

112

G3 OPERATIONS/PLANS - DISPOSAL
OF CRIMINALS

10 SEPT 1994 - 24 MAR 1995

PLEASE RETAIN
ORIGINAL ORDER

STRICTLY CONFIDENTIAL
RM WG JUNE 2009

UN ARCHIVES

SERIES S-1002
BOX 131
FILE 6
ACC. 1998/0283



UNAMIR - MINUAR

To: SRSG, FC

Info: DFC
COS
DCOS Ops
DCOS Sp
CO ZAMBATT
CO AUSMED (also for sight of his Legal Officer)
Mil Spokesman
CTO (please action paragraph 4 and return the vehicle previously with ZAMBATT to the MP Coy as soon as possible.)
CO UNAMIR MP Coy
UN HRFOR (one copy each for Mr Essaied and Team Leader, Gikongoro)

From: Force PM

Date: 24 Mar 95

File: FPM/5

Subject: OPERATION HOPE - 9TH REPORT ON THE HANDLING OF DETAINEES BY RWANDAN CIVIL AUTHORITIES

1. I am delighted to be able to report that this morning I represented UNAMIR at the release of 3 x Op HOPE detainees from Gikongoro Prison and that one other detainee has also been released from the same prison this week. All three of the HOPE detainees had been detained for tenuous reasons and might not have been passed to the prison at all had we had the opportunity to properly screen them, but all had subsequently been grouped with others - the majority - accused of participation or complicity in the genocide. The Op HOPE detainees were:

a. Kabayiza, Jean. Kabayiza was originally arrested for possession of a spear; he has been released provisionally because no evidence has been offered against him.

b. Private Mbyayingabo, Prudence. Mbyayingabo was detained only because he was once in the RGF. No evidence has been offered against him and a letter has been written in his defence by the Bourgemestre of Muhira Commune; he has been freed unconditionally.

c. Ndaigijimana, Ananias. Ndaigijimana was arrested only because an RPA soldier alleged that he was a criminal; no evidence has been offered against him and he has been released provisionally.

All three have been given papers certifying their release and letters have been dispatched to their communes asking for them to be accepted.

2. I am also pleased to be able to report that the entry in the UNAMIR SITREP dated 16 Mar 95 that suggested that the

Prosecutor himself had been accused of participation in the genocide is incorrect. Typographic error turned the r around; it should have read that the Prosecutor had accused the Bourgemestre of Mudasomwa of involvement - and that HRFOR were aware of the development. The report might have added that Mudasomwa's is the 6th Bourgemestre to be incarcerated in Gikongoro.

CONDITIONS IN THE PRISON

3. In terms of health and hygiene, conditions in the prison were visibly better than when I last visited. The lack of cleaning on that occasion was, as I was told at the time, a result of an ICRC visit coinciding with my own. The sewerage system also seems to have been sorted out but notwithstanding these improvements - aided by the provision by ICRC of wood for the building of bunk beds, numbers are rising inexorably. Whilst I was there, 15 new arrivals were being processed, taking the population to 633 (after the release of the 3 x Op HOPE detainees).

FURTHER INVESTIGATIONS

4. It was made plain to me that the releases have come about only through the provision of the vehicle on loan to ZAMBATT for the purpose of escorting the prosecutor and his investigators. The vehicle is currently in workshops - and has been so for about a week; I have agreed, therefore, that it should be exchanged with one that would have been allocated to the UNAMIR MP Coy from next week. This will allow the last half dozen or so primary investigations to be completed in Kigali, Kanzenze and Gitarama. Secondary interrogations will also continue and it is possible that more releases will follow in the near future. I understand that the Prosecutor intends asking for continuance of the loan arrangement so that he may investigate other cases given to him by UNAMIR: despite my obvious sympathy with his request, I have made it clear to him that this will have to be discussed further.

NEXT VISIT

5. I intent to visit Gikongoro next on Thu 13 Apr and to report again subsequently. I gather that AUSMED's legal officer and chaplain may visit in the meantime.

FAX 11278

ANNEX E
TO UNAMIR SOPs
PART 6Seen
15/3

MESSAGE FORM		SECURITY CLASSIFICATION	FILE NUMBER
PRECEDENCE-ACTION		PRECEDENCE-INFO	DATE-TIME GROUP 09-1810B-
AGE OF	MESSAGE HANDLING INSTRUCTIONS		ORIGINATORS NUMBER

FROM: SENBATT

NO _____ SENBATT/EC-

TO: UNAMIR HQ.

SUBJECT: HANDING OVER

REF: MY MSG DATED 05 MARCH 95

PHONE DISCUSSION BETWEEN DFC AND SENEGALESE
CONTINGENT. COMMANDER OF TODAY

1. PERSONS WHO CAME TO SENBATT CAMP BASE TO REQUIRE ASSISTANCE, SINCE 05 MARCH HAD BEEN HANDLED OVER TO THE PREFECT OF KIBUYE TODAY AT 16.30 B. ACCORDING TO INSTRUCTIONS OF DFC.
2. PRESENCE OF UNHRC. I.R.C. Kilob Kibuye, Prefect Kibuye.
3. FIND HERE ATTACHED LIST OF PERSONS HANDLED OVER TO THE PREFECT
4. THIS PROCEDURE WILL BE CONDUCTED FOR FUTURE SAME EVENTS.

ME Le Colonel Abdel Mader KIBUYE Commandant le Contingent BATT 001 RWANDA B.		TEL	SPECIAL INSTRUCTIONS
RELEASING OFFICER OFFICE		TEL	
SIGNATURE			SECURITY CLASSIFICATION

PERSONNES REFUGIEES AU CANTONNEMENT
DU SENBATT ET AYANT DEMANDE LA
PROTECTION DE L'AUTORITE MILITAIRE

- 1 MUKAMANA Gilek nê en 1973 à MWENDO
- 2 UZABUHANA A. Marie nê en 1976 à KACYIRU
- 3 UWINEZA Edith nê en 1970 à NABANZA
- 4 NYRAHABIYANBERE Agnê nê (1970) à GITESI
- 5 UWIZEYIMANA Claire nê en 1973 à BWAKIRA
- 6 NYRAHIBIMENE Catherine nê en 1978 à MABALIZA
- 7 MUKAMANA Marie Jeanne nê en 1972 à UHUBIZI
- 8 MUKAMAZIMPAKA nê en 1970 à GITESI
- 9 MUKASHYAKA nê en 1971 à UHUBIZI
- 10 NYMBABARI Jacqueline nê en 1975 à GITESI
- 11 MUKASHYAKA Chantal nê en 1975 à MABANZA
- 12 NYABISEHIMANA Beatrice nê en 1971 à MWENDO
avec ses deux enfants
 - MUKAHIGIRU Gans (environ 1989) à GITARANA
 - MUHEMUNDU nê en 1992 à GITARANA

RENISES A MONSIEUR LE PREFET DE KIBUYE EN
PRESENCE DE MR MASSAMBA FALL SECK REPRESENTANT
LES DROITS DE L'HOMME ET DE MESSIEURS
JURG WENDER ET CHRISTOPHE LOSEY REPRE-
SENTANT LA CROIX ROUGE INTERNATIONALE

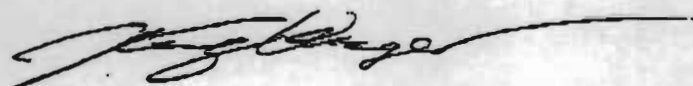
A KIBUYE 6 - 09 Nov 1995

a 16 hours 30.

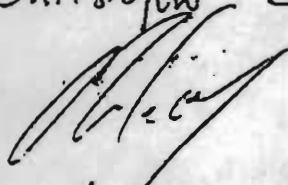
Mr MASIAMBO FALL JECK



Mr JÖRG WENGER



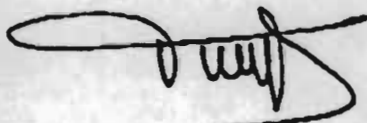
Mr Christoph LOSEY



Mr L U / COLONE Abdel

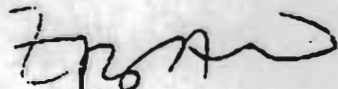
Kader GUEYE, Gmmandant

de Contingent Sénégalais.



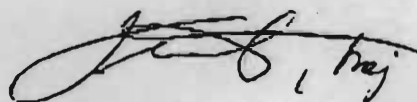
Mr KABEËRA ASSIËL

Préfet de KIBUYE



Maj CHRISTIAN KÄFER

MILOR Sect 4B



FAR - 11278

JOR - 100914

ANNEX E
TO UNAMIR SOPs
PART 6

MESSAGE FORM		SECURITY CLASSIFICATION	FILE NUMBER
PRECEDENCE-ACTION		PRECEDENCE-INFO	DATE-TIME GROUP 10. 09-15-8.
PAGE OF	MESSAGE HANDLING INSTRUCTIONS		ORIGINATORS NUMBER
<p>FROM: JENBATT</p> <p>TO: UNAMIR HQ (OPS)</p> <p>SUBJECT: HANDING OVER</p> <p>1 - PLEASE FIND HERE ATTACHED THE REPORT OF THE INCIDENT CONCERNING PERSONNS WHO CAME TO JENBATT CAMP BASE OF KIBUYE TO REQUIRE ASSISTANCE SINCE 05 MARCH</p> <p>2 - THE HAVE BEEN HANDED OVER TO THE PREFECT OF KIBUYE IN PREJENCE OF REPRESENTATIVES OF UNHRC - RED-CRON AND THE MILOBS OF KIBUYE</p> <p>3 - REGARDS-</p> <div data-bbox="933 1559 1347 1693"><p>Le Colonel Abdel Kader GUYE Commandant le Contingent BAT SEN RWANDA-II</p></div> <div data-bbox="747 1693 1461 1908"></div>			
DRAFTER		SPECIAL INSTRUCTIONS	
NAME	OFFICE	TEL	
RELEASING OFFICER			
NAME	OFFICE	TEL	
SIGNATURE		SECURITY CLASSIFICATION	

ANNEX E
TO UNAMIR SOPs
PART 6

MESSAGE FORM		SECURITY CLASSIFICATION	FILE NUMBER
PRECEDENCE-ACTION		PRECEDENCE-INFO	DATE-TIME GROUP 09-1810B-
PAGE OF	MESSAGE HANDLING INSTRUCTIONS		ORIGINATOR'S NUMBER

FROM: SENBATT

NO _____ SENBATT/C.C.


TO: UNAMIR HQ

SUBJECT: HANDING OVER

REF: NY NLS DATED 05 MARCH 95

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CONTINGENT. COMMANDER OF TODAY

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2. PRESENCE OF UNHRC. I.R.C. Yilob KIBUYE, PREFECT KIBUYE.
3. FIND HERE ATTACHED LIST OF PERSONS HANDED OVER TO THE PREFECT
4. THIS PROCEDURE WILL BE CONDUCTED FOR FUTURE SAME EVENTS.

NAME	Le Colonel Abdel Kader GUYE Commandant le Contingent BAT BEN RWANDA II	TEL	SPECIAL INSTRUCTIONS
NAME	RELEASING OFFICER	TEL	
SIGNATURE			SECURITY CLASSIFICATION

PERSONNES REFUGIEES AU CANTONNEMENT
JU SENBATT ET AYANT DEMANDE LA
PROTECTION DE L'AUTORITE MILITAIRE

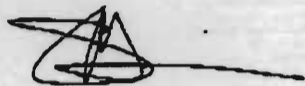
- 1 MUKAMANA Clele née en 1973 à MWENDO
 - 2 UZABUHANA A. Darie née en 1976 à KACYIRU
 - 3 UWINEZA Edith née en 1970 à NABANZA
 - 4 NYRAHABIYANBERE Agnès née (1970) à GITESI
 - 5 UWIZEYIMANA Claire née en 1973 à BWAKIRA
 - 6 NYRAHIBIMENE Catherine née en 1978 à MABANZA
 - 7 MUKAMANA Rose Jeanne née en 1972 à UNUBIZI
 - 8 MUKAMAZIMPAKA née en 1970 à GITESI
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PRESENCE DE MR MASSAMBA FALL SECK REPRESENTANT
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JURG WENDER ET CHRISTOPHE LOSEY REPRE-
SENTANT LA CROIX ROUGE INTERNATIONALE

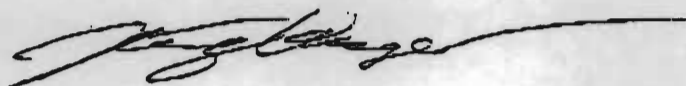
A KIBUYE le 09 Nov, 1995

à 16 heures 30.

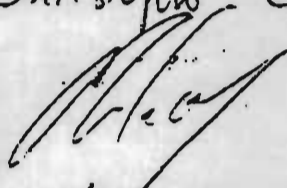
Mr MASIAMBO FALL SECK



Mr JORG WENGER

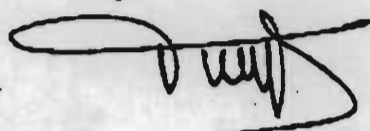


Mr CHRISTOPHE LOSEY



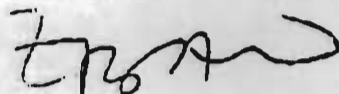
Mr L LE COLONE Abdel

Kader GUEYE, Commandant
du Contingent Sénégalais.



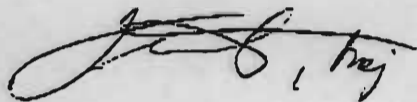
Mr KABEERA ASSIEL

Préfet de KIBUYE



Maj CHRISTIAN KÄFER

MILOR Sect 4 B





To: SRSG, FC

Info: DFC, COS, ~~DCOS Ops~~ 9.3, DCOS Sp, CO ZAMBATT, CO AUSMED
UN HRFOR (one copy each for Mr Essaied and Team
Leader, Gikongoro)

From: Force PM/SO2 G1 Discipline

Date: 8 Mar 95

File: FPM/5

Subject: OPERATION HOPE - 8TH REPORT ON THE HANDLING OF
DETAINEES BY RWANDAN CIVIL AUTHORITIES

1. I spent 5 hours with the Public Prosecutor in Gikongoro yesterday in the company of the AUSMED Legal Officer (Maj McConachy) and an interpreter to check on the situation of the 43 x Op HOPE detainees who remain in custody.

REMAND ARRANGEMENTS

2. The first part of our visit was taken up with a number of Op HOPE detainees being questioned about the Prosecutor's request for their custody to be prolonged beyond a 30-day limit (the 3rd since their detention). This process involved a local magistrate (a representative of the President of the Tribunal of the First Instance is the best translation that I can offer for his actual appointment) putting the request to each accused and for the latter to offer a response. Each was asked to sign or, if illiterate, to thumb-print the paper although some declined to make this acknowledgement. We were told that the Tribunal President would be asked to sign a warrant authorizing the continuance of detention and that the accused would be notified of this authorization within 3 days. This process seems to be a time-consuming formality in the case of genocide suspects, but it does at least produce a paper trail that might be audited should the need arise.

INVESTIGATIONS

3. Investigations in the communes continue although further delays have occurred as a result of the breakdown and subsequent repair of the vehicle on loan to ZAMBATT. Their continuing vehicle problems aside, the investigators seem to lack any sense of urgency; although this is not entirely surprising, it is disappointing. It was explained to me later by Miss White (of HRFOR), however, that it is my visits that spur action. Certainly, the Prosecutor admitted that no investigations would be taking place at all but for the availability of the vehicle on loan to ZAMBATT.

4. Investigations have been completed in Kigembe Commune and will commence today in Muyira but no-one has yet been released: the Prosecutor conducted the first of his second level interrogations in our presence and, in addition, allowed us to

attend the primary interrogation of another genocide suspect not connected with Op HOPE. The interrogations were painstaking in their detail, showing thorough preparation on the part of the Prosecutor with him using and taking detailed notes throughout the process. The 2 suspects were allowed to answer questions freely and were treated with civility - although given no opportunity of legal advice and made to stand throughout.

5. In essence, the 2 exchanges consisted of the Prosecutor:

- a. Asking the accused firstly whether or not he knew a person by name.
- b. Whether or not he had anything against that person.
- c. Putting to the accused the evidence that had been collected from the person.
- d. The accused being asked to respond to the allegation - generally offering a denial.
- e. The Prosecutor asking the accused to explain the contradictory testimony... usually being given "I don't know, he must be lying" in response but, in some cases, making an allegation of the witness' or another person's complicity in the genocide.

6. We noted that there seemed to be much hearsay in both the allegations and the denials/counter-allegations but the Prosecutor explained to us that his process would require corroboration of all evidence that is not obtained from first-hand sources. Generally, the evidence against both persons we saw interrogated was said to have been given by several witnesses. It was also explained that the legal process for the trial of genocide suspects has not yet been determined so that, when his investigations are completed and he has decided that some (most?) have a case to answer, no trial will be possible until certain political decisions have been reached.

7. Later in the day, the Prosecutor returned to Kigali for 3 days - ostensibly for business purposes but it should be noted that he has previously spent protracted periods at his home in the capital and that his wife has recently given birth there.

CONDITIONS IN GIKONGORO PRISON

8. The prison population is now 476 - up from 397 when I visited on 23 Feb and up about 400 since I first went there in December. None of the new inmates have been transferred from other prisons and all (including 5 women, 2 of whom are feeding infants of 6 months or less) are said to be the product of new arrests. Conditions are becoming very cramped and not unlike the crowding of Kigali Prison; inmates are not all able to sleep under cover. Gikongoro is a rectangular fortress-like building about 30 metres square with a maximum capacity of between 400 and 500 by ICRC standards (using a 2 square metre per person rule of thumb). Notwithstanding these conditions, an ICRC representative certified the prison director's claim that he has not had a single inmate die since the latter took responsibility in November. ICRC was delivering wood for the construction of 400 bunk beds which should do much to relieve crowding in the short-

term.

9. The rising population is giving rise to 2 concerns:

a. Sanitary arrangements.

(1) Drains. The latrines seem to be reaching their capacity and threaten to cause health and hygiene problems. An ICRC engineer will visit the site shortly to assess the problem - which may lead to a request for UNAMIR to dispatch a tanker to drain the latrine tank. (According to the ICRC representative, UNAMIR has the only suitable vehicle in Rwanda.)

(2) Electricity. There is no electricity in most of the prison with the result that hygiene is badly affected by those who try to visit the small latrine area in the dark and whose night-sight is poor. The rising number of these people means that lighting is becoming essential. Although the ICRC representative is initiating an attempt at this work, he is not allowed to provide electricity projects that can be diverted to improve security and it might not be forthcoming. In this event, it is possible that a request for assistance might be made to HQ UNAMIR.

b. Kitchen Area. The kitchen is a dark corner of the building and lacks a chimney - causing a health hazard to the increasing numbers being pressed towards this area. ICRC has been asked to assist in improvements but a request might come to UNAMIR for help with the lighting for the same reason as for that of the latrines.

Although the prison was not as clean as when I have visited on other occasions recently, it was explained to me that this was because an ICRC visit was taking place and that inmates had stopped work to take part in a documentation and letter-writing exercise.

NEXT VISIT

10. I intent to visit Gikongoro next on Thu 23 Mar and to report again subsequently.


FROM: SECTOR 3 OPS
TO: UNAMIR HQ/G3OPS
INFO: MALICOY
FORCE PROVOST MARSHAL
DATE: 4 FEB 95
SUBJECT: HANDING OVER OF DETAINEES

AT
07/2

1. Ref your 3000.34 (Ops) dated 2 Feb 95.

2. While the need to follow the procedures laid out in the FC's Directive on Handling of Detainees is appreciated, and has in fact been followed in every other incident of this type in this Sector so far, the incident referred to in the ref seems to fall into a category not covered in the Directive. The individual in question had been in detention at the communal holding facility and had been charged earlier according to the Rwandese current practice. He fled to us with the RPA in hot pursuit directly from the holding facility. Because of the circumstances, he was considered not as a detainee but rather as an escaping fugitive. He was considered to be the responsibility of the Rwandese authorities since he had clearly been in their charge immediately prior to the incident. To have held on to him would have laid us open to the accusation that we had been sheltering a duly charged escaped prisoner. Given the attitude of the present Bourgemestre of Ntongwe, this was felt to be neither wise nor just.

3. The point made in your letter is, however, taken. The information requested will be gathered soonest and forwarded and the Directive will be followed more carefully in future.


S.A. HASNAIN
LT COL
SECT CDR

San
4/2

Thint
06/2


FROM: SECTOR 3 OPS

TO: UNAMIR HQ/G3OPS

DATE: 5 FEB 95

SUBJECT: HANDING OVER OFDETAINEES

1. Ref our letter of 4 Feb in response to your 3000.34 (ops) 2 Feb 95.
2. Individual who was returned to custody is M. KAMYEMERA, DAMIEN of cellule KAVOMO, sector KAREBA, commune NTONGWE.
3. He had been arrested 29 Jan on charges of genocide. The arrest had been effected by the conseil and four witnesses. The individual admitted to having escaped custody and to having been charged. There appeared to be no conceivable grounds for holding him any longer.


P.C. Lancaster
Maj
OPSO


07/2

Seen

6/2


6/2


FROM: SECTOR 3 OPS

TO: UNAMIR HQ/G3OPS

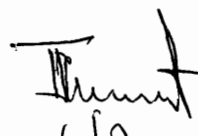
DATE: 5 FEB 95

SUBJECT: HANDING OVER OF DETAINEES

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3. He had been arrested 29 Jan on charges of genocide. The arrest had been effected by the conseil and four witnesses. The individual admitted to having escaped custody and to having been charged. There appeared to be no conceivable grounds for holding him any longer.

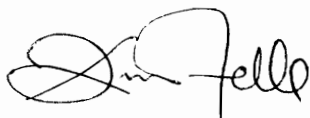

P.C. Lancaster
Maj
OPSO



07/2


6/2


6/2

FROM: G3 OPS



3000.34 (Ops) 

TO: SECTOR 3

INFO: MALICOY

FORCE PROVOST MARSHAL

DATE: 2 FEB 95.

SUBJECT: HANDING OVER OF DETAINEES

1. Ref Para 4 (c) of your sitrep dated 01 Feb 95.
2. It is for your information that any person who has been detained by you for having committed an offence, or has sought protection has to be handed to the Local Prosecutor only and not to the Gendarmerie or the RPA. The handing over of the local who had sought protection from MALICOY, to the RPA is in direct contravention to FC's Directive on Handling of Detainees.
3. You are therefore requested to forward a detailed report on the incident including the following:
 - A. Name of the individual.
 - B. Charge against the individual.
 - C. Whether Human Rights and the ICRC were present when the individual was being handed over to the RPA.
4. Your report should reach this HQ by 05 Feb 95.
5. Acknowledge.

UNAMIR GH2
GHANBATT HQ
GIKONGORO

24 January, 1995

HANDING OVER OF CRIMINALS/SUSPECTS
TO THE OFFICE OF PROSECUTOR (GIKONGORO)

1. Nzamurambaho Dismas who committed crime or suspected to have committed crime in Ghanbatt AO - Sector 4A (S) has been handed over to the above mentioned office as directed.

2. Attached is a statement of the crime committed.

3. The handing over was witnessed by the following pers at Gikongoro Prefecture.

a. *A. ...*
(PROSECUTOR OF
GIKONGORO)

SIGNATURE

DATE

b. *A. v. Lookera Campere*
(HCHR REP)

SIGNATURE

DATE

c. *LT. S.K. GAMBLI*
(GHANBATT REP)

SIGNATURE

DATE

d. *... GIKONGORO*
(GOVT REP)

SIGNATURE

DATE

e. *... OLLARE*
(MILOBS REP)

SIGNATURE

DATE

Thunt
8020PS
28/1

Seen
27/1

AA
29/1

DETAILS ON SUSPECT

SRL	NAME	OFFENCE
1.	NZAMURAMBAHO DISMAS	<p>On 24 Jan 95 mentioned suspect was arrested in Bugarama GR 4329 in respect of the following:</p> <p>a. For having killed his mother Nubuhoro Patricia - age 60 yrs on 231300B Jan 95 at Bugarama.</p> <p>Implements used - Hoe and Matchet</p> <p>b. Identified as a criminal by other locals in Bugarama.</p>

TO : FORCW PM ←
 G1 PERS ←
 G2 AND G3 OPS ←
 INFO : BN HQ KIBUNGO
 FROM : GHANBATT HQ/GIKONGORO GH2/014/G(OPS)
 DATE : 26 JAN 95
 SUBJECT: HANDING OVER OF RWANDANS TO CIVIL
AUTHORITIES BY MEMBERS OF UNAMIR


Reference:


A. FC Directives for the Handling of Detainees.

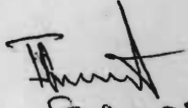
1. In accordance with ref 'A' para 4 (g) one suspected criminal found in Ghanbatt AOR Sector 4A South was handed over to the Prosecutor's office at Gikongoro on 24 Jan 95.

2. Attached please find details of suspect/criminal handed over in the presence of representatives of HR, MULOBS and MCRC.

COPIES TO
 G1, G2 and
 G3 OPS


 SK GAMALI
 Lt.
 for Commanding Officer

Seen

 27/1


 802 OPS
 28/1


 29/1


TO : FORCE PM ←
 G1 PERG ←
 G2 AND G3 OPS ←
 INFO : BN HQ KIBUNGO
 FROM : GHANBATT HQ/GIKONGORO GH2/014/G(OPS)
 DATE : 26 JAN 95
 SUBJECT: HANDING OVER OF RWANDANS TO CIVIL
AUTHORITIES BY MEMBERS OF UNAMIR

Reference:

A. FO Directives for the Handling of Detainees.

1. In accordance with ref 'A' para 4 (g) one suspected criminal found in Ghanbatt AOR Sector 4A South was handed over to the Prosecutor's office at Gikongoro on 24 Jan 95.
2. Attached please find details of suspect/criminal handed over in the presence of representatives of HR, MILOBS and ICRC.

CAPT to
 G1, G2 and
 G3 OPS


 SK GAMELI
 Lt.
 for Commanding Officer

29/1

802025

27/1

UNITED NATIONS

ASSISTANCE MISSION IN RWANDA



NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

To: CO ZAMBATT (with attachment)

From: Force PM

Info, with attachment:

COS, DCOS QNS, DCOS Sp

CTO (thank you for agreeing the loan of a vehicle to ZAMBATT, as discussed on 23 Jan 95.)

and without attachment:

UN HRFOR Kigali, UN HRFOR Gikongoro team

Date: 24 Jan 95

File: FPM/5

Subject: OPERATION HOPE - FOLLOW UP ACTION IN THE HANDLING OF
DETAINEES BY THE RWANDAN CIVIL AUTHORITIES

1. I understand that the request I made on 31 Dec 94 for transport and escorts to be provided to assist the Public Prosecutor in Gikongoro to investigate the cases against the Op HOPE detainees (now 43 in number) was passed to you for action. I have been made aware through HRFOR officers that this has caused some difficulty - although I am also cognizant of your remarks about limited resources made at the Sector Commanders' conference at HQ UNAMIR on Fri 20 Jan.

2. Should it help, I have negotiated the temporary loan of a vehicle from the CTO's pool; it should be available to you until about 20 Mar, the date by which all visits should be complete according to the HRFOR programme of visits passed to Captain Musapelo in Gikongoro (of which I attach a copy for UNAMIR addressees). Although it may require some revision as experience of the prosecutor's visits develops, this programme should act as a guide to what is required.

3. Please let me know as soon as possible if you continue to foresee difficulties with this task because any slippage will prolong the incarceration of people who have not been charged with any offence and for whom UNAMIR owes considerable responsibility. We should neither condone any unnecessary delay nor, however unwittingly, contribute to it.

4. Many thanks in advance.

M. Cuthbert-Brown

M CUTHBERT-BROWN
Maj
Force PM

To: Cpt. Owen Musapelo
Zambatt, Sector 4A

From: Stacey White
HRFO Gikongoro

CC: Maj M Cuthbert-Brown - Force PM, M. HAVIGIYAREMYE Aloys - M. le Substitut
de Procureur Gikongoro, Jean-Marc LaFrenière- Team Leader 4A, Chief Bill Clarence -
HRFO HQ Kigali

Date: 17 January 1994

Re: Operation Hope - Follow-up investigations for 44 detainees held at Gikongoro prison
Preliminary UNAMIR transport schedule for the substitut de procureur

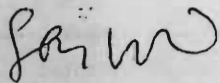
<u>Date</u>	<u>Commune</u>	<u>Prefecture</u>	<u>Number of Cases</u>
23 January	Nyakizu	Butare	19
25 January	"	"	"
27 January	"	"	"
30 January	"	"	"
1 February	"	"	"
3 February	"	"	"
6 February	Kigembe	Butare	10
8 February	"	"	"
9 February	(tentative visit of Maj M Cuthbert-Brown)		"
10 February	"	"	"
13 February	"	"	"
15 February	"	"	"
17 February	"	"	"
20 February	Muyira	Butare	2
22 February	Mbazi, Huye	Butare	2
24 February	Gishamvu, Runyinya	Butare	2
27 February	Mugusa	Butare	2
1 March	"	"	"
2 March	(tentative visit of Maj Cuthbert-Brown)		"
3 March	Shanda	Butare	"
6 March	Mubuga	Gikongoro	4
8 March	"	"	"
10 March	Rwamiko	Gikongoro	1

<u>Date</u>	<u>Commune</u>	<u>Prefecture</u>	<u>Number of Cases</u>
13 March	Ntongwe	Gitarama	1
15 March	any necessary follow -up		
16 March	(tentative visit of Maj Cuthbert Brown)		
17 March	any necessary follow-up		
Total:			<u>44</u>

The program will regularly start at 07:30 and end at 18:00 hours. The substitut de procurer will be accompanied by two Zambatt escorts.

Please contact me immediately if you have any questions regarding the scheduled program. Thank you for your cooperation in this matter.

Yours truly,



Stacey WHITE
HRFO Gikongoro

TO : FORCE PM
G1 PERS
G2 AND G3 OPS

INFO : BN HQ KIBUNGO

FROM : GHANBATT HQ/GIKONGORO GH2/014/G(OPS)
DATE : 23 JAN 95
SUBJECT: HANDING OVER OF RWANDANS TO CIVIL
AUTHORITIES BY MEMBERS OF UNAMIR

Reference:

A. FC Directive for the Handling of Detainees.

1. In accordance with ref 'A' para 4 (g) three suspected criminals found in Ghanbatt AOR Sector 4A South were handed over to the Prosecutor's office at Gikongoro on 19 Jan 95.

2. Attached please find details of suspects/criminals handed over in the presence of representatives of HR, MILOB and ICRC.


SK FAMELI

Lt

for Commanding Officer

Thunt
820PS
24/1

UN RESTRICTED

UNAMIR GH2
GHANBATT HQ
GIKONGORO

19 JANUARY, 1995

HANDING OVER OF CRIMINALS/SUSPECTS
TO THE OFFICE OF PROSECUTOR (GIKONGORO)

1. The under-mentioned pers who committed crime or suspected to have committed crimes in Ghanbatt AO - Sector 4A (s) are handed over to the above mentioned office as directed.

- a. MUNYENSANGA EMMANUEL
- b. KARAKE THADDEE
- c. MBONEYE ISAI

2. Attached is a statement of the crime committed.

3. The handing over was witnessed by the following pers at Gikongoro Prefecture.

- a. HAVUGIARETTE
(PROSECUTOR OF
GIKONGORO)



19/01/95
DATE

- b. E. W. TANGE
(HCA REP)

... E. Tange ...
SIGNATURE

13/1/95
DATE

- c. L.T. S.K. GAMBALI
(GHANBATT REP)



19 JAN 95
DATE

- d. ...
(GOVT REP)

23/1/95
DATE

- e. ...
(MILOBS REP)

...
SIGNATURE

19-Jan-95
DATE

UN RESTRICTED

DETAILS ON SUSPECTS

SRI.	NAME	OFFENCE
1.	MUNYENSANG EMMANUEL	They on the 7 and 10 Jan 95 were arrested in Nyarushishi GR 503043 in respect of the following offence: a. Suspects were among a group of (Hutu) bandits who attacked a house at Nyarushishi in which two locals namely Nukundiysoni Gratia and Myiranayira Godiliva were killed. Investigation revealed that casualties were suspected of harbouring some Tutsis during the war.
2.	KARAKE THADDEE	
3.	MBONEYE ISAI	

UN RESTRICTED

MESSAGE FORM FORMULE DE MESSAGE				SECURITY CLASSIFICATION — COTE DE SECURITE				FILE — DOSSIER		
PAGE	DATE — TIME GROUP GROUPE DATE — HEURE			PRECEDENCE PRIORITE		CLASS	SPECAT CAT SPEC	LMF L DIFF	CAI/CIC IAC/ICC	ORIGINATOR'S NUMBER NUMERO DE L'EXPEDITEUR
	DATE — TIME DATE — HEURE	MONTH MOIS	YEAR ANNEE	ACTION	INFO					
OF DE	MESSAGE HANDLING INSTRUCTIONS — INSTRUCTIONS D'ACHEMINEMENT DU MESSAGE									
BOOK DOSSIER										

FM: CHANBAT

TO: UNAMIR (OPS)

INFO: BN HQ (MAIN)

Restricted

A/B6

HANDING OVER OF FRGF PRISONER
REGARDS TO YR MSG REF 3000.12
(OPS) STATED 12 JAN 95 (.) FRGF
SLDR WAS HANDED OVER TO MR
SAIDU GUINDO HUMAN RIGHTS
ON 12 JAN 95, AT 0900HRS IN
KIGALI NEAR USA EMBASSY.

CC
Pse forward to
PM
16/1

Thunt
802 OPS
16/1

DISTRIBUTION — DIFFUSION			SPECIAL INSTRUCTIONS — DIRECTIVES SPECIALES		
DRAFTER — REDACTEUR					
NAME — NOM	OFFICE — BUREAU	TEL — TEL			
RELEASING OFFICER — L'OFFICIER APPROBATEUR					
NAME — NOM	OFFICE — BUREAU	TEL — TEL			
SIGNATURE			SECURITY CLASSIFICATION — COTE DE SECURITE		

From: UNAMIR HQ OPS

[Signature]

File No: 3000.34(Ops)

To: SECTOR 2 (GHANBATT)

Date: 13 JAN 95

Subject: UNAMIR AND RPA TROOPS DEPLOYMENT

1. Reference your Daily Sitrep of 12 Jan 95. It was reported that an FRGF soldier who sought protection at GHANBATT location in Sector 2 has been handed over to the Military Police at UNHCR way station in Kigali.

2. Be informed that the Military Police claim they have no knowledge of the whereabouts of the FRGF soldier.

3. You are therefore requested to indicate the present location of the soldier.

4. Treat as urgent.



To: CO GHANBATT
From: Force PM
Info: COS, ~~DCOS Ops~~, DCOS Sp
Date: 4 Jan 95

Subject: THE HANDING OVER OF RWANDANS TO
THE CIVIL AUTHORITIES BY MEMBER OF UNAMIR

1. Your daily SITREPs have reported on a few recent occasions that suspects have been handed to Rwandan civil authorities. In particular, there were entries:

- a. On 20 Dec 94 - relating to the handing over of 3 people to the public prosecutor in Gikongoro.
- b. On 26 Dec 94 - about 2 persons who had sought protection and who were escorted to a bourgemestre's office.
- c. On 27 Dec 94 - about a bandit being arrested and handed to the public prosecutor in Gikongoro.
- d. On 28 Dec 94 - relating to 2 x suspects being handed to the prosecutor in Gikongoro.

There may have been other incidents of which I am not aware.

2. May I draw to your attention the Force Commander's Directive on the Legal Jurisdiction Applicable to UNAMIR and Rwandan Authorities (2000-1 dated 3 November 1994)? Amongst other things, it requires you to submit a report to HQ UNAMIR for the attention of G1 Pers, G2, G3 Ops and the Force Provost Marshal whenever such a handover takes place. This documentation is important; perhaps you would be good enough to ensure that it is submitted in future - and in retrospect for all recent cases?

M CUTHBERT-BROWN

Maj

Force PM/SO2 G1 Discipline

Scm
S/1



To: SRSG, FC
From: Force PM/SO2 G1 Discipline
Info: ED, DFC, COS, DCOS Ops, CMPO
Date: 31 Dec 94
File: FPM/5

Seen

2/1

101

Subject: OPERATION HOPE - 4TH REPORT ON THE HANDLING OF
DETAINEES BY RWANDAN CIVIL AUTHORITIES

1. On Fri 30 Dec, in the company of an HRFOR field officer and an interpreter, I visited Mr Aloys Havugiyaremye, the Public Prosecutor in his office in Gikongoro and discussed the 44 people taken into detention by UNAMIR during Op HOPE. They are all still held in Gikongoro Prison. I was told that:

a. Mr Havugiyaremye will visit Kigali between 31 Dec and Wed 4 or Thu 5 Jan and return to Gikongoro thereafter.

b. With the help of UNAMIR (which I have previously arranged through G3 Ops), he will start a programme of visits to the communes from which the 44 came in order to establish whether or not a case can be made against them. These visits will start on Mon 9 Jan.

There are 2 aspects to the support needed by Mr Havugiyaremye in his visits; transport - of which he has none of his own - and security. Whilst obviously willing to do what has to be done, it was clear that he feels in need of an escort.

2. With 2 of the detainees having had 2 homes recently, he has 46 visits to make:

a. Communes in Kigali: Nyarunge and Kanzenze (to discuss 1 case in each).

b. Communes in Gikongoro: Mubuago (to discuss 4 cases) and Rwaniko (1 case).

c. Communes in Butare: Mbazi (1 case), Mugusa (2 cases), Shyanda (1 case), Nyakizu (19 cases), Muyira (2 cases), Huye (1 case), Runyinya (1 case), Gishamvu (1 case) and Kiyembe (10 cases).

d. In Gitarama: Ntongwe commune (1 case).

2. Conditions in the Prison. I did not enter the prison on this occasion because the HR FOR officer and ICRC had made visits that morning but, from discussion with both of them, I learnt that:

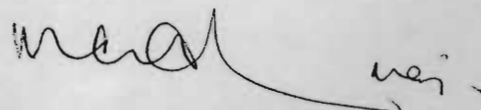
a. During the day, the 44 are allowed to mix freely with other prisoners - as they were during my visit on 23 Dec.

b. There are now 143 prisoners in the prison. ICRC assesses its maximum capacity - after improvements - at about 500 (on the basis that 2 square metres per prisoner is the minimum below which acute overcrowding will lead to high mortality). ICRC is assisting the governor in improving the prison's drains, kitchens and beds - but expects the population of Gikongoro prison to rise significantly in the easing of the extreme overcrowding of Butare prison. Additional assistance will be provided by ICRC and/or UN HRFOR for the repair of electrical circuits, lighting and windows.

c. There are 30 malaria and 5 dysentery sufferers in the prison; ICRC is providing medication and advice on treatment.

d. The provision of transport for the public prosecutor is of critical importance in minimizing overcrowding in Rwandan jails. Without it, prosecutors are unable to determine whether or not a case exists against accused inmates and - with them being cautious about releasing suspects - the prison population can be expected to rise inexorably. I understand that plans are being made by UN HRFOR to provide cars for prosecutors.

3. Next Visit. I intend to keep in touch with the public prosecutor and to continue my close liaison with HRFOR field officers in Gikongoro. Through the latter, I will arrange another visit during the week of 9 Jan, subject to the delay that a visit might cause to the public prosecutor's investigations. I will attempt to visit the detainees when I am next in Gikongoro.



M CUTHBERT-BROWN
Maj
Force PM/SO2 G1 Disc

TO: MILOB GP HQ KIGALI//CMO//
UNAMIR HQ KIGALI//CIV POL COMMISSIONER//

FROM: SECTOR 2 KIBUNGO (1)

DATE: 15 DEC 94

SUBJECT: HANDING OVER OF UNCHR WITNESS AND ALLEGED CRIMINAL

REFERENCES: A. SECTOR 2 2000/OPS 14 DEC 94 (ATTACHED)
B. SECTOR 2 2000/OPS 13 DEC 94 (ATTACHED)

1. AFTER REPORTED INCIDENT IN KIGARAMA AND THE DEMAND OF RPA TO HAND OVER AN UNCHR WITNESS, CURRENTLY UNDER UNAMIR PROTECTION, FOR ALLEGED WAR CRIMES AND HAVING SHOT AN RPA SOLDIER, SECTOR 2 REQUESTED A DECISION FROM UNAMIR HQ IN ACCORDANCE WITH THE FORCE COMMANDERS DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES.

2. ON 14 DEC 94, THE COMMISSIONER OF UN CIV POL INSTRUCTED SECTOR 2 BY RADIO TO TRANSFER THIS PERSON TO THE COMMISSIONER'S OFFICE NO LATER THAN 1000 HOURS 15 DEC 94.

3. ARRANGEMENTS WERE MADE TO TRANSFER THIS PERSON FROM KIBUNGO TO KIGALI UNDER THE SUPERVISION OF A MILOB TEAM AND 1 SECTION FROM GHANBATT AS ESCORT AT 0800 HOURS 15 DEC 94.

4. RPA COMMANDER WAS INFORMED ABOUT THIS INTENTION AND REQUESTED TO ASSURE A SAFE TRANSFER. A COPY OF THE LETTER TO THE RPA COMMANDER IS ATTACHED.

5. BEFORE DEPARTING TO KIGALI ON 15 DEC 94, THE PREFECT FOR KIBUNGO REFUSED TO GIVE PERMISSION FOR THIS TRANSFER AND INSISTED ON KEEPING THIS PERSON IN KIBUNGO FOR FURTHER PROSECUTION. GIVEN THAT THERE WAS NO RPA ESCORT PROVIDED, THAT THE NUMBER OF CHECKPOINTS BETWEEN HERE AND KIGALI HAS INCREASED AND THAT CHECKPOINTS HAVE SPECIFICALLY ASKED ABOUT THIS INDIVIDUAL, IT WAS DECIDED NOT TO FORCE THE TRANSFER.

6. OPS OFFICER FOR SECTOR 2 CONTACTED THE PREFECT FOR KIBUNGO AND DISCUSSED THE MATTER AS FOLLOWS:

A. OPS OFFICER SECTOR 2:

- (1) INFORMED THE PREFECT ABOUT THE PROCEDURES FOR THE HANDING OVER OF PERSONS TO THE LOCAL AUTHORITIES AS PER THE FORCE COMMANDER'S DIRECTIVE;
- (2) EXPLAINED THAT THIS TRANSFER HAS TO BE CARRIED OUT IN ACCORDANCE WITH THE ORDER GIVEN BY UNAMIR HQ; AND
- (3) REQUESTED AN OFFICIAL STATEMENT OF CHARGES AGAINST THE INDIVIDUAL FROM THE PROSECUTOR.

B. PREFECT FOR KIBUNGO:

- (1) INSISTED ON HIS AUTHORITY IN THIS PREFECTURE AND DEMANDED AN OFFICIAL LETTER FROM THE MINISTRY OF THE INTERIOR DIRECTING A TRANSFER TO KIGALI;

③ NTF
Indiv transported
to KIA via heli on
HRFO req for handover
to Kig prosecutor.
Dec ops
16.12

② NTF/PA

Msg passed to Sect Comd 2B and Ops Milob that
pers is to be handed over in Kibungo to the
Prosecutors office. Dec ops 15.12

Seen
HA 16.12

(2) INSISTS TO PURSUE THIS CASE IN A TRIAL HELD IN KIBUNGO AND DEMANDED THE HAND OVER TO THE PROSECUTOR IN KIBUNGO WITH ALL REQUIRED SUPERVISION BY UN AND INTERNATIONAL ORGANIZATION (ICRC);

(3) IS CONCERNED THAT THIS PROCEDURE CREATES A BAD RELATION BETWEEN THE LOCAL AUTHORITY, THE POPULATION AND UNAMIR. ACCORDING TO INFORMATION WHICH WAS GIVEN TO US BY THE RPA COMMANDER, THIS PERSON IS CONSIDERED A CRIMINAL; SEE REFERENCE B. IT THUS APPEARS THAT UNAMIR IS PROTECTING A WAR CRIMINAL;

(4) PROMISED TO SUBMIT AN OFFICIAL STATEMENT OF CHARGES FROM THE PROSECUTOR IN KIBUNGO TO UNAMIR; AND

(5) WILL NOT ALLOW A TRANSFER OF THIS INDIVIDUAL TO KIGALI.

7. THIS MOST RECENT INCIDENT HAS CREATED A SITUATION WHERE NO LOCAL RESOLUTION IS POSSIBLE AND WHERE A CONFRONTATION SITUATION MAY ARISE BETWEEN THE RPA AND UNAMIR SECURITY FORCES OVER CUSTODY OF THE INDIVIDUAL.

8. SUGGEST THAT THE RWANDAN AUTHORITIES RESPONSIBLE FOR RECOMMENDING THE TRANSFER TO KIGALI BE BROUGHT TO KIBUNGO TO RESOLVE THE MATTER AND FURTHER THAT IF THE TRANSFER TAKES PLACE, THAT THE RWANDAN GOVERNMENT CONDUCT THE ACTUAL TRANSPORT UNDER THE SUPERVISION OF UNAMIR.

F. UNGER
MAJOR
FOR COMMANDER, SECTOR 2 KIBUNGO

File: 2000/OPS

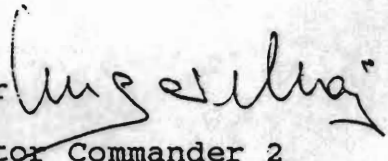
14 December 1994

Maj John Gashaija
Commander
RPA Force Kibungo

HANDING OVER OF ALLEGED CRIMINAL

1. After informing us of the allegations raised by yourself regarding Mr MAJAMBERE, UNAMIR HQ was informed in accordance with agreed procedures and a decision on Mr MAJAMBERE's disposition was requested.
2. After consultation with the Ministry of Interior and your Office of Prosecutor, it has been decided by the Rwandan authorities that Mr MAJAMBERE will be handed over to them in Kigali. Consequently, we have been directed to take Mr MAJAMBERE to the Commissioner of Civilian Police in Kigali.
3. As you are interested and involved in this matter, we invite you to provide an escort and to observe the procedures. It is our intention to depart from GHANBATT location in Kibungo at 0800 hours 15 December 1994 with two vehicles. Should you agree to accompany the convoy, then we request that your vehicle be at the main gate of the compound by 0745 hours.
4. I trust that this arrangement will meet with your approval.

Regards,

F. Unger 
Major
for Sector Commander 2

File: 2000/OPS

13 December 1994

Maj John Gashaija
Commander
RPA Force Kibungo

PROCEDURE FOR HANDING OVER OF SUSPECTED CRIMINALS

1. On 25 November 1994, Mr MAJAMBERE appealed to UNAMIR for protection declaring that he had reason to believe that his life was in danger if he remained in his home commune. As UNAMIR is charged with protecting any person who so appeals, Mr MAJAMBERE was offered sanctuary with the NICOY troops and later with their replacement, GHANBATT.

2. Today, you advised this office that Mr MAJAMBERE is suspected of having committed atrocities during the war and further of having shot an RPA soldier recently. Under these conditions, Mr MAJAMBERE is now considered a suspected criminal and will be handed over to your authorities in the manner agreed between your government and UNAMIR, to wit:

a. UNAMIR HQ in Kigali will be notified that criminal charges are pending and requested to notify the International Commission of the Red Cross to supervise the handing over of Mr MAJAMBERE;

b. once arrangements are made, Mr MAJAMBERE will be taken to the Prosecutors office in Kibungo where under the supervision of the Red Cross, Mr MAJAMBERE will be surrendered to the local authority having jurisdiction.

3. In the interim, GHANBATT will maintain Mr MAJAMBERE in close custody and under supervision.

F. Unger *F. Unger, Maj.*
Major
for Sector Commander 2

TO :FORCE HQ KIGALI.

FROM :SECTOR 3 HQ GITARAMA

INFO:G1 PERS(FHQ)
G2 OPS (FHQ)
✓G3 OPS (FHQ)
FORCE PROVOST MARSHALL
MILOB GP HQ

SUBJECT:PROCEDURES FOR HANDING OVER RWANDAN NATIONALS.

REF:FHQ LETTERS No2000-1

FC DIRECTIVE ON THE LEGAL JURISDICTION APPLICABLE TO UNAMIR AND RWANDAN AUTHORITIES.

1. 25 LOCALS CAME TO MALICOY LOC AT NTONGWE FOR SECURITY SHELTER ON 09 NOV 94 AND OTHERS 24 PERSONS CAME TO GITARAMA SECTOR HQ FOR THE SAME REASON ON 14 NOV 94.

2. NTONGWE LOCALS HAVE BEEN HANDED OVER TO THE PROSECUTOR OF GITARAMA ON 22 NOV IN FRONT OF ICRC,HR TEAM, RPA, BOURGHMESTRE, MILOBS. AFTER THAT PEOPLES WERE SENT TO THEIR HOMES .NOBODY WAS ARRESTED BY THE AUTHORITY THAT TIME. LIST OF THE LOCALS ATTACHED HERE WITH AS ANNEX A.

3. GITARAMA LOCALS HAVE BEEN HANDED OVER TO THE SAME PROSECUTOR ON 23 NOV 94 IN FRONT OF HR TEAM,CIVPOL MILOBS.ICRC WAS PRESENT THERE BUT THEY DID NOT PUT THEIR SIGNATURE,ICRC SAID THESE PEOPLE ARE NOT PRISONER AND IF THEY PUT SIGNATURE,THEN IT BECOMES THEIR DUTY TO FOLLOW UP THE CASE. BUT ICRC PUT THEIR SIGNATURE IN NTONGWE THOUGH THOSE 25 LOCALS WERE NOT PRISONERS.

THESE PEOPLE WERE ALSO SENT TO THEIR HOMES WITH THE MALI COY TRUCK ON THE SAME DAY, ^{NO ONE} WAS ARRESTED BY THE AUTHORITIES. LIST OF THE LOCALS ATTACHED HERewith AS ANNEX B.

4. A DETAIL REPORT CONCERNING THE PEOPLES HANDED OVER TO THE LOCAL AUTHORITIES AS FOLLOWS:

a. NAME OF THE PERSONS HANDED OVER :

- (1) LIST OF NTONGWE LOCALS ANNEX A.
- (2) LIST OF GITARAMA LOCALS ANNEX B.

b. LOCATION WHERE THE RWANDAN GOVERNMENT SHOUGHT JURISDICTION,(REFERE TO PARA 2 AND 3).

c. CRIME PERSONS ACCUSED OFNOT KNOWN.

d. NAME OF THE UNAMIR PERSON(S) WHO WAS PRESENT WHEN THE RWANDAN GOVERNMENT SHOUGHT JURISDICTION.


- (1) MAJ SHAMSUL HAIDER SIDDIQUE
- (2) MAJ EMO KONEY
- (3) MAJ YAMOKA
- (4) MAJ MHONDA
- (5) MAJ KEITA

21
Pre Info
6/12

(6) CAPT ANDRES PASSARINO
(7) LT BAH

e. DATE AND TIME THE PERSON WAS HANDED OVER TO THE
PROSECUTOR'S OFFICE .ON 22 AND 23 NOV AT 1400 HRS.
f. WHETER AN ICRC REPRESENTATIVE WAS PRESENT DURING THE
HAND OVER AND IF NOT WHY NOT.
AT NTONWE ICRC WAS PRESENT AND PUT THEIR SIGNATURE BUT
AT GITARAMA THEY WERE PRESENT BUT DID NOT PUT THEIR
SIGNATURE.

THIS IS FOR YOUR INFO AND ACTION PLEASE.


Shamsul Haider
MAJ
for SEC COMD.

Copy No....of...
Sector 3 HQ
KABGAYI

SUBJECT :

The under mentioned 25 (twenty five) persons have been handed over to the prosecuter of GITARAMA on .22. November 1994 from NTONWE (9056) MALI COY camp, in front of 22 ICRC, HR, RPA, MILOB

CELLULE

SRL	DATE	NAME	DIST	SECTEUR	COMMUNE	PREFECTURE
1	07/11	NSENGIMANA JUSTIN	CYERU	CYERU	MUGINA	GITARAMA
2	07/11	NTEGEYAHU LAURENT	CYERU	CYERU	MUGINA	GITARAMA
3	07/11	NZARAMBA JEAN	KANTA	RUTABO	NTONWE	GITARAMA
4	07/11	MISAGO	KANTA	RUTABO	NTONWE	GITARAMA
5	09/11	YAMURAGIYE ALOYS	CYERU	CYERU	MUGINA	GITARAMA
6	09/11	NDOLIMANA VENANT	CYERU	CYERU	MUGINA	GITARAMA
7	09/11	RUGWIZANGOGA	CYERU	CYERU	MUGINA	GITARAMA
8	09/11	KALIMWIBUGA JEAN	CYERU	CYERU	MUGINA	GITARAMA
9	09/11	RUTABURINGOGA ISAC	CYERU	CYERU	MUGINA	GITARAMA
10	09/11	UWIZEYIMANA J.M.	CYERU	CYERU	MUGINA	GITARAMA
11	09/11	HARELIMANA CHARLES	CYERU	CYERU	MUGINA	GITARAMA
12	09/11	HABINEZA AUGUSTIN	KANTA	RUTABO	NTONWE	GITARAMA
13	09/11	MAJYAMBERE JEAN	KANTA	RUTABO	NTONWE	GITARAMA
14	10/11	RUBAYIZA V.	MUNINI	KIYONZA	MUGINA	GITARAMA
15	10/11	KANANI AUGUSTIN	MUNINI	KIYONZA	MUGINA	GITARAMA
16	10/11	BAZIRUWIHA SLYVLO	MUNINI	KIYONZA	MUGINA	GITARAMA
17	10/11	MATABARO VINCENT	MUNINI	KIYONZA	MUGINA	GITARAMA
18	10/11	NSABIMANA EVALISTE	NYARUENGELI	MUKINGA	MUGINA	GITARAMA
19	10/11	NTEZIRYAYO EVALISTE	MUNINI	KIYONZA	MUGINA	GITARAMA
20	10/11	MUHAWENIMANA	MUNINI	KIYONZA	MUGINA	GITARAMA
21	10/11	SAMVURA SLYVANDE	MUNINI	KIYONZA	MUGINA	GITARAMA
22	10/11	MUKESHIMANA	MUNINI	KIYONZA	MUGINA	GITARAMA
23	10/11	NTAKIRUTIMANA	GACURIRO		NTONWE	GITARAMA
24	10/11	GIRUKUBONYE MARTIN	NYAMIRAMA		NTONWE	GITARAMA
25	10/11	NTYOMUGABO FELIX	KAREBA	KAREBA	NTONWE	GITARAMA

HANDED OVER BY :

MAJ HAIDER

TAKEN OVER BY:

WITNESS:

1. ICRC L Felley
2. ICRC U Brown
3. UNICEF P. Soto
4. UNICEF A.M. Mubumba
5. SR KACYAMUHO MAJ S. Mubumba
6. SONYE FMO MAJ (MILOB) Mubumba

ANNEX B

Copy No. of
Sector 3 HQ
KABGAYI

SUBJECT: HANDING TAKING OVER OF DISPLACED PERSONS.

THE UNDER MENTIONED ADULTS 17 (SEVENTEEN) AND MINOR 7 (SEVEN) TOTAL
24 PERSONS HAVE BEEN HANDED OVER TO THE PROSECUTOR OF GITARAMA
ON 23rd NOVEMBER 1994 FROM GITARAMA MALI COY CAMP IN FRONT
OF ITR; CIV POL; MILOBS;

SRL	NAME	CELLULE	SECTOR	COMMUNE
1	RULINDA	KANGOMA		
2	KAGOYIRE	KANGOMA		
2a	SIBORUREMA ANATHALIE	KANGOMA		
2b	NYNANDAGIZIMANA BEATA	KANGOMA		
2c	BAMPIRE EUTHALIE	KANGOMA		
2d	NTIREGANYA PAMPHILE	KANGOMA		
2e	UWIZEYINANA JANVIERE	KANGOMA		
3	NZAUYISENGA GERTRUDE	KANGOMA		
3a	UWERA YADUFASHIYE	KANGOMA		
3b	URIMANA	KANGOMA		
4	NDAGIYIMANA REVERIEN	KANGOMA		
5	NYNAHABIMANA GODELENIE	KANGOMA		
6	NYIRANSABIMANA FLONILLE	KANGOMA		
7	MUKAMANA DATIVE	KANGOMA		
8	MUKANDINKA SYLVIE	KANGOMA		
9	MUKANYANDWI THEODOSIE	KANGOMA		
10	MUGEMANA VENUSTE	KANGOMA		
11	TWIZEYUMUREMYI FELIX	KANGOMA		
12	NDAYAMBAJE JEAN	KANGOMA		
13	NLYIRABATWARE LEONARD	KANGOMA		
14	NKUBITO JEAN	KASEMAKENDU		
15	MUNYENDINDA SYLVERE	KANGOMA		
16	KATABANDANA VINCENT	KANGOMA	CYERU	MUGINA
17	NIZEYUMUREMYI FELIX	KANGOMA	CYERU	

HANDED OVER BY :

[Signature]

23/11/94

MAJ HAIDER

A/Sector Command / Sector 3

[Signature]

1. CAPT. ANDRES PASSARINO

MILOBS / Sector 3

TAKEN OVER BY:

KABANDA [Signature]

Prosecutor

WITNESS

[Signature]

[Signature]

Milenge-Cheruma (UPOL)

MESSAGE FORM FORMULE DE MESSAGE				SECURITY CLASSIFICATION — COTE DE SECURITE				FILE — DOSSIER	
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BOOK DOSSIER	MESSAGE HANDLING INSTRUCTIONS — INSTRUCTIONS D'ACHEMINEMENT DU MESSAGE								
<p>FROM — AA GHANBATT HQ</p> <p>TO — A UNHQ KIGALI INFO UNAMIR TAC HQ BUTARE GANCON HQ</p> <p>SUBJ: HANDING OVER OF SUSPECTED CRIMINALS</p> <p>1. PLEASE BE INFORMED THAT LOCAL ARRESTS IN AO ON SUSPENSION OF COMMITTING CRIMES ARE TO BE BROUGHT TO KIGALI, FOR HANDING OVER TO THE OFFICE OF THE PROSECUTOR.</p> <p>2. MEMBERS' PERSONS TO BE BROUGHT TOMORROW 18 OCT 94.</p> <p>3. PLEASE INFORM HUMANITARIAN ASSISTANCE CELL, INRC, AND MILOBS TO STANDBY. REPRESENTATIVES TO WITNESS THE HANDING OVER.</p> <p>4. MENTIONED PERSONS TO BE BROUGHT FIRST TO UNAMIR HQ FOR FURTHER SELECTION BEFORE PROCEEDING TO OFFICE OF THE PROSECUTOR. PLEASE STANDBY.</p> <p>LT. D. JUATOL</p>									
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UNITED NATIONS

ASSISTANCE MISSION FOR RWANDA

NATIONS UNIES

MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

INTEROFFICE MEMORANDUM

TO: Major General Guy Tousignant
Force Commander

FROM: Ladan M. Rafii
Political/Legal Officer *LMR*

RE: Procedures for the Proper Handover of Individuals
from UNAMIR Forces to the Government of Rwanda

DATE: 28 September 1994

1. Following your request made during our meeting held at UNAMIR Headquarters today which was also attended by Col. O'Kelly, Col. Yaache, Lt. Col. Yella, and Ms. Lise Boudreault of ICRC, I am writing to inform you of my findings regarding the adoption of certain uniform procedures for the handover of individuals wanted by the Rwandan Government from UNAMIR installations. You expressed your misgivings on the current ad hoc approach adopted by UNAMIR, and proposed that we institute a policy whereby such handovers are conducted in a dignified manner in accordance with international legal instruments and any bilateral agreements between the Government of Rwanda and UNAMIR.

2. As discussed among us, the guidelines should cover the following groups of people:

- a) Members of UNAMIR
 - civilians
 - military personnel
- b) Locally-recruited civilian staff
- c) Rwandan citizens seeking our protection, but not affiliated with UNAMIR
- d) Persons detained by UNAMIR personnel in the execution of their mandate (this would include criminal elements)

3. According to the Executive Director of UNAMIR, the current Government in Rwanda has verbally reaffirmed the "Agreement between the United Nations and the Government of the Republic of Rwanda on the Status of the United Nations Assistance Mission for Rwanda" (hereinafter referred to as the "Agreement"). As such, there is a presumption in favour of the validity of this Agreement despite the change of regime in Rwanda. This Agreement, as well as the Convention on the Privileges and Immunities of the United Nations adopted by the UN General Assembly on 13 February 1946 (hereinafter referred to as the "UN Convention"); the Geneva Conventions of 12 August 1949 and their additional Protocols, as well as other international humanitarian law; and the national legislation of Rwanda, are the legal texts governing our actions with respect to handovers of individuals to the Rwandan Government forces from UNAMIR.

4. First and foremost, your attention should be directed to paragraph 19 of the Agreement regarding the right of access to UNAMIR facilities:

The United Nations alone (emphasis added) may consent to the entry of government officials or of any other person not [a] member of UNAMIR to such premises.

Members of UNAMIR

5. UNAMIR personnel are entitled to varying degrees of immunity based upon their rank and status.

a) Under Article VI of the Agreement referring to the "Status of the Members of UNAMIR," the SRSG, the Force Commander, the Police Commissioner of CIVPOL, and other such high-ranking members of the SRSG's staff as may be agreed upon with the Government, are entitled to diplomatic immunity in accordance with international law.

b) Other UN civilian officials are entitled to certain privileges and immunities under the UN Convention, but not full diplomatic immunity. These include:

- exemption from taxation
- immunity from national service obligations, immigration restrictions and alien registration
- access to the same repatriation facilities as diplomatic envoys in times of international crisis
- right to duty-free importation of personal effects upon arrival in the host country
- recognition of the UN laissez-passer as a valid travel document entitling the bearer to speedy processing of visa applications, if required

c) MILOBS and CIVPOL personnel are considered experts on mission under Article VI of the UN Convention. They are accorded privileges and immunities necessary for the independent exercise of their functions during the period of their missions, such as:

- immunity from personal arrest or detention and from seizure of personal baggage
- inviolability of all papers and documents
- for the purpose of their communications with the UN, the right to use codes and to receive papers or correspondence by courier or in sealed bags
- the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys

d) Military personnel of national contingents comprising UNAMIR are entitled to similar benefits as stated in 5(b) above:

- exemption from taxation, immigration restrictions and alien registration
- duty-free importation of personal effects upon arrival
- speedy processing of entry and exit formalities

e) Locally-recruited members of UNAMIR are entitled to tax exemption and immunity from national service registration.

Note: ALL members of UNAMIR, including locally-recruited personnel, are immune from legal process with respect to words spoken or written and all acts performed in their official capacity. This immunity does not cease upon termination of employment, and continues beyond the expiration of other provisions of the Agreement. However, the Secretary General has the right and duty to waive immunity where, in his opinion, the immunity would impede the course of justice.

6. Rwandan citizens seeking our protection, but not affiliated with UNAMIR are not entitled to any privileges and immunities under the UN Convention. However, they may be entitled to certain rights under the Rwandan Constitution (if still valid), as well as under the Geneva Conventions and other international instruments, such as the Universal Declaration of Human Rights. Although the scope of international humanitarian law is quite broad, there are certain minimum standards of conduct which must be followed in order to ensure respect for fundamental human rights.

The Geneva Conventions

7. In the Agreement, both UNAMIR and the Rwandan Government agree to abide by the Geneva Conventions. The Geneva Convention Relating to the Protection of Civilian Persons in Time of War (Convention IV of 12 August 1949) pertains to the general protection and administration of civilians. Its Protocol enumerates certain fundamental guarantees to "all persons affected by an armed conflict." In particular, the following acts are prohibited under any pretext, whether committed by civil or military agents:

a) violence to the life, health and physical or mental well-being of persons, particularly:

- murder
- torture of all kinds, whether physical or mental
- corporal punishment
- mutilation

b) outrages upon personal dignity, in particular humiliating and degrading treatment

c) the taking of hostages

d) collective punishments

e) threats to commit any of the foregoing acts

Judicial Procedure

8. Also included among the fundamental guarantees accorded to all persons affected by an armed conflict are the guarantees of judicial procedure. The following are held to be minimum requirements:

- notification to the accused without delay of the particulars of the offence s/he is alleged to have committed
- presumption of innocence
- no forced confession
- judgment to be pronounced in the presence of the accused and, in principle, publicly
- no double jeopardy (that is, an accused can only be punished once for the same act or on the same charge, if it is based upon the same procedural and substantive law)

9. Persons detained by UNAMIR personnel in the execution of their mandate, including those suspected of criminal activity, are accorded the same rights as mentioned in paragraphs (7) and (8) above.

Military Police, Arrest and Transfer of Custody

10. In order to ensure the maintenance of discipline and good order among UNAMIR members, as well as locally-recruited personnel, under paragraph 40 of the Agreement, the SRSG may designate personnel to police UNAMIR premises and areas where its members are deployed. Such personnel can be employed elsewhere only subject to arrangements with the Government and in liaison with it, if necessary to maintain discipline and order among members of UNAMIR.

11. The Agreement also specifies that the military police of UNAMIR have the power of arrest over UNAMIR military personnel. If such persons are arrested outside their own contingent areas they are to be transferred to their contingent Commander for appropriate disciplinary action.

12. The personnel designated by the SRSG under paragraph 40 may take into custody any other person on the premises of UNAMIR. Such person shall be delivered immediately to the nearest appropriate official of the Government for the purpose of dealing with any offence or disturbance on such premises.

13. Paragraph 42 of the Agreement states that officials of the Government may take into custody any member of UNAMIR (excluding those listed in paragraphs (5) (a) and (c) above):

a) when so requested by the SRSG

b) when a member of UNAMIR is apprehended in the commission or attempted commission of a criminal offence. Such a person (excluding locally-recruited staff) is to be delivered immediately, together with any weapons or other item seized, to the nearest appropriate UNAMIR representative.

14. Whether a person is taken into custody by UNAMIR or the Government, a preliminary interrogation may be made, but this should not delay the transfer of custody. The arresting authority is allowed access to the transferee for further interrogation even after such transfer has taken place.

15. UNAMIR and the Government are required to provide mutual assistance in conducting investigations which may affect their interests (e.g., the production of witnesses, the collection of evidence, the seizure and conditional handover of certain items connected with the offense). Furthermore, each must notify the other of the disposition of any case in which the other may have a vested interest or in which there has been a transfer of custody.

16. Finally, the Government must ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to UNAMIR or its members which, had such acts been committed against the Government, would have rendered such persons liable to criminal prosecution.

Criminal and Civil Proceedings

17. If the Government determines that a member of UNAMIR (excluding locally-recruited staff) may have committed a criminal offense, it must promptly inform the SRSG and present any available evidence against the accused.

a) Civilians - the SRSG shall conduct any supplementary inquiry necessary before concurring with the Government on the need for the institution of criminal proceedings. In the absence of such agreement, the matter will be decided in accordance with the provisions of paragraph (20) below.

b) Military personnel - such members of UNAMIR are subject to the exclusive jurisdiction of their respective participating States with respect to any criminal offenses which may have been committed by them in Rwanda.

18. The SRSG must be notified immediately of any civil proceeding instituted against a member of UNAMIR (excluding locally-recruited staff) before any court in Rwanda. Moreover, he will certify to the court whether the proceeding is related to the official duties of such a member.

a) If the SRSG certifies that the proceeding is related to a UNAMIR member's official duties, such a proceeding will be discontinued and the provisions of paragraph (19) below will apply.

b) The proceedings may continue if the SRSG certifies that they are not related to official duties. However, the personal liberty of a member of UNAMIR shall not be restricted in a civil proceeding, whether to enforce a judgment, decision or order, to compel an oath or for any other reason.

Settlement of Disputes

19. The Agreement specifies that any dispute or claim of a private law character to which UNAMIR or any member thereof (excluding locally-recruited staff) is a party, and over which the courts of Rwanda do not have jurisdiction due to the provisions of this Agreement will be settled by a standing claims commission. The awards of the commission shall be final and binding unless the UN Secretary General and the Government permit an appeal to a special tribunal.

20. Any other dispute between UNAMIR and the Government, and any appeal allowed by both parties from the award of the claims commission shall, unless otherwise agreed by the parties, be submitted to a tribunal of arbitrators whose decision will be final and binding on both parties.

21. All differences arising out of the interpretation or application of the UN Convention shall be referred to the International Court of Justice, unless the parties agree to have recourse to another mode of settlement. An advisory opinion given by the Court on any legal question shall be accepted as decisive by the parties.

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Distribution List

FC DIRECTIVE FOR THE HANDLING OF DETAINEES

References:

- A. Op Directive No 2 Rules of Engagement dated 22 Jul 94.
- B. Amendment 1 to Op Dir No. 2 ROE dated 10 Sep 94
- C. FC Directive for the Disposal of Criminals dated 8 Sep 94.

1. General. In the conduct of their duties, UNAMIR personnel may be required to apprehend people who have committed or are suspected of committing a hostile act or have a hostile intent against:

- a. oneself and the personnel in one's unit,
- b. other UNAMIR military or civilian personnel,
- c. non-UNAMIR humanitarian aid personnel,
- d. displaced persons, refugees and civilians in sites or among populations under the protection of UNAMIR forces, or
- e. other UN-authorized military or civilian personnel.

There may also be occasions where UNAMIR may be required to detain individuals who have stolen or are suspected of stealing items from: UNAMIR, UN, humanitarian organisations or UN protected sites (see Reference A paragraphs 4.b and 9).

2. Aim. The aim of this Directive is to outline the procedure for handling detainees.

3. Definition. For the purpose of this Directive, a detainee is any person who is held for committing the type of activities described in paragraph 1 above.

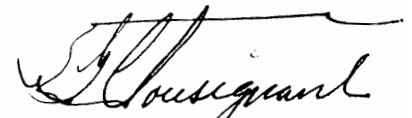
4. Handling Procedures. All detainees are to be handled as follows:

- a. They are to be searched, disarmed and segregated. At all times they are to be treated in accordance with the principles of minimum force as detailed at Reference A.
- b. They are to be identified and their personal details recorded.
- c. A safe and secure place is to be arranged as a temporary place of custody. Detainees are to be kept in custody by UNAMIR troops for the minimum time necessary.

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3000-15 (OP)
R-2

- d. Detainees and the property found in their possession are to be handed to the OFFICE OF THE PROSECUTOR OF KIGALI. The detainee is to be allowed to keep all property essential for his/her comfort and survival (eg food and water).
- e. During the handing over procedures from UNAMIR to the Office of the Prosecutor of Kigali the ICRC should be present so that the personal details of the detainee may be recorded.
- f. Detainees are not to be handed to any other RPA authorities. The Office of the Prosecutor in Kigali is the only authorised Office in Kigali for the processing and handing over of detainees in Rwanda.
- g. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2 and G3 Ops:
 - (1) Name of the detainee,
 - (2) Location where person was detained,
 - (3) Crime person accused of,
 - (4) Name of the UNAMIR person who detained the person, and
 - (5) Date and time the detainee was handed to the Office of the Prosecutor of Kigali.

5. Note. Reference C is now cancelled.



GC TOUSIGNANT
Major-General
Force Commander

Annex:

A. An Agreement Concerning the Transfer of Detainees.

Distribution:

External:

List D

Internal:

Lists A,B

ANNEX A TO
2000-1 (G1)
DATED 28 SEP 94

AN AGREEMENT
CONCERNING THE TRANSFER
OF DETAINEES
FROM UNAMIR TO THE BBGNU

1. Through this correspondence it is agreed that the Broad Based Government of National Unity (BBGNU) will take possession from the United Nations Assistance Mission in Rwanda (UNAMIR) those individuals detained by UNAMIR troops.

2. Specifically UNAMIR and the BBGNU agree to the following:

- a. The BBGNU will accept responsibility for the detainees at the Office of the Prosecutor of Kigali.
- b. UNAMIR will hand over detainees only to the Office of the Prosecutor of Kigali.
- c. The International Committee of the Red Cross (ICRC) will be permitted to be present during the transfer of detainees from UNAMIR to the BBGNU. The ICRC will also be allowed to record the personal data of detainees.
- d. The ICRC will be permitted to monitor the condition of the detainees in accordance with its mandate.

2000-1 (G1)

Distribution List

FC DIRECTIVE FOR THE HANDLING OF DETAINEES

References:

- A. Op Directive No 2 Rules of Engagement dated 22 Jul 94.
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1. General. In the conduct of their duties, UNAMIR personnel may be required to apprehend people who have committed or are suspected of committing a hostile act or have a hostile intent against:

- a. oneself and the personnel in one's unit,
- b. other UNAMIR military or civilian personnel,
- c. non-UNAMIR humanitarian aid personnel,
- d. displaced persons, refugees and civilians in sites or among populations under the protection of UNAMIR forces, or
- e. other UN-authorized military or civilian personnel.

There may also be occasions where UNAMIR may be required to detain individuals who have stolen or are suspected of stealing items from: UNAMIR, UN, humanitarian organisations or UN protected sites (see Reference A paragraphs 4.b and 9).

2. Aim. The aim of this Directive is to outline the procedure for handling detainees.

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4. Handling Procedures. All detainees are to be handled as follows:

- a. They are to be searched, disarmed and segregated. At all times they are to be treated in accordance with the principles of minimum force as detailed at Reference A.
- b. They are to be identified and their personal details recorded.
- c. A safe and secure place is to be arranged as a temporary place of custody. Detainees are to be kept in custody by UNAMIR troops for the minimum time necessary.

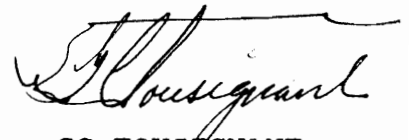
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3000-15 (OPS)
R-2 ✓

- d. Detainees and the property found in their possession are to be handed to the OFFICE OF THE PROSECUTOR OF KIGALI. The detainee is to be allowed to keep all property essential for his/her comfort and survival (eg food and water).
- e. During the handing over procedures from UNAMIR to the Office of the Prosecutor of Kigali the ICRC should be present so that the personal details of the detainee may be recorded.
- f. Detainees are not to be handed to any other RPA authorities. The Office of the Prosecutor in Kigali is the only authorised Office in Kigali for the processing and handing over of detainees in Rwanda.
- g. A report detailing the following is to be submitted to UNAMIR HQ, attention G1 Pers, G2 and G3 Ops:
 - (1) Name of the detainee,
 - (2) Location where person was detained,
 - (3) Crime person accused of,
 - (4) Name of the UNAMIR person who detained the person, and
 - (5) Date and time the detainee was handed to the Office of the Prosecutor of Kigali.

5. Note. Reference C is now cancelled.


GC TOUSIGNANT
Major-General
Force Commander

Annex:

A. An Agreement Concerning the Transfer of Detainees.

Distribution:

External:

List D

Internal:

Lists A,B

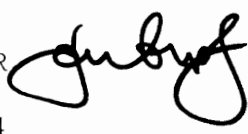
AN AGREEMENT
CONCERNING THE TRANSFER
OF DETAINEES
FROM UNAMIR TO THE BBGNU

1. Through this correspondence it is agreed that the Broad Based Government of National Unity (BBGNU) will take possession from the United Nations Assistance Mission in Rwanda (UNAMIR) those individuals detained by UNAMIR troops.
2. Specifically UNAMIR and the BBGNU agree to the following:
 - a. The BBGNU will accept responsibility for the detainees at the Office of the Prosecutor of Kigali.
 - b. UNAMIR will hand over detainees only to the Office of the Prosecutor of Kigali.
 - c. The International Committee of the Red Cross (ICRC) will be permitted to be present during the transfer of detainees from UNAMIR to the BBGNU. The ICRC will also be allowed to record the personal data of detainees.
 - d. The ICRC will be permitted to monitor the condition of the detainees in accordance with its mandate.

INTER OFFICE MEMORANDUM

To: ASC UNAMIR / SO2 Legal

Thru: G3 Plans
and
D COS Sp

From: D COS Ops UNAMIR 

Date: 15 September 1994

Subject: Disposal of Criminals

Reference: Minute SO2 Legal September 1994 (Att)

1. The recommendations in paragraph 4 of the Reference are supported.
2. Accordingly, you are requested to liaise with D COS Sp UNAMIR and his G1 to assist him to rewrite the FC's directive on the disposition of criminals in order to provide an interim policy with respect to the directive. Furthermore, you are requested to liaise with Ministry of Justice representatives of the BBGNU through our CLO to establish the proper long-term guidelines for inclusion in our SOPs.



AUSTRALIAN ARMY
ASC UNAMIR

MINUTE

G3 Plans

DISPOSAL OF CRIMINALS

References:

- A. Discussion between LTCOL Brimlow^e/MAJ Oswald dated 9 Sep 94
- B. FC Directive for the Disposal of Criminals dated 8 Sep 94
- C. Section 9: Operational Directive No 2, Rules of Engagement *including the amendment dated ?*

1. In answer to References A and B I now provide the following advice.
2. As a general point, Reference B is, arguably, outside the scope of the current UN mandate for UNAMIR as it involves soldiers in the maintenance of law and order. That Reference also contravenes Reference C which does not permit UNAMIR troops to act as policemen in protecting the person or property of local Rwandans unless those Rwandans are under the protection of the UN. This limitation is placed on UN soldiers because the UN mission in Rwanda is now, in fact, a Chapter VI activity under the UN Charter.
3. Even if soldiers are permitted to dispose of criminals there are still a number of problems associated with Reference B. Some of these problems are:

- a. Reference B at paragraph 1 states that soldiers may, in the conduct of their duties be required to apprehend suspected criminals. A suspected criminal is defined as:

"a person who is suspected of an act of sabotage, subversive activity, assassination or banditry" (paragraph 3, Reference B).

This definition does not clarify what is meant by 'subversive activity' nor does it express what is meant by banditry.

- b. Paragraph 3 goes on to state that the Directive also applies to "...infiltrators who try to jeopardise the peace keeping mission". The term infiltrator is not defined, nor is there any guidance as to how soldiers are to decide whether the acts of these infiltrators is jeopardising the mission.

DCOS OPS

1. Reference b has some inherent problems.

2. I agree with the thrust of this draft.

3. Jan comments pls

[Signature]
C.3 LANS

15/9

- c. Paragraph 4 a. states that all suspected criminals are to be "searched, disarmed and segregated". This order directly contravenes the ROE for Rwanda which at this stage prohibits the disarming of paramilitary personnel and civilians (see Rule No 4, Reference C). Of course, individuals or groups that threaten UN personnel or property, or persons or property under the protection of the UN may be disarmed.
- d. Greater detail needs to be provided to soldiers as to how long they can keep an alleged criminal in custody, what provisions they need to comply with in carrying out the preliminary investigation (for example, if they question the accused will those answers later be used against him in criminal proceedings?).

Recommendations

- 4. My recommendations are as follows:
 - a. Reference B is limited to defining criminals as those persons who have or are suspected of violating UNAMIR personnel or property or, personnel or property under the protection of UN. Thus no mention should be made of sabotage, subversive activity, assassination, banditry, or infiltrators.
 - b. Guidelines should be drawn up on how UNAMIR troops should handle such alleged criminals. UNAMIR should liaise with the Rwandan Government on this issue ensuring that soldiers comply with international humanitarian law.

Conclusion

- 5. The Directive for the Disposal of Criminals is, arguably, outside the scope of the current UN mandate as it requires soldiers to maintain law and order. Even if it were argued that UNAMIR could involve itself in such an activity the Directive needs to be amended so that it reflects the principles as stated in Reference C. Furthermore, SOPs need to be provided to soldiers to ensure that if they do apprehend an alleged criminal that they comply with international humanitarian law and Rwandan law.

B.M. OSWALD
MAJ
SO2 Legal

Sep 94

FM: DCOS OPS

TO: ETHIOBATT
HAC

DATE: 10 SEPTEMBER 1994

SUBJECT: REPATRIATION OF ALLEGED CRIMINALS TO KIGALI

1. YOU ARE REQUESTED TO TRANSPORT ALLEGED 32 CRIMINALS CURRENTLY IN YOUR CUSTODY TO FORCE HQ BY 131400B SEP 94.
2. CRIMINALS WILL BE HANDED OVER TO G3 OPS ON ARRIVAL FOR THE NECESSARY DOCUMENTATION.
3. HAC WILL BE RESPONSIBLE FOR THE HANDING OVER OF THE CRIMINALS TO THE APPROPRIATE GOVERNMENT AUTHORITIES.
4. FOR YOUR NECESSARY ACTION.



UNAMIR - MINUAR

9.9

2000-1
8 Sept 1994

Distribution List

FC DIRECTIVE FOR THE DISPOSAL OF CRIMINALS

1. General. In the conduct of their duties, UNAMIR personnel may be required to apprehend suspected criminals, prior to their being returned to Civil authorities.
2. Aim. The aim of this Directive is to outline the procedure for disposal of suspected criminals within UNAMIR AOR.
3. Definition. For the purpose of this Directive a suspected criminal will be defined as a person who is suspected of an act of sabotage, subversive activity, assassination or banditry. The Directive also applies to infiltrators who try to jeopardize the peace keeping mission.
4. Disposal Procedure. All suspected criminals will be disposed of as follows:
 - a. They are to be searched, disarmed and segregated. They are then to be identified and their personal details noted under the supervision of UNMO and ICRC or UNHCR.
 - b. A safe and secure place is to be arranged as a temporary place of custody.
 - c. A preliminary investigation is to be made. This is to include details of alleged perpetrators, with a full incident report.
 - d. Transport is to be arranged in order to evacuate suspects to the appropriate regional authority or to Kigali, whichever is appropriate.
 - e. Suspects are to be escorted by military police and MILOB.
 - f. A clearance certificate is to be carried to allow access through RPA checkpoints.

2-4

- g. All personal belongings of the suspects, and their weapons, must be recorded on an inventory, a copy of which is to be handed with the goods to the appropriate authority in Kigali, the other copy is to be included in the incident report.
- h. A detailed report is to be submitted to UNAMIR HQ, attention G1 Pers, G2 and G3 Ops.



G.C. Tousignant
Major General

Force Commander

DISTRIBUTION LIST

EXTERNAL

Action

Sector 1
Sector 2
Sector 3
Sector 4B
Sector 4C
Sector 5
MILOB HQ
CANSIGS
BRITCON
AUSMED

Information

INTERNAL

DFC
DCOS OPS
TAC HQ
Sector 4A
G2
G3 Plans
G3 Engr
G4 Log

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FM SECTOR 4C//ETHIOBATT//COMD//CYANGUGU

TO UNAMIR FORCE COMMANDER//KIGALI

BT

UNCLAS ETHIOBATT COMD 001

SUBJ: SITUATION OF OUR REGION

1. ALTHOUGH WE MET REPEATINGLY ZAIREAN SOLDIERS IN ORDER TO INVITE THEM TO A ROUND TABLE NEGOTIATION ON VISIBLE PROBLEMOOF SECURITY THAT ARE SEEN IN OUR REGION, WE'VE FOUND THEM UNWILLING TO DO SO, ESPECIALLY BUKAVA SOLDIERS.

THE PROBLEMS WE'VE ENCOUNTERED SO FAR WERE AS FOLLOWS:

1.1 SO FAR, THIEVES AND BURGLARS WE SAW CAME FROM ZAIRE BY BOAT UP TO THE SHORE OF LAKE KIVU. THESE PEOPLE ARE NOW UNDER CUSTODY IN THE CITY'S CENTRAL PRISON.

1.2 WE RECEIVE DAILY REPORTS CONFIRMING THAT REFUGEES CROSSING ZAIREAN TERRITORY SO AS TO RETURN TO RWANDA ARE OBLIGED TO PAY FINES BY ZAIREAN SOLDIERS. RETURNING REFUGEES UNABLE TO PAY MONEY REMAINED BEHIND.

1.3 A COUPLE OF REPORTS WERE DISPATCHED TO US EXPLAINING THAT TWO SUCCESSIVE GUN SHOTS WERE AIMED AT TWO NGO'S AND THEIR CAR WAS TAKEN AWAY LATER.

② Dcos O/s

a. Yours

b. G2 to copy.

[Signature] FC

9.9.94

3000.15000
2.16

③ G3 Ops / Para 2
Coord return of criminals to Kigali and hand them over to auth after proper documentation thru HAC.

[Signature]
Dcos Ops
10.9

[Signature]

①
Ethiobatt asked to screen and document and Screen Criminals before transporting them to KIGALI to be handed over to HHC. Documentation not completed yet.
[Signature]

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1.4 @ ,S.V^AL RIFLE SHOTS yERE AIMEH AT OUR SOLDIERS AT RUSIZI 1
YESTERDAY EVENING AT BOTH CHECKPOINTS.

1.5 WE TOOK THE INITIATIVE TO SETTLE TEMPORARILY AN

ACUTE CONFLICT, THOUGH THE SOLDIERS BEAT A PEACEFUL MAN AT UVERA
GATE IN BUGARAMA CITY.

THUS, BEING CONSCIOUS ABOUT THE PROBLEMATIC SITUATION PREVAILING IN
ZAIRE, IT WOULD BE RIPE TIME TO FOLLOW AND RECTIFY THE UNPOPULAR
EXISTING SITUATION WITH THE AID OF GOVERNMENT INTERVENTION AT THE
LEVEL OF UNAMIR HEADQUARTERS.

2. WE'VE DETAINED 32 ROBBERS AND CRIMINALS AN' T3a9TLNDE2aATNIKI
WITH CLOSE SUPERVISION OF OUR SOLDIERS.

WE TRIED TO TRANSFER THESE OUTLAWS TO THE LOCAL ADMINISTRATION OF
PEOPLE'S COMMITTEES, BUT THE LATTER LACKED HONEST GUARDS TO KEEP,
LEAVING THEM IN OUR HANDS.

WE SUGGEST THEN THAT AN URGENT SOLUTION BE SOUGHT TO THE FATE OF
THESE PRISONERS, BEFORE THEIR CASES ENTAIL POSSIBLE REPARATION OR
A SORT OF CONTRADICTION IN REGARSDS TO HUMAN RIGHTS VIS-A-VIS
UNAMIR.

3. THE FORCES OF R.P.A. HAVEN'T YET ENTERED IN OUR AREAS OF CONTROL,
BUT THERE ARE WIDESPREAD RUMOURS OF THEIR POSSIBLE COMING. THERE ARE
CERTAIN HINTS WE'VE FOLLOx.D CLOSELY:

I 63 Ops

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3.1 GENERAL PANIC WAS CREATED IN BUGARAMA CITY, BUT LATER IT FOUND STABILITY AND CALMNESS AFTER WE ASSEMBLED THE POPULATION AND GAVE UP TO DATE EXPLANATIONS ON VITAL QUESTIONS OF UTMOST CONCERN.

3.2 IN MURURI CAMP PEOPLE WERE STABILIZED AFTER WE ANSWERED THEIR OPEN QUESTIONS AS WE EXPECTED THEM TO SOUND.

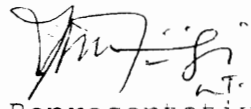
3.3 IN ADDITION, IN ALL CHECKPOINTS 1,041 REFUGEES ENTERED INTO RWANDA MAINLAND, WHERE AS 30 PEOPLE CROSSED TO ZAIRE. THESE WHO CROSSED INSIDE ZAIRE EXPLAINED THEY FEARED R.P.A.'S *Coming Into Other Regions*

May be incomplete, No ETX indicator received!

DR. RUNYINYA BARABNIRIZA

AN AGREEMENT CONCERNING THE HANDOVER OF A SUSPECTED CRIMINAL[^]\
CRIMINALS FROM UNAMIR TO THE RWANDESE PATRIOTIC ARMY

1. Through this correspondence it is agreed that the Rwandese Patriotic Army will take possession from UNAMIR of the individual or individuals as noted by the ICRC and as accused by the Rwandese Patriotic Army of having committed criminal acts and that they will be subjected to detention and treated according to the Geneva Convention until such time as they are tried by a court of law to determine guilt of criminal activity.
2. Specifically, we agree to the following as discussed with representatives of UNAMIR at their HQ on 22 Jun, 1994:
 - a. The Rwandese Patriotic Army will treat the prisoner/~~prisoners~~ as prisoners of war until such time as a legitimate court of law decides otherwise.
 - b. The individual/~~individuals~~ handed over to the Rwandese Patriotic Army will be afforded the status of prisoner of war as defined under the Geneva Convention.
 - c. The Geneva Convention will be strictly adhered to with regards to ~~their~~ ^{his} treatment.
 - d. UNAMIR will record the names of those handed over.
 - e. The ICRC will be in attendance during the handing over of the individual/~~individuals~~ and data on the individual(~~s~~) will be given to the ICRC.
 - f. The ICRC will be permitted to monitor the condition of the prisoner(~~s~~) in the future in accordance with the Geneva Convention.


LT. JOSEPH NZABIRINDA
Representative of the
Rwandese Patriotic Army

3000.152073

Seen
HA
25/6