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INFO	LOG-00	AID-01	AMAD-01	CIAE-00	SMEC-00	OASY-00	DODE-00
	EB-01	OIGO-01	H-01	TEDE-00	INR-00	IO-10	JUSE-00
	L-01	ADS-00	M-00	NSAE-00	NSCE-00	OIC-02	OIG-04
	OMB-01	PA-01	PM-00	PRS-01	P-01	SP-00	SR-00
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DRAFTED BY: AF/C:KAISTON:KCA

APPROVED BY: AF/C:ARENDR

AF/C:RFENDRICK

DRL:RPOWERS/CNIX/DBERNSTEIN

PRM/AAA:ANELSON AID/AFR:GSLOCUM AID/BHR/OFDA:RTOOLEY

P:LBASSETT G:AJOYCE

IO:GSTETTENBAUER/GSTANTON

AF/RCS:TFRIEDMAN

IO/ESA:MPOLLACK

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TO AMEMBASSY KIGALI PRIORITY
USMISSION GENEVA PRIORITY
INFO RWANDA COLLECTIVE

C O N F I D E N T I A L STATE 059240

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TAGS: PHUM, PREL, PREF, EAID, RW
SUBJECT: DEMARCHE ON ARRESTS AND PRISON CONDITIONS

REF: A) 95 GENEVA 01624

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B) 95 USDAO KIGALI RW 0654 (IIR 6 825 0226 95)

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- C) 95 STATE 045527
- D) 3/1/95 ICRC MEMO ON RWANDAN PRISON CONDITIONS
- E) KIGALI 0641

1. CONFIDENTIAL - ENTIRE TEXT.

2. THIS IS AN ACTION MESSAGE. KIGALI SEE PARAS 6-7.
GENEVA SEE PARA 8.

3. THE CONTINUING ARRESTS BY THE RPA/GOR IN RWANDA AND CONCOMITANT EXPLOSION IN THE PRISON POPULATION RISKS BECOMING A HUMAN RIGHTS AND HUMANITARIAN DISASTER. IN REF (D) MEMO, ICRC HEADQUARTERS REPORTS THAT, FOLLOWING LAST YEAR'S CRISIS, IT REGISTERED 24,232 DETAINEES IN 118 PLACES OF DETENTION IN RWANDA. ACCORDING TO ICRC FIGURES, AS OF MARCH 1, A TOTAL OF 21,713 DETAINEES WERE BEING HELD IN THE 13 OFFICIAL PRISONS UNDER THE RESPONSIBILITY OF THE MINISTRY OF JUSTICE. (UNAMIR REPORTS AN ADDITIONAL 18

"CLANDESTINE" PRISONS.) ICRC REPORTS THAT OVER 1,300 NEW DETAINEES ARE BEING REGISTERED EVERY WEEK. REF (B) REPORTS THAT RPA ARRESTS ARE APPARENTLY ON THE RISE, LEADING TO INCREASED FRICTION WITH UNAMIR AND SERVING TO DETER REFUGEES AND DISPLACED PERSONS FROM RETURNING TO THEIR HOMES.

4. AS REPORTED IN REF (A), MOST PRISONERS ARE ACCUSED OF INVOLVEMENT IN THE POST-APRIL 1994 GENOCIDE. HOWEVER, MANY PRISONERS ARE BEING HELD BASED ON UNSUBSTANTIATED DENUNCIATIONS, AND MANY OF THOSE HELD ARE INNOCENT OF

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GENOCIDE. WITH THE JUSTICE SYSTEM BARELY FUNCTIONING IN RWANDA, DETAINEES HAVE NO REAL EXPECTATION OF GOING TO TRIAL ANY TIME SOON. AS REPORTED IN REF (E), AN AD HOC FOUR-MEMBER "NATIONAL TRIAGE COMMISSION" HAS BEEN SET UP IN PART TO REVIEW CASES AND IDENTIFY AND RELEASE INDIVIDUALS FOR WHOM INSUFFICIENT EVIDENCE HAS BEEN GATHERED. HOWEVER, THE COMMISSION HAS MET ONLY TWICE; THOSE MEETINGS RESULTED IN THE RELEASE OF JUST 12 PRISONERS.

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5. REF (D) MEMORANDUM FROM ICRC HEADQUARTERS EXPRESSES ITS DEEP CONCERN ABOUT THE LIKELIHOOD OF A SHARP RISE IN THE MORTALITY RATE IN THE COMING WEEKS AND MONTHS AS A RESULT OF SEVERE OVERCROWDING IN RWANDA'S PRISONS. THE OCCUPANCY RATE IN THESE FACILITIES IS UP TO EIGHT TIMES THEIR NORMAL CAPACITY WITH RESULTANT DEPLORABLE HYGIENE CONDITIONS CONDUCIVE TO THE RAPID SPREAD OF LETHAL DISEASES. ICRC REPORTS THAT BETWEEN SEPTEMBER 1994 AND THE END OF JANUARY 1995, A TOTAL OF 1,025 DETAINEES DIED. ICRC IS PROVIDING THE PRISONS WITH WATER AND EMERGENCY FOOD RATIONS AND IS TRYING TO IMPROVE BASIC SANITATION. HOWEVER, RELIEVING THE OVERCROWDING, THE PRIMARY CAUSE OF DEATH, IS URGENTLY NEEDED. ICRC HAS APPEALED TO A NUMBER OF GOVERNMENTS AND THE UN TO ASSIST THE RWANDAN GOVERNMENT TECHNICALLY AND FINANCIALLY TO CREATE NEW DETENTION CENTERS IN THE COUNTRY WHILE THE JUSTICE SYSTEM IS BEING RE-CREATED.

6. FOR KIGALI: REF (C), WHICH RELATED TO MODIFICATION OF THE UN ARMS EMBARGO, INSTRUCTED POST TO RAISE SEVERAL AREAS OF CONCERN WITH THE GOR, INCLUDING THE PROBLEM OF
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DETENTION OF PERSONS ACCUSED OF INVOLVEMENT IN GENOCIDE AGAINST WHOM THERE WAS INADEQUATE EVIDENCE. AMB. RAWSON SHOULD FOLLOW UP THAT DISCUSSION WITH A DEMARCHE TO EXPRESS OUR SERIOUS CONCERN OVER THE CONTINUING PROBLEM OF ARRESTS WITHOUT APPARENT PROBABLE CAUSE AND THE INHUMANE PRISON CONDITIONS THAT HAVE BEEN PRODUCED BY THE EXPLOSION

IN THE PRISON POPULATION. AMBASSADOR SHOULD STRESS THAT WE FULLY SUPPORT ACCOUNTABILITY FOR THE GENOCIDE AND WILL CONTINUE TO WORK WITH THE GOR TO HELP RE-ESTABLISH AN EFFECTIVE SYSTEM OF JUSTICE TO EXPEDITE RESOLUTION OF THESE CASES; HOWEVER, THE GOR MUST ESTABLISH ADEQUATE STANDARDS FOR DETENTIONS AND RESTRAIN ARRESTING PERSONNEL FROM OVERZEALOUSNESS. AMBASSADOR SHOULD ALSO STRESS THE NEED TO DECONGEST THE PRISONS THROUGH IDENTIFYING ADDITIONAL DETENTION SITES.

7. AMBASSADOR MAY DRAW ON THE FOLLOWING TALKING POINTS:

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-- WE FULLY SUPPORT ACCOUNTABILITY FOR LAST YEAR'S GENOCIDE.

-- WE HAVE BEEN IN THE FOREFRONT OF THE EFFORT TO PRESS AHEAD WITH THE INTERNATIONAL TRIBUNAL, AND PLAN TO PROVIDE AT LEAST DOLS 1.4 MILLION IN ASSISTANCE PLUS PERSONNEL. AS YOU KNOW, WE ARE ALSO PROVIDING SUBSTANTIAL ASSISTANCE TO HELP RE-ESTABLISH AN EFFECTIVE SYSTEM OF JUSTICE WITHIN RWANDA.

-- WHILE WE FULLY SUPPORT ACCOUNTABILITY FOR THE GENOCIDE, WE ARE DEEPLY CONCERNED ABOUT SERIOUS

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OVERCROWDING IN THE PRISONS, WHICH HAS LED TO INHUMANE CONDITIONS AND A VERY HIGH DEATH RATE.

-- WE ALSO REMAIN CONCERNED ABOUT CONTINUING REPORTS OF ARRESTS AND DETENTIONS OF PERSONS AGAINST WHOM THERE IS INADEQUATE EVIDENCE.

-- THE EXTREMELY SERIOUS OVERCROWDING OF THE PRISONS, COMBINED WITH AN INCREASING RATE OF ARRESTS, RISKS PRODUCING A HUMANITARIAN AND A HUMAN RIGHTS DISASTER. WE MUST ALL DO WHAT WE CAN TO AVOID SUCH A RESULT.

-- WHILE MANY OF THE PRISONERS NOW DETAINED IN RWANDA WERE UNDOUBTEDLY INVOLVED IN CRIMINAL ACTIVITY, THERE ARE CREDIBLE REPORTS THAT AT LEAST SOME HAVE BEEN FALSELY ACCUSED, PERHAPS FOR PERSONAL VENDETTAS OR AS A RESULT OF PROPERTY OR OTHER DISPUTES.

-- WE WELCOME THE ESTABLISHMENT OF AN A NATIONAL TRIAGE COMMISSION TO REVIEW THE THOUSANDS OF PENDING CASES. HOWEVER, SO FAR, THE COMMISSION HAS NOT MET FREQUENTLY ENOUGH TO ADDRESS THE MAGNITUDE OF THE CURRENT PROBLEM.

-- WE URGE THAT THIS COMMISSION MEET CONTINUOUSLY TO WORK

THROUGH AND MAKE DECISIONS ON PRISONERS CURRENTLY BEING HELD. THE COMMISSION MUST TRY TO INCREASE THE NUMBER OF CASES IT REVIEWS EACH WEEK; IF THE COMMISSION'S CURRENT

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SIZE IS NOT ADEQUATE TO ACCELERATE THE REVIEW PROCESS, YOU SHOULD CONSIDER ADDING ADDITIONAL PERSONAL.

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-- OUR ASSISTANCE PROGRAM TO THE MINISTRY OF JUSTICE, ALONG WITH THAT OF OTHER DONORS, SHOULD HELP YOU BOLSTER YOUR CAPACITY TO ADDRESS THESE CRITICAL PROBLEMS.

-- AT THE SAME TIME, IT IS CRUCIAL THAT ADDITIONAL DETENTION SITES BE LOCATED TO DECONGEST THE CURRENT DETENTION FACILITIES. THE CURRENT OVERCROWDING HAS PRODUCED LIFE-THREATENING CONDITIONS THAT VIOLATE THE MOST BASIC STANDARDS OF HUMANE TREATMENT.

-- WE UNDERSTAND THAT THIS PROBLEM MAY REQUIRE ADDITIONAL RESOURCES. WE ARE WILLING TO DISCUSS WITH THE UN, THE ICRC AND RWANDA'S OTHER FRIENDS HOW THE INTERNATIONAL COMMUNITY MIGHT ASSIST.

-- WE URGE YOU TO ESTABLISH AND APPLY ADEQUATE STANDARDS FOR ARRESTS AND DETENTIONS, TO MINIMIZE THE LIKELIHOOD OF INNOCENTS BEING DETAINED IN LIFE-THREATENING CONDITIONS FOR MONTHS WITHOUT A HEARING.

-- YOU SHOULD ALSO INSTITUTE AND ENFORCE HEIGHTENED REQUIREMENTS FOR CORROBORATING EVIDENCE, PENDING DEVELOPMENT OF PERMANENT ARREST STANDARDS. GENERAL DENUNCIATIONS ALONE, OR THE MERE FACT THAT ONE SURVIVED A MASSACRE IN AN AREA WHERE OTHERS PERISHED, SHOULD NOT BE ADEQUATE GROUNDS FOR DETENTION.

-- STANDARDS FOR ARREST SHOULD BE TRANSPARENT, CONSISTENT, AND WELL-UNDERSTOOD BY THE PUBLIC. THIS WILL HELP FOSTER CONFIDENCE AMONG THE PUBLIC.

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-- GIVEN THE LACK OF ADEQUATE DETENTION FACILITIES, YOU SHOULD FOCUS YOUR ARREST EFFORTS ON CASES WHERE THE EVIDENCE OF GUILT IS COMPELLING, WHERE ARREST IS NECESSARY TO PRESERVE CURRENT PEACE AND ORDER WHERE ARREST IS NECESSARY TO PROTECT A SUSPECT FROM LIKELY RETRIBUTION, OR WHERE THE SUSPECT IS REASONABLY BELIEVED TO HAVE PLANNED OR DIRECTED LAST YEAR'S GENOCIDE.

-- CASES INVOLVING OTHER SUSPECTS CAN BE DEVELOPED AND INVESTIGATED FURTHER UNTIL EVIDENCE IS AMPLE, AT WHICH POINT IF AN ARREST IS FOUND TO BE WARRANTED, ADEQUATE DETENTION FACILITIES WOULD HAVE TO BE FOUND.

-- GIVEN THE GRAVITY OF THE PROBLEM, YOU MAY ALSO WISH TO CONSIDER TEMPORARY MEASURES TO ALLEVIATE THE IMMEDIATE PROBLEM.

-- AS A HUMANITARIAN GESTURE, YOU MIGHT CONSIDER RELEASE OF INDIVIDUALS BELOW OR ABOVE A CERTAIN AGE SO THAT THE VERY YOUNG AND THE ELDERLY -- THE MOST VULNERABLE POPULATIONS -- CAN BE CARED FOR BY THEIR FAMILIES AT HOME. IN ANY CASE, CHILDREN WHO ARE TOO YOUNG TO HAVE A CRIMINAL INTENT SHOULD NOT BE DETAINED.

-- CONSIDERATION SHOULD ALSO BE GIVEN TO WHETHER INDIVIDUALS COMMITTED CRIMES UNDER DURESS SUCH AS A CREDIBLE THREAT OF THE LOSS OF THEIR OWN LIVES.

-- STEPS OF THIS NATURE WOULD BE A TESTAMENT TO THE GOODWILL AND HUMANITARIAN MOTIVE OF THE GOVERNMENT, AND
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WOULD IN NO WAY DISHONOR THE VICTIMS OF THE GENOCIDE. NO ONE DOUBTS THE INTENTIONS OF YOUR GOVERNMENT TO SEE THAT JUSTICE IS DONE.

(NOTE: DEPARTMENT HAS DISCUSSED DEMARCHE WITH AMB. RAWSON

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WHILE HERE ON CONSULTATIONS AND HE IS AWARE HE WILL BE
MAKING DEMARCHE UPON HIS RETURN.)

8. FOR GENEVA: PLEASE INFORM ICRC THAT WE ARE MAKING THE
ABOVE DEMARCHE.

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