

Seminar held on 7th December 1998

## The International Commission of Inquiry (Rwanda): Lessons and Observations from the Field

---

**Speaker : Eric Berman**

Eric Berman began his presentation by providing the historical and political background to the Commission. For three months following the deaths of the Presidents of Rwanda and Burundi on 6 April, 1994, the Rwandan Armed Forces (FAR) and Rwandan militia (Interhamwe) waged a campaign of mass murder resulting in the loss of approximately 750,000 lives. These operations were not a secret, given the presence of the United Nations Assistance Mission for Rwanda (UNAMIR), a UN operation that had been deployed in Rwanda since October 1993, the coverage of the international media, and reports that the UN Secretariat and some member states had been aware of the genocide plans.

The initial response of the UN and the international community was to scale UNAMIR down to approximately 10 per cent of its authorized strength (Resolution 912 (1994), 21 April), a decision that was subsequently reversed on 17 May by Security Council Resolution 918, with a larger force being mandated. Resolution 918 also imposed an embargo on the sale and supply of arms and related material to the Rwandan government and the Rwandan Patriotic Front (RPF). As an interim measure Resolution 929 of 22 June authorized the deployment of a multinational force led by France known as Operation Turquoise. Despite the lifting of sanctions against the Government of Rwanda (constituted by the RPF, which had taken control of the country in July 1994) by Resolution 1011 of 16 August 1995, the embargo remained in effect

---

against the ex-FAR and Interhamwe.

### **The origins and mandate of the ICOI**

According to Berman, the decision to establish the International Commission of Inquiry (ICOI) by Security Council Resolution 1013 of 7 September 1995 was taken amidst persistent and credible reports that the embargo was not being respected. Accordingly, the Commission was mandated to:

1. Investigate the sale or supply of arms and related material to former Rwandan government forces in violation of Security Council Resolutions 918 (1994), 997 (1995) and 1011 (1995);
2. Investigate allegations that such forces received military training in order to destabilize Rwanda;
3. Identify parties assisting the illegal acquisition of arms by former Rwandan government forces in violation of the resolutions listed above;
4. Recommend measures to end the illegal flow of arms in the sub-region in violation of Security Council resolutions.

In addition to specifying the composition of the Commission (5-10 impartial and internationally respected legal, military and police experts), Resolution 1013 also called upon Member States, UN and other bodies to make available relevant information and to cooperate with the Commission.

During the first phase of its activity (October 1995 through October 1996), the Commission issued three reports (S/1996/67, S/1996/195 and S/1997/1010) and an 'Addendum' containing records of correspondence received subsequently (S/1998/63).

In Berman's opinion, the Commission was successful in carrying out its mandate due to its ability to document a shipment of weapons from the Seychelles to the ex-FAR in violation of the embargo and the fact that the ex-FAR and Interhamwe were conducting military training with the intent of retaking Rwanda. These successes, in his view, were facilitated by the enthusiastic

## The International Commission of Inquiry (Rwanda)

---

cooperation of the Government of the Seychelles and the 'open secret' of training being conducted in close proximity to internationally administered refugee camps. Furthermore, the Commission also revealed many lesser or unknown facts such as extensive ex-FAR/Interhamwe fund-raising and recruitment activities in Kenya. Finally, the significance of the Commission's work was underscored by the decision not to issue the final report (although it was leaked).

On 9 April 1998, the Security Council re-activated the Commission on the basis of Resolution 1161. While much had changed in the region with regard to the activities and whereabouts of the ex-FAR and Interhamwe, the Commission's mandate was not substantially altered. The main modifications included the deletion of the second clause; the adding of arms shipments and militias as targets of investigation in the first clause; the consideration of illegal sales of arms to former Rwandan government forces and militias in the third clause; and the rewording of the final clause to "recommendations relating to the illegal flow of arms in the Great Lakes region". According to Berman, these modifications to the mandate were more cosmetic and legalistic than substantive, given that the lack of explicit reference to the militias had not hindered the Commission's previous investigation or reporting. Of particular interest, however, was the wording of the final clause that served to broaden the investigation, a view not universally shared in the Secretariat.

A much bigger difference between the two Commissions concerned administrative matters. Whereas in Resolution 1013 the Security Council encouraged States to make voluntary contributions "to supplement" the UN Trust Fund for Rwanda, in Resolution 1161 it encouraged States to make voluntary contributions "to provide" the financing of the UN Trust Fund for Rwanda for the work of the Commission. Together, Belgium, France, Germany, Japan, the Netherlands, Norway, Sweden, the UK and the US pledged a total of USD 700,000.

## Commission Findings

During the course of its investigations the Commission visited a total of twelve countries: ten in Africa (Burundi, Ethiopia, Kenya, Mozambique, Rwanda, South Africa, Tanzania, Uganda, Zambia and Zimbabwe), and two in Europe (Belgium and the UK). Due to the rebellion that began on 2 August 1998, the Commission was unable to travel to the Democratic Republic of the Congo (DRC), and as a result of changing regional alliances, several countries that initially seemed eager to assist its work apparently had a change of heart.

The Commission had some success in tracking the ex-FAR and Interhamwe, although information concerning the whereabouts and numbers of formed units are to be taken as indicative and not authoritative due to the difficulty in obtaining sufficient evidence. The Commission was able to draw the following picture:

1. In Angola, the Commission estimated the presence of 1,500 ex-FAR on the basis of numerous reports that they had been trained with UNITA forces. In addition, the *Mail and Guardian* (South Africa) reported that elements of Hutu extremist militias from Rwanda and Burundi found safe haven in UNITA-held territories in Angola.
2. Formed units of ex-FAR, estimated at approximately 500 individuals, are also believed to operate in Burundi. It is also known that the ex-FAR cooperated with the Burundian Hutu rebels and that they took part in the New Year's eve attack on the Bujumbura airport on 31 December 1996.
3. In the Central African Republic an estimated 2,000 ex-FAR are located in the south of the country.
4. In Congo-Brazzaville, estimates range from 5 to 7,000, although most have since gone south to fight on behalf of Kabila in the DRC.
5. In the DRC before the 19 August 1998 rebellion, there were an estimated 5,000 ex-FAR in the east and 10,000 in the south-east, while *Africa Rights* reported 5,000 in North Kivu, and

## The International Commission of Inquiry (Rwanda)

---

- the International Crisis Group approximately 15,000 Interhamwe troops in the Masisi area.
6. In Rwanda the Commission gave an estimate of 10 to 15,000, principally in the northwest region of the country.
  7. In the Sudan, approximately 5 to 8,000 ex-FAR were reported mainly in the south near and around Juba and closer to the border.
  8. In Tanzania, the Commission estimated 3 to 5,000 ex-FAR and Interhamwe located principally in the environs of refugee camps to the west of the country.
  9. In Uganda, the Commission received conflicting reports, and decided that there were no ex-FAR located in the country itself, but rather that they crossed into it from their base in North Kivu.
  10. Lastly in Zambia, the Commission put the number at approximately 2,000 ex-FAR located in a camp in the west of the country, near Maheva.

With regard to the location of the leadership, it is understood that apart from those who have returned to the north-west of Rwanda, they are located mainly in West Africa, Kenya (principally in Nairobi), and South Africa. In its reports during 1996 the Commission expressed the belief that there was an extensive network of extremist Rwandan Hutus in Nairobi and throughout Kenya and that despite the crackdown in July 1997, it still exists but no longer operates at the same level.

Regarding their activities, it is clear that there are alliances between the ex-FAR and other rebel movements in Angola, Burundi (alliances and relationships with Burundian Hutu rebel groups), Congo-Brazzaville (operating on both sides of the civil war), the DRC (where they work with the Allied Democratic Forces (ADF) operating in North Kivu against Uganda and other rebel groups active in the DRC), and Tanzania (active in the western refugee camps, west towards Burundi and north-west towards Rwanda).

The main concern of the Commission has been to assess whether these are formal alliances or simply marriages of convenience. The Commission found written agreements between

---

the ex-FAR and Interhamwe and Burundian rebel groups and heard of documents linking the former with the ADF (an umbrella organization of Ugandan rebel groups). It is evident that they do share resources and weapons and that a selective embargo would not prevent them from obtaining weapons from non-state actors and other rebel groups.

The Commission had relatively little success in documenting specific arms sales in contravention of the embargo although it was able to discern general trends. It became evident that the region was awash in small arms, with North Kivu routinely being described as an "open arms bazaar"; that many legal arms shipments were illegally acquired or captured by rebel forces; and that some Eastern European countries often played a role in the transfer of surplus weapons, usually through middlemen and brokers operating from South Africa, Zimbabwe, and Europe, and involving western financial institutions. Finally, it was also evident that certain African countries that produce weapons needed to export them due to the small size of their domestic markets.

## **Recommendations of the ICOI**

With regard to recommendations, the Commission suggested that the Security Council reword the current embargo that focuses on prohibiting arms sales that are intended for the ex-FAR and Interhamwe for use "within Rwanda"; as has been documented, these groups are using weapons throughout the region in a number of conflicts. Furthermore the Commission tried to come up with concrete national, regional and international recommendations. At the national level, the Commission was impressed with the efforts undertaken by South Africa which included a significant reduction in the number of international airports, national legislation to promote transparency, the sharing of information, and export licenses. These efforts, despite the lack of noticeable short-term effects, contrast sharply with other countries where the response was to deny the existence of a problem. Overall, the Commission felt that affected countries

should develop indigenous border controls or reinforce their customs and policing activities, and acknowledge the national and regional scope of the problem.

At the regional level, the Commission suggested the utilization of some of the regional organizations to share and collect data, establish confidence-building measures and place observers at other countries' ports and border crossings.

At the international level, the Commission qualified its appreciation of the role of the international community in setting agendas and influencing public opinion with the chronic lack of political will to undertake such activities; subsequently the Commission decided to limit its recommendations due to the fact that none of the recommendations from 1996 were acted upon. Furthermore, not all of the information concerning the activities of the ex-FAR and Interhanwe and the actors involved in the illegal arms trade was documented in the final report due to self-imposed restrictions arising from the nature of the forum.

### **Lessons learned**

Berman drew several lessons and observations from his experience over the last six months: First, despite good access, the Commission was unable to utilize much of the information it received due to the lack of appropriate documentation and the political restrictions inherent in the status and functioning of a UN-mandated body.

Second, Berman believed that the six-month mandate of the Commission was too restrictive; six months was insufficient to establish sources, undertake visits and to digest the information attained. Consequently the Commission did not have time to visit Angola, Bulgaria, the Central African Republic, Congo-Brazzaville, France, or Ukraine; and it was impossible to re-visit countries that were helpful.

Third, the Voluntary Trust Fund proved problematic due to the lag-time between pledges and disbursements; almost two months of the investigation were subsequently lost and the

---

Commission was hampered due to lack of money for equipment and communication supplies. Time was also lost due to tensions and misunderstandings between the UN Office in Nairobi (UNON), and UN Headquarters in New York.

Fourth, despite the Security Council's admonitions for States and UN bodies to cooperate, they rarely did so willingly; administrative and bureaucratic hurdles were suddenly lifted in several countries immediately before or after the departure date of the Commission. This situation was also true for UN bodies, which were less than 'collegial'. Individuals and institutions (NGOs, research institutions, and so forth) within civil society were, however, as a category the most helpful to the Commission. In Berman's view this merits further study for lessons learned that could be applied in the future.

While much is not clear, such as the specific nature of, and players involved in, the arms trade, it is clear that the environment that led to the genocide in 1994 is not much different than that which exists today. Equally troubling is that the international community's attitude and predisposition suggests that its response to another tragedy will also be no different.

### **Questions and Comments**

**Q.: Given the existence of an illicit trafficking in arms and drugs nexus, had the Commission come across any indications or evidence as to whether the ex-FAR or Interhamwe were involved in other forms of illicit trafficking besides arms?**

A.: According to the Commission, the ex-FAR are involved in, and benefit from, the drug trade. It learned that those individuals involved in contraband, such as in the shipment of arms, have a similar network to ship drugs or cigarettes. Berman was not in a position to personally confirm allegations that the ex-FAR in Mombasa were involved in the drug trade, as he was not at the meeting where this was discussed. The members of the Commission, however, clearly believed that the information they received to

this effect was fair and accurate.

**Q.:** Could you elaborate on the switch from legal to illegal trade in weapons that originate in Eastern Europe?

A.: The Commission had good information that a huge surplus of small arms from previous stocks in Eastern Europe are finding their way to Central Africa. The problem is the absence of a "smoking gun" pointing to their acquisition by the ex-FAR; due to the lack of concrete evidence in this regard; the Commission could not prove the involvement or responsibility of individual governments. The Bulgarian firm "Kintex" was routinely mentioned as selling weapons to the Central African region, and Ukrainian and Russian pilots are reportedly involved in shipping these and other cargo, but it was not possible to authenticate this activity nor link the action of governments. The switch from legal to illegal weapons trade is partly due to the fact that some weapons are captured and to the prevalence of corruption, where members of a government or an army sell weapons for personal gain.

**Q.:** Which African countries in particular produce and sell arms?

A.: The Commission knew that there were arms factories in Kenya, Uganda, and Zimbabwe. In Berman's view, reports that Eastern or Western European firms are supplying certain regions usually implies that weapons are concurrently being supplied from the African continent itself. While this is generally held to be the case, the lack of sufficient evidence did not permit the Commission to follow up on individual African suppliers.

**Q.:** Do you have an indication as to when the arms from Eastern Europe were shipped to the region?

A.: Weapons are being shipped continuously, and there are indications that they are being legally purchased by governments, such as Rwanda before the embargo in 1994. This does not mean,

---

though, that weapons in the possession of the ex-FAR were necessarily sold to them. The Commission did uncover weapons captured in Burundi following the December 1996 attack, but the time limit of six months did not permit an investigation of their origins and serial numbers.

**Q.: Given the precarious situation in the Great Lakes region, was it possible to foresee a time-scale for a possible explosion of conflict? Furthermore, given that the region is awash in weapons, what effect would the imposition of an arms import moratorium have? Finally, what practical steps could African states take to prevent a catastrophe in the region, or is such an eventuality unpreventable?**

A.: In Berman's view, a moratorium is not a practical solution; it would have to be enforced on the governments of the region, which feel that their security concerns are valid, given the existence of roughly a dozen non-state actors operating in the Great Lakes region, some of which are forces to contend with. In terms of the gravity of the situation, what is at issue is the dispersal of a group of "génocidaires" within the region after 1996, their present regroupment and the fact that, contrary to conventional wisdom, refugees are actually returning to conflict areas. Where previously the ex-FAR and Interhamwe obtained support from non-state actors or other rebel groups, the government of the DRC (and according to some reports Sudan) is supporting recruitment efforts to integrate them either as mercenaries or regular units. "Hate radio" is also re-emerging. In addition, beyond a mere rebellion, there are now 7 countries that have troops within the DRC, a clear indication that the stakes have risen. In Berman's opinion, these are all reasons to be concerned over the gravity of the situation

With regard to the practical steps to be taken, in Berman's opinion there is a serious problem of political will. A number of steps can be taken at the national, regional and international levels, whether on a short, medium, or long-term basis. UNIDIR and other

institutions have issued solid recommendations and reports, but few governments are willing or able to implement them.

**Q. : Does the speaker share the view that peace in Africa is only possible when the Europeans are able to organize a coherent policy in the region?**

A. : Speaking in a personal capacity, Berman acknowledged that the Commission did meet with the European Union (EU) representative in Addis Ababa, and had hoped to meet with the EU Working Group on Africa which is looking into the issue of creating a unified arms export policy amongst its members. While he was unsure of how successful they have been in creating a unified front, he thinks that this is something that is worthwhile pursuing. The Malian arms moratorium on the other hand is a superb case study that provides important lessons, although its transferability to the situation of Central Africa, where several states are involved in wars either directly or by proxy, is questionable.

**Q. : How can the utility of information received from actors in civil society be formalized as a way to address some of the bigger issues of the conflict in the region? Furthermore, what kind of greater danger are such actors or people put into by the creation of such networks of information sharing?**

A. : There is definitely a need and willingness on the part of civil society to work together. A certain level of distrust does exist, however, over such concerns as proprietary issues. In Berman's opinion there is a tremendous amount of information to be obtained from research institutes, journalists, human rights organizations and humanitarian workers but they need to be sensitized to the fact that their information could make a difference. The UN is well placed to serve as a central player in this regard, and, though its presence is not necessary, its absence could result in "turf battles". Someone, in his view, needs to take the lead.

**Q. : Are the ex-FAR considered as refugees? How do they pay for their weapons?**

A. : Berman affirmed his belief that such groups should be better screened by the UNHCR. Those who have sought refuge in other countries and are now returning to the DRC are a good indication that some of these people receiving international assistance are not who they say they are. Regarding the acquisition of weapons, the Commission knows that in Kenya fund-raising activities continue, although the issue is how much is collected on an individual basis as opposed to by the central organization. The Armée de la Libération de Rwanda (ALIR), which left Rwanda for the DRC, is said by some to receive support from some governments, but the Commission could not prove this.

**Q. : What is the relevance of information networks given that such arrangements were not able to prevent the genocide from taking place?**

A. : Change can be brought about by influencing public opinion; whether or not this will change international or national policies, it does create the possibility of success.