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St. Paul lawyer's next case: Rwandan genocide

By **KATHRYN NELSON**, Star Tribune

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Few dare to dispute the 1994 Rwandan genocide that left 800,000 people dead and hundreds of thousands more injured. But a St. Paul lawyer is one of those few.

Peter Erlinder, a professor at the William Mitchell College of Law, is gaining international notoriety for his view that what happened in Rwanda wasn't genocide at all. And his work defending one of the most infamous genocide suspects in the world has earned him a personal condemnation by the president of Rwanda.

This is far from Erlinder's first controversial case. He has defined much of his career by defending those most shunned by society, from suspected terrorists to sex offenders to convicted murders.

"The fact of the matter is, the quality of any civilization is determined by how they treat those who are most reviled," he said. "If the [justice] system doesn't have integrity then our society doesn't have integrity."

Erlinder, 60, became interested in the United Nations Tribunals after Carla Del Ponte, the U.N.'s chief prosecutor for Rwanda, was removed in 2003 after calling for investigations of Rwanda's president.

He submitted his name as a potential defense lawyer, believing that he would be assigned as a co-counsel. Instead, he was given the case of Aloys Ntabakuze, a former Hutu commander of the Rwandan army charged with a slew of crimes including genocide.

Erlinder says Ntabakuze is "an inspirational, multi-lingual, decent and humane man." The president of Rwanda, Paul Kagame, says Erlinder is a "genocidaire"-- a genocide criminal -- for defending Ntabakuze.

'Many people were killed'

As part of his defense, Erlinder has turned the traditional account of the Rwandan genocide on its head, claiming that the Tutsis were not the primary victims but the instigators and that the massacres were actually part of an ongoing civil war.

And what of the actions of the Hutu government, which is traditionally blamed for the murders of 800,000 Tutsis?

"Certainly many people were killed," Erlinder said. But genocide? "It depends on who you

call the victims."

His conclusions have enraged Tutsi survivors, including Alice Musabende, who now lives in Canada and recently spoke in the Twin Cities.

"I don't care what they say in the U.S. My people didn't commit suicide, they were killed," she said. "They're trying to sell it to Americans because no one understands what really happened."

Musabende was 14 in April 1994. On the eve of the killings she went to visit her aunt and got so engrossed in a television show that she lost track of time and wound up spending the night rather than trekking home in the dark.

In the night, a boom rang out. Someone had shot down the president's plane, killing everyone on board. Immediately, people flooded the streets, machetes in hand.

Within days, extremists had killed about 20 members of her family, including her mother, father, grandparents, sister and two brothers. After 100 days in hiding, she emerged in July 1994 with no family and no home.

Fourteen years later, Musabende does not pretend to have forgiven those who killed her favorite brother -- or those who trivialize her suffering.

"They wanted us to disappear from the surface of the Earth," she said. Those who claim otherwise are trying to steal the significance from the primary victims, she said.

"This genocide is mine. It's mine because it's what I am now. I can't sleep. I can't eat. I can't be a normal 20-year-old girl," Musabende said.

Erlinder argues that intelligence documents describe the deaths of far more Hutus than Tutsis. "Records show that twice as many Hutus were victims as Tutsis," he said. "Hutus are survivors, too."

A movement to reexamine

Erlinder is part of a growing movement to reexamine the genocide.

Despite the backlash against Del Ponte, he said he is determined to make sure that the justice system is fair and that all claims of violence are investigated. So far, allegations of Tutsi-led genocide haven't been, he said.

"It's always been the guy that won the war who can tell the story," he said. "This is the only tribunal in history that was set up to prosecute both sides, but hasn't."

Erlinder, who possesses both good humor and a seemingly infinite knowledge of the Rwandan massacres, draws many of his conclusions from intelligence documents he spent two years working to obtain. One recounts a May massacre of 2,000 to 3,000 Hutus, initiated by the Tutsi rebel army:

"The [Tutsi Rebel Army] comes at 05h00 waiting for villagers to open their doors. The villagers are caught and taken away to the river by trucks. No one has returned. ... Each day there are more and more bodies in the river and most of them without their heads."

To Erlinder, these documents are undeniable proof of the guilt of current Tutsi leaders and the innocence of his client.

His claims found support earlier this year when a Spanish judge issued warrants for 40 members of the current Rwandan government, accusing them of war crimes, terrorism and genocide against innocent Hutu civilians during the early 1990s.

The Rwandan president said the judge could "go to hell."

Wounds haven't healed yet

Tension still runs high in Rwanda, where genocide accomplices and survivors live side by side in tenuous harmony.

Earlier this month during the 14th commemoration of the genocide, a group of unidentified men threw a grenade inside a memorial, killing a police officer. Later, a speeding car drove into a remembrance ceremony, killing one participant.

"I am not sure if this means that something big is about to happen again, but I was shocked that there is someone out there who can't let our people rest in peace," Musabende said.

She said she will continue to speak about Rwanda until she can't anymore.

"I don't wish [genocide] to happen to anyone, not even the people I hate," she said.

"Because our genocide didn't only take the lives of our mothers and fathers, but took our own souls. It took the innocent child in me, took my smile away, broke my dreams. Now, I have to rebuild everything and tell myself, day after day, that I'm worth living. That's not a life, trust me."

Erlinder plans to return to Tanzania in the next few months to await the verdict for his client. The majority of his work with the tribunal, he said, is pro bono.

All documents concerning Ntabakuze's case will be posted on a searchable database in the future so people can reach their own conclusions about the genocide. Erlinder also plans to write a book.

"The evidence is evidence," he said. "One can understand how individuals who have suffered would naturally carry those wounds with them.

"That doesn't mean that they would understand the whole situation."

Kathryn Nelson is a University of Minnesota journalism student on assignment for the

Star Tribune.

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