose innocence is absolute. To say "genocide" is to designate, to affirm, "this existed while no one could have imagined it". For the legal experts – and it is for them first of all that the term was invented – genocide is a description. To describe is to put a word on actions; it is clothing made of words that can be suitably altered to what was committed and that allows one to judge, to say that it was not right, and even that the injustice is immeasurable. It is a way to break the silence, not the silence of the dead, not that of reverence, but the silence of cowards that follows the howling.

THE MADDENING NOISE

There is a way to betray the silence of absence and reverence, of impeding life from returning, that consists in maintaining an intolerable, maddening noise before, during and after the genocide and the crimes. It no longer made of roaring, barking and cries: it is throbbing, insidious; it is a dentist's drill that never ceases boring into your head; the noise of a metal saw filing your head and your heart, a continued screech of nails on a chalkboard when you're trying to rest to no avail. Its name is

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denial. It has all the audacity but especially all the cruelty. It consists in laughing at suffering all the while upholding that it doesn't exist, saying that what happened did not happen, making the victim doubt his reason, his *logos*. It is to claim that you're not human and that you describe the wrong all wrong, that there is no border between the right and the wrong, and that only the most violent have the right to invent this limit. This intolerable noise is as old as the world. In the Edict of Nantes, which has been around for a while, Henri IV ordered his subjects that "the recollection of everything done by one party or the other [...] remain obliterated and forgotten", as if the atrocities committed during the French Wars of Religion, including the Saint Bartholomew's Day massacre, had never happened (Henry IV, 30 April 1599, art. I and II):

> Firstly, let the memory of all things that have taken place on both sides from the beginning of the month of March 1585 up to our arrival on the throne, and during the other preceding troubles and on their occasion, remain extinguished and dormant as something that has not occurred. It will not be admitted or permissible for our state attorneys nor any other persons, public or private, at any time or for any reason, to make mention of, or initiate trial or pursuit in any court or jurisdiction whatsoever.
>
> We forbid any of our subjects regardless of their state or quality to retain any memory thereof, to attack, resent, insult, or provoke one another as a reproach for what has occurred for any reason or pretext whatsoever, to dispute, challenge, or quarrel, nor to be outraged or offended by any act or word; but to be content to live peacefully together as brothers, friends, and fellow citizens, under penalty, for those who contravene this decree, of being punished as violators of the peace and disturbers of the public tranquillity. (Ricoeur 2004, 454)

Denial does not even wait for the end of the genocide or the crimes against humanity, or rather, denial intends for them to never end (see also Coquio 2003). The worst is that it is, in this, perfectly logical. Because genocide refuses the simple right to exist to certain people, how could heinous crimes be committed against them? These crimes cannot exist either! Denial is not an opinion but an aspect of genocide itself. The European Court of Human Rights has repeated it again and again, including in a recent decision: the degrading position of the victims in the face of those who deny their extermination is not a matter of freedom of expression, but constitutes a demonstration of hatred as dangerous as a sharp head-on attack.[2] If a Belgian law cracks down on the denial, minimization, justification or endorsement of the genocide committed by the German national-socialist regime during the Second World War,[3] this is not a matter of restricting historians' academic freedom but impeding the perpetuation of a genocide that endangers those who were targeted. It's also a matter of saving the word of designation, acknowledgement, and justice; to not dilute absolute evil in the everyday evils of human coexistence; to cease to voluntarily confuse denial and revisionism, the latter intended in the sense of the

(2) *Dieudonné Mbala Mbala c. France*, 10 November 2015, § 39. He was criminally convicted by the Paris Court of Appeal for having invited Robert Faurisson to join him onstage at the end of a 2008 show to receive the "prize for pariah-ship and insolence" [*prix de l'infréquentabilité et insolence*] from an actor dressed in chequered pyjamas on which a Star of David had been stitched.

(3) The 30 July 1981 law aiming to repress acts inspired by racism or xenophobia, Monit., 8 August 1981, p. 9928.

sincere effort to better tell the history of man. The deniers are always condemnable, unlike the revisionists who do not seek to manipulate the truth. Revisionism indeed constitutes a legitimate and necessary approach, intrinsically related to the practices of the historian, who must ceaselessly re-examine texts and facts, advance new hypotheses and support new theses (see Traverso 2003). The perfidy of denial consists precisely in making it pass for what it is not: an effort to think through history and write it.

IMAGELESS EVENTS

To complicate everything there is a "low-grade" denial, almost involuntary, that makes the bastards' premeditated bad-faith denial possible.[4] If Western media obviously did not incite murder directly, as the RTLM did, they nevertheless sometimes played an ambiguous role. If they contributed to nourishing information with factual data, to have people admit that genocide occurred, paradoxically, the logic of these same media, and above all the tyranny of the image, led to the marginalisation of the genocide. Images of the killings in Rwanda from April to July 1994 are barely more numerous than photos of Auschwitz. In only offering a few images of the raw horror, and much more of the exodus of refugees forced to flee the advance of the RPF, TV chains created an imbalance in coverage that has left deep marks in the memory of the events of 1994. In the eyes of many viewers, the victims were those who were fleeing battles and dying of cholera by the hundreds (see Fierens 2009).

A UNIVERSAL MECHANISM, A SINGULAR CONTEXT

In Rwanda itself, from the very beginning, everything was done to hide the reality of what was going to happen or what was being committed, from concealing the planned assassination with a civil war born out of self-defence against the RPF invaders, who were supposedly perpetrating a genocide. This venom flowed from the official Rwandan bodies. The Radio-télévision libre des Mille Collines, close to the powers in place, constantly vomited it (see Chrétien 2002). But it also gangrened the UN Security Council, where Rwanda was represented by the government perpetrating the genocide, as well as the United Nations Commission on Human Rights, who received that government's representatives in Geneva in May 1994. It was an official delegation of this interim government that reported to the Organization of African Unity, in June, and denied the truth of the genocide.

Denial, inherent to any genocide, is preoccupied with erasing the evidence. Yet historians and legal experts need to uncover the traces of the genocide and obtain certainties. These will be sought first of all among the witnesses – that is to say, above all, the escaped victims. They are, however, anointed with a paradoxical authority. The survivor is there to speak of what they've seen, but their discourse is perceived

(4) Jean-Paul Sartre gave the term "bastard" (in French, *salaud*) a moral and philosophical signification. It refers to the coward, the thoughtless, he who flees when faced with responsibility. The bastard acts as though he can ignore the real to avoid becoming involved. See Sartre 1983 and 1938.

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_ The Gisozi Genocide Memorial in Kigali. The hills of Gisozi have not been the site of mass extermination. After the genocide, this location was chosen to collect the 250,000 remains that were scattered over the city of Kigali. "Kwibuka" means "Remember".

to be problematic and insufficient to establish proof of the genocide as such (Coquio 2003, 34). Does their suffering – past, present, and the suffering to come – make them reliable witnesses, however much consideration it deserves?

Furthermore, some of the sociological and anthropological characteristics of Rwandan culture favour the development of a denialist discourse (Rosoux 2005). Rwandans speak little, and do not often consider what they have to say to be more precious than silence. It is rare to speak of one's pain or wounds. Testimonies result from a personal decision and a courageous process; they are not made at the request of institutions, journalists, or historians.

WOMEN'S SPEECH AND WOMEN'S SILENCE

Discretion, if not muteness, is particularly expected from women (Vidal 2003). If suffering can be neither measured not compared, who will deny that their testimonies contain something particular and terrible to say? And to speak it, when the wound is still so deep, so far from the hopes of healing? Yet women were the first to take the initiative to speak. Among them, Yolande Mukagasana wrote *La morte de veut pas de moi* (Death does not want me, 1997) and *N'aie pas peur de savoir* (Don't be afraid to know, 1999). Marie-Aimable Umurerwa speaks the horror in *Comme la langue entre les dents* (Like a tongue between the teeth, 2000). Esther Mujawayo gives her testimony in *SurVivantes* (Women Survivors, 2004; *Vivantes* translates to *the living* in the feminine plural form). As an escaped survivor, she feels trapped

between the need to make the truth known and the refusal of some to hear it. "In Rwanda, they tell us today: it's been talked about enough." In a context in which, she explains, no home was spared from grief and in each family there is someone who participated in the genocide "we felt that it shouldn't be talked about" (Mujawayo & Belhaddad 2004, 19-20).

And then there's the fear that invades the bodies and souls once and for all. In Rwanda, the killers and the survivors must continue to live together, in close proximity. In a country with a particularly dense population, people have to squeeze into the same hills and the same villages, with the same neighbours as before, hoe the same fields and get water from the same wells. One hesitates to speak before one's former executioners because they could begin again, or perhaps simply because it is not possible to live among them if one speaks of those days of immense noise.

I TRY NOT TO BELIEVE MYSELF

Incredulity is another problem: for the speakers, of course, for the victims fearing they will not be believed if they tell what they've experienced, who wonder if the unbearable reality they describe could really have existed or if they will wake up from the worst nightmare possible. This hesitation is neither historical doubt nor denial. Rather, it has something of the will to survive. "It's something inside us, inside me, something confused, crazy," says Esther Mujawayo. This confusion can nevertheless impede the truth from emerging, including before a court. Some victims will prefer to abstain from testifying out of fear of being accused of lying (Mujawayo & Belhaddad 2004, 89).

The killers do not suffer from others' incredulity. Jean Hatzfeld conducted several interviews, with both the killers and the victims (Hatzfeld 2003). In his meetings with the killers, at moments when he felt the need to bring the discussion to a close, to get out of the hideous universe into which the interlocutor had plunged him, the interlocutor maintained an unvarying willingness, whatever the subject broached or the conversation's direction. Dialogues with survivors could last five minutes or five hours and were often interrupted by tears and sometimes anodyne digressions. Occasionally, a survivor would offer different versions of the same event. The killers, however, never seemed distressed. If their memory failed them, it was a normal degradation of memory due to time, incomparable to the victims' shocks and blockages. Doubtlessly, the authors of the killings have taken an opposite path to the one survivors seek. The perpetrators' own survival, which includes still being able to look at themselves in the mirror, depends on the banalization of their acts. The survivors' difficulty in speaking, as well as their fears, are in contrast to the killers' volubility and ease; the latter impose their version of the facts with greater facility. To deny the gravity of one's own actions is to deny the genocide. This time, it is a matter of denial.

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TO JUDGE IS TO HEAR AND SPEAK THE TRUTH

Judging, particularly in courts, is a privileged means of preventing the denial of reality. The justice of men does not only repay the suffering imposed by another imposed suffering—which will always seem derisory in relation to the crimes committed—nor does it only attempt to protect and reassure (if possible) those who remain by locking up the culprits, nor only compensate pain and hardship through the payment of indemnities, but how the language of the law, like the word "compensation", can sometimes be cruel as well. To judge is a language act that depends on evidence that will be sought mainly in language, in the testimonies of the victims. The successful production of evidence will be the garnering of a statement of truth, and at the end of a battle of words between the Prosecution and the Defence, the perpetrators and the victims, the tribunal will declare, "there was a genocide", and the historical truth will become a legal truth, a *res judicata* – a fixed truth, to be sure, immutably in law, but with the advantage that denying it cannot call it into question.

The quarrel between historians and legal experts results largely from a misunderstanding. The historian is right to ceaselessly question how the past is told and what it means; this is, in any case, what we ask of historians. The legalists, and the

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_ Memorial plaque in Nyanza, where 2000 Tutsis were murdered after they had been abandoned by the UNAMIR peacekeeping forces.

judge especially through his performative speech that condemns or acquits, are there to assign each person their rightful place: you, you are guilty (or not); you, you are a victim (or not). It is striking to note that in every situation and all over the world, this is the fundamental demand of those who have suffered when faced with their persecutors. "We know very well that the justice of men will never undo what was done, and that it will never give us back those who were taken from us. But tell them that they are the culprits, and that we and our dead are the victims." This assignment of each to their rightful place must endure to be effective.[5] That is what gives the *res judicata* its authority.

But speaking the truth, which is the opposite of denial, must be possible before a tribunal. Doubtlessly, no genocide so much as that of the Tutsis in Rwanda will have destroyed the social fabric to such a great extent. For the first time, state power was able to mobilize the majority of the civilian population against a minority made up of neighbours, friends, and parents. The former tortured, raped, and killed, and were comforted, reassured, and permitted to do so by the leaders' speech, which is to say by the Rwandan legal system itself. In this country, the word of the mayor, the prefect, the minister, and the president were the law, much more than what is published in the *Official Gazette of the Republic of Rwanda*. The new Rwandan authorities especially, and the international community subsidiarily, were confronted at the end of 1994 with an unimaginably large challenge: to judge the worst of all crimes, committed by tens of thousands of people, most of whom were again living next to their victims or next to mass graves they had abandoned after their "work". And this in a country where only the force of weapons had put an end to the madness and where the war had destroyed the human and material means of justice. Already before April 1994, the legal system was inadequate. What then was the judicial system after the massacres? The prisons, the jails, the impromptu penitentiaries such as containers in the ground, were filling up with hundreds, thousands, tens of thousands of detainees, some of whom were certainly guilty and some of whom were certainly not. They had to be judged.

Rwandan law itself was totally ill adapted. As in many other countries, the 9 December 1948 Convention on the Prevention and Punishment of the Crime of Genocide, though ratified by Rwanda, had not led to an adaptation of internal laws, with the result that there was no specific penalty for the denial of a genocide or crimes against humanity. It is in this context that a first law was enacted on 30 August 1996, to bring the perpetrators to trial in "specialized chambers". But the initiative was doomed to failure. It was then decided to set up tribunals that were supposed to draw from Rwandan culture by adapting to the specificities of the dispute created by the genocide. This was the creation of the *gacaca* courts, a "participative" justice supposedly inspired by traditional "on the grass" justice – *gacaca* literally means "grass" – by a 26 January 2001 and a 22 June 2001 law, themselves replaced by a 10 June 2004 law. The traditional *gacaca* consisted in gathering the heads of

(5) See Fierens 2014, 320-321. On the role of criminal trials in genocides, see Osiel 2006. For a technical approach to international and domestic mechanisms currently in place, see Bosly & Vandermeersch 2010.

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families between which there was a dispute to draw out a compromise solution. The reinvented *gacacas* had nothing in common with the traditional ones except that disputes were resolved by non-professional "judges". The insertion into a written law of (retroactive?) offences and proceedings prevents these courts from still being considered a traditional form of justice. One of the major characteristics of the operation of these courts was, according to the bill's preamble, that the legislator considered that "these infractions were committed publicly, before the eyes of the population, and thus the population must relate the facts, reveal the truth, and participate in the prosecution and judgment of the presumed culprits; that the duty to testify is a moral obligation for all patriots Rwandans, and no one has the right to evade it for any reason". Nevertheless, neither the accused nor the victim had the right to be defended, assisted, or represented by a lawyer or anyone else, which, for that matter, rendered the *gacacas* non-compliant with the international standards of fair trial. Beyond the fact that the right to be defended by someone whose function is distinct from that of the accuser, the witness, or the judge is one of the most universally recognized rights, that victims could not be assisted either is beyond unsettling. One can imagine the difficulties that might arise from the obligation to speak in person for victims of sex crimes. Yet to succeed in publicly "revealing the truth" would have been a solid bulwark against denials of the genocide. Now that the *gacacas* have, according to the authorities, completed their work, one can doubt that this bulwark has been built. There exists as many as one million *gacaca* decisions, which have been neither studied nor commented and which are probably not accessible. If one day they are, doubtlessly they will reveal the indigence of their contents, as much in terms of the establishment of facts as in the reasons for the decisions. In any case, it does not seem as though this giant enterprise has blocked denials past, present, and future. On the contrary, the criticisms often made of the *gacacas* and their proceedings risk reinforcing denials of the genocide in casting suspicion on the reliability of the testimonies thus gathered (see Fierens 2005; Fierens & Kanyamanza 2013).

International justice achieved better results in this respect, although in the common law logic that guided the creators of the ad hoc tribunals, the victims did not have, as such, a place in the proceedings and were not able to exercise their rights.[6] Numerically speaking, one could be disappointed: the International Criminal Tribunal for Rwanda has only rendered 55 first-instance judgements in 20 years, concerning 75 defendants, and has referred 10 others to national courts. Nevertheless, on 4 September 1998, Jean Kambanda was not only the first head of government to be accused and convicted of the crime of genocide, but he was also the first person to be accused and convicted on this count since it was made criminal by law. Other judgments reaffirmed that genocide did indeed occur in Rwanda. International legal truth is committed to this affirmation, and that is not nothing. The deniers will have to find arguments to refute the reasons – which this time, are adequate – for these judgements.

(6) For a critical approach to the International Criminal Tribunal for Rwanda, see Cruvellier 2006.

_ Murambi Genocide Memorial. Children's shoe, a trace left by one of the 50,000 Tutsis that were killed here.

DANGEROUS CALLS FOR RECONCILIATION

The *gacaca* laws were also explicitly justified by the will to "achieve reconciliation and justice in Rwanda", as their preambles state again and again. It is unsurprising that in some religious environments, this "reconciliation" was presented as a necessity. Some even alluded to a duty to forgive. Reconciliation is the arrangement of the necessary conditions for a community life. Forgiveness is another matter, which consists, according to Paul Ricoeur's beautiful expression, in "breaking the debt" (*briser la dette*, Ricoeur 1995; Fierens 1999; Abel 1991). To consider that there's a duty for reconciliation is absurd. To imagine a duty to forgive is revolting.

According to the disciples of reconciliation at all costs, one must "turn the page" to be able to live together again. Yet reconciliation is not justice – here, in the ethical and non-institutional sense – and without justice, without analysis, the history and reality of the genocide risk being endlessly called into question. The danger is of refusing to tell the facts, again and again; of refusing to say who is responsible and who is a victim in order to refrain from vengeance. Denial is not

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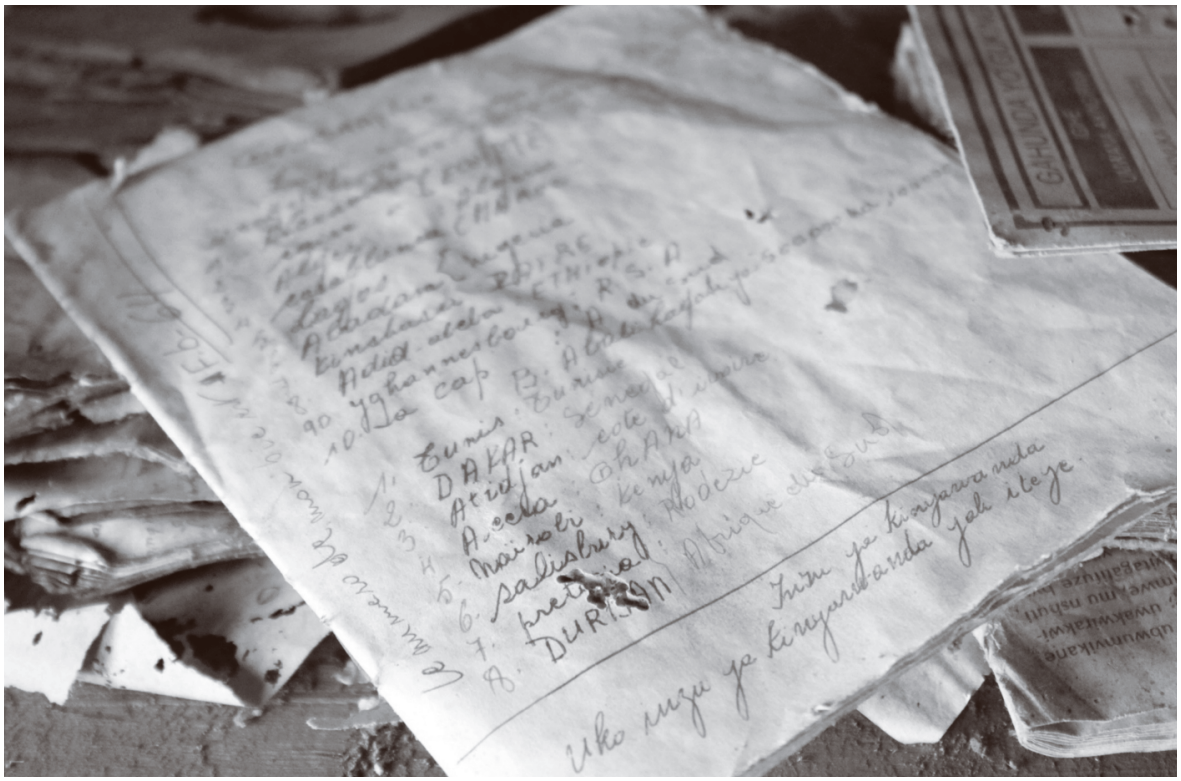
always brutal; it can be soothing. Under the pretext of good intentions it wants to prompt the pure and simple erasure of the past and the dissolution of the categories of killers and victims.

A duty to forgive would be the opposite of forgiveness. It would be a contradiction in terms. Forgiveness is never owed, the word itself affirms it: it is a gift. Even if forgiveness is asked for – a minimum condition – no one is obligated to grant it. According to the ancient maxim, rights, duties, and the law in general consist in "giving each man his due". What is not owed can never be turned into a right or a duty. Above all, false forgiveness is saying, "forget about it"; to break the debt, one must first remember that it exists. If forgiveness transpires, it first consists in remembering what has really happened and certainly not in attempting to erase it. If one day, for some, forgiveness comes, presumably it would be the opposite of denial, which consists in doing everything to block those who have the right to enter the house of the dead. ▮

Translation: **Bronwyn Haslam**

_ Notebook with homework found in the church of Ntarama in the Bugesera area, South-west of Kigali. Many thousands of Tutsis were slaughtered here on 15 April 1995.



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