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REPUBLIC OF RWANDA
MINISTRY OF JUSTICE
P.O. Box. 160
Kigali

CASE NO: ICIR-98-41-T
EXHIBIT NO: DB.130B
DATE ADMITTED: 23.9.2004
TENDERED BY: DEFENCE
NAME OF WITNESS:

Kigali, 18 June 1992

No. 2317/05.00

His Excellency the Minister
Kigali

Subject: **Memorandum on International Commission of Inquiry on Human Rights violations in Rwanda following the 1 October 1990 attack by the Rwandan Patriotic Front (RPF)**

Your Excellency,

Attached herewith is a memorandum on the subject above.

The purpose of the Commission is to carry out an exhaustive inquiry on human rights violations in Rwanda, particularly in areas where bloody events occurred following the RPF's armed struggle. The aim of the inquiry is to identify the victims of such violations as well as to identify the perpetrators and possible accomplices and any other persons who, by direct or indirect action or even passively, contributed to such violations.

In accordance with the decision of the Council of Ministers, I have already identified some organizations to conduct the inquiry, namely the International Human Rights Federation, Belgian Human Rights League, International Commission of Lawyers, Africa Watch and Amnesty International.

Contact has been made with the International Human Rights Federation. If there is no favourable response from the Federation, I will contact the other organizations one after the other so as to avoid problem of choice should more than one organization respond favourably.

Accept Sir, the assurances of my high consideration.

Yours faithfully,

Stanislas Mbonampeka
Minister of Justice

cc: - Minister of Foreign Affairs and Cooperation, Kigali
- Minister of the Interior and Communal Development, Kigali

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**MEMORANDUM ON THE SETTING UP OF AN INTERNATIONAL
COMMISSION OF INQUIRY ON HUMAN RIGHTS VIOLATIONS
IN RWANDA FOLLOWING THE 1 OCTOBER 1990 ATTACK BY
THE RWANDAN PATRIOTIC FRONT (RPF)**

I. CURRENT SITUATION

I.1 Repression of offences

The reports sent by the Prosecutors, Ruhengeri Appeals Court and Kigali Appeals Court and by the Prosecutor of the Republic attached to the Gisenyi Court of First Instance indicate the consequences of the ethnic confrontations in certain areas of the country following the RPF's attack on 1 October 1990.

The number of victims per *préfecture* and per *commune* is as follows:

1. Punishable acts that occurred before 15 December 1991

(Amnestied by Law No. 54 *bis*/91 of 15 November 1991)

<i>Préfecture/Commune</i>	Killed	Missing	Suicide
A. GISENYI			
- KIBILIRA	301	-	-
- SATINSYI	13	-	-
- GASEKE	31	-	-
- GICIYE	23	-	-
- KARAGO	68	-	-
- MUTURA	36	-	-
- RWERERE	3	11	4
- KANAMA	2	-	-
B. RUHENGERI	15	29	-
- MUKINGO	46	-	-
- NKULI	39	-	-
- KINIGI			

2. Punishable acts that occurred after 15 December 1991

<i>Préfecture/Commune</i>	Killed	Missing	Suicide	Wounded
A. GISENYI				
- KIBILIRA	5	-	-	-
B. KIGALI				
- KANZENZE	63	-	-	-
- NGENDA	36	-	-	6

- GASHORA	84	-	-	34
- MBOGO	14	-	-	-
C. KIBUNGO				
- SAKE	3	-	-	-
- MUGESERA	1	-	-	1
D. GITARAMA				
- MUGINA	1	-	-	-
E. BYUMBA				
- MURAMBI	1	-	-	-

Legal actions were taken against these acts. Thus:

- 27 cases involving 233 suspects were brought before the Kigali Court of First Instance.
- 34 cases involving 547 suspects are under investigation by the Office of the Prosecutor of the Republic in Nyamata.
- The Kigali Court of First Instance was also seized of the criminal case relating to the events that occurred in Mbogo *commune*.
- 5 cases were opened by the Kibungo Office of the Prosecutor for murder, arson and destruction of property in Sake and Mugesera *communes* and a case has been referred in order to fix a trial date at the Kibungo Court of First Instance.
- The Office of the Prosecutor, Gitarama also filed 3 cases against 90 people accused of murder, arson and destruction of property. These acts were committed in Mugina, Mushubati and Rutobwe.
- Investigations have been conducted by the Office of the Prosecutor, Ngororero to arrest those responsible for the murder of five people and for destruction of property. These acts were committed on 16 March 1992 and on the night of 24 to 25 April in Kibilira *commune*.

The cases have been filed in connection with the acts committed after the amnesty law involving 1,108 people as perpetrators of the crimes, but some reports drafted by the officials of the Office of the Prosecutor also involved local authorities and even soldiers stationed in the areas of confrontations. The attached tables show the *préfectures*, *communes* and *secteurs* where such confrontations took place, the number of suspects, the offences charged as well as the status of the cases.

Unfortunately, we do not have information on human rights violations committed in the combat areas in Byumba *préfecture* in particular and especially in Kivuye, Cyumba, Kiyombe and Muvumba *communes*.

I.2 Causes of the confrontations

The reports drafted by the officials of the Prosecutor's Office indicate that the remote cause of the confrontations is the war staged by RPF against Rwanda, which the population perceived as the return of Tutsi refugees by force..... [illegible].

Thus, in Kibilira *commune*, the murder of a Hutu, Riberakurora, by a Tutsi called Ndahimana in Ntaganzwa *secteur* on 14 October 1990 sparked Hutu vengeance, and the rumour that Lt-Colonel Charles Uwihoreye, a native of the *commune*, was killed by the *Inkotanyi* also had to be avenged.

In Ruhengeri and Gisenyi *préfectures*, the raid on Ruhengeri prison and the temporary occupation of the town by the *Inkotanyi* created was shock to members of the population of the neighbouring regions, who immediately considered Tutsis as the accomplices of the surprise attack. The Bagogwes also set up ambush for a military patrol in which Corporal Zigiranyirazo was killed and one of his comrades was seriously wounded. That action led to reaction from soldiers who wanted to avenge their comrades, and reaction from the population who thought that it was a large-scale attack by Tutsis and RPF. The repeated attacks by *Inkotanyi* in Ruhengeri region and Katyusha shells fired whenever there was tension in the area.

In Kanazi *sous-préfecture*, the following likely causes were identified:

1. The repeated cattle theft by Burundians and by Rwandan refugees of Kirundo camp. Such thefts targeted Hutu cattle breeders. It did not take long for the Hutu cattle breeders to suspect their Tutsi neighbours of complicity.
2. The murder of a certain Hakizimana, a Hutu, and the blows and serious injuries his wife sustained.
3. The death in Burundian territory of *Conseiller* Hitiyise of Bureng [illegible] *secteur*, Ngenda *commune*, who had gone to Burundi with the consent of that country's authorities in order to collect six cows that had been stolen.
4. The murder of former Hutu *conseiller* of Nyagihunika *commune* by a Tutsi called Bikarishya who had taken refuge in Burundi.
5. The departure of some young people to Burundi. Hutus interpreted their departure as a desire to go and increase the ranks of the *Inkotanyi*.

6. Tracts and false rumours that circulated in the region that Tutsis from Bugesera were preparing to exterminate Hutus.
7. The meeting of the *Parti Libéral* held in Nyamata, during which members of the population were called to civil disobedience.
8. Land mines along the public road, which caused loss of material resources and human lives, for which the public blamed RPF's Tutsi accomplices.

In Mbogo *commune*, the death of Sub-Lieutenant Cyriaque Murangira at the battlefield was cited as the immediate cause. His death was celebrated by some Tutsis who organized an evening party to that effect. Thus, Hutus wanted to avenge their brother with the resulting confrontations. Another cause cited as regards the *commune* is the troubled situation in Bugesera, a region that shelters many people from the *commune*. Furthermore, rumours circulated that a Tutsi woman called Mukamusana gave poisoned candies to her primary school pupils to distribute to Hutu pupils in her class. It seemed that the pupils who consumed the candies fell ill. These factors explain the confrontations in the *commune*.

In Mugesera and Sake *communes*, the causes of unrest were attributed to the events that occurred in the neighbouring Gashora *commune*, which extended beyond the *communes*; thieves took advantage of the situation to cause further unrest in order to grab the property of others and to settle scores with some individuals.

In Murambi *commune*, the political meeting held by the MDR party was cited. After the meeting, some Tutsi members of the party uttered offensive language to Hutu members of MRND. Following that political meeting, rumours were spread of an imminent attack by an ethnic group on another. Furthermore, it was also cited that the revengeful attitude of some people who were arrested in connection with the war sparked by RPF, and released later, caused tension among the Hutus who had denounced them.

Lastly, in Mugina, Rutobwe and Mushubati *communes*, the events were not very violent, but for the death of one person in Mugina *commune*. There were various pretexts behind the events, namely lack of land to cultivate, some communal decisions which the population considered to be unjust, people who want to grab the property of others.

I.3 BEHAVIOUR OF LOCAL AUTHORITIES

I.3.1. In Kibilira *commune*, the local authorities seem not to have followed the trend of the tension among the population. The events practically embraced the entire *commune* like a trail of powder. Obviously, there were ways of stopping the killings in time by bringing the law enforcement agents to intervene. The agitators include the *cellule* leaders (Emmanuel Ngendahimana, Protais Hajabakiga for Gatumba *secteur*, teachers like Ukizebaraza in Rubona *secteur*, the agricultural supervisor, Kagorora in Mikingo

secteur, the driver of Kibilira *commune*, André Dusabemungu. His chief, the *bourgmestre* of the *commune* was not unaware of his driver's actions. The passive attitude of the local authority can be considered as complicity.

The new *bourgmestre* and the new *sous-préfet* of Ngororero were equal to the task and brought the situation under control. The five persons killed were on the nights of 8 to 9 March 1992, 15 to 16 March 1992 and 24 to 25 March 1992 only in Ngurugunzu *secteur*. The new local authorities quickly brought the situation under control. Therefore, the person to be held responsible was the *bourgmestre*, who has now been replaced.

I.3.2. In Satinskyi (sic) *commune*, it should be admitted that the *bourgmestre* and the *conseillers* of the *secteurs* were able to contain members of the population. There were 19 cases of killing while in Kibilira *commune* 301 cases were recorded. The report of the Prosecutor of the Republic indicates that in Murambi, Kiziguro and Mbuye *secteurs*, the *conseillers* actively participated in search of suspects and denounced the perpetrators of the crimes. In the report nothing implicated the local authorities, and the fact that there has been no incident of unrest since then, really demonstrates their good intention to keep public peace and tranquillity.

I.3.3. The same observation can be made regarding Gaseke *commune* where the report indicates that the *conseillers* of Rwik, Magaba and Mwendo were active in denouncing the perpetrators of the crimes. Unfortunately, the report was silent about the conduct of the *bourgmestre* during the events but we can assume that as there have been no confrontations for a year, he must have performed his duties. The Prosecutor General of Ruhengeri pointed out that the local authorities do not want the truth to be known.

I.3.4. The report of the Prosecutor of the Republic does not mention Karag.... *commune* although the Prosecutor General attached to the Appeals Court informed that 68 people were killed. Nothing is mentioned about the conduct of the authorities before, during or after the events. But the fact that such massacres took place more than a year after the launching of the war by RPF, shows that the authorities were not able to prevent such by sensitizing the population or by preventive security measures. An inquiry on the spot made it possible to establish the responsibility of the local authorities in the confrontations. We made the same observations regarding the Giciye *commune* because the reports of the officials of the Prosecutor's Office mentioned nothing about the conduct of the local authorities.

I.3.5. Regarding Mutura, Kanama and Rwerere *communes*, reports are silent about the conduct of the local authorities, however the fact that in some administrative *secteurs* the perpetrators were not identified really shows little enthusiasm from the authorities to collaborate with the judiciary in order to find the truth. In these *communes*, soldiers also avenged one of their comrades killed in an ambush claimed to have been set by the Bagogwe. The soldiers who are behind the disappearance [...]

1.3.6. For Mukingo, Nkuli and Kinigi *communes*, the report of the Prosecutor General attached to Ruhengeri Appeals Court stressed the negative conduct of the local authorities who are making efforts not to unmask the truth about the events that occurred in the *communes*; the fear they instil among the families of the disappeared really demonstrates that they have something to hide. The report shows that the local authorities of the Mukingo *commune* are particularly blamed by the public for being responsible for the massacres.

1.3.7. In Kanazi *sous-préfecture*, a succession of events led to tension among the population, with the resulting carnage and looting. In this regard, one can recall the frequent cattle theft along the border with Burundi, the death of the *conseiller* of Burenge *secteur* in Ngenda *commune*, the successive mine explosions in the region, the activism of some people in order to trigger hostilities and the tracts that circulated in the region a few days earlier. All these factors led the authorities of the *sous-préfecture* to take precautions in order to avoid uncontrolled behaviour, by imposing curfew and by making preventive arrests of some agitators, who openly went about the region. In any case, the authorities had perceived the events but did nothing to prevent the massacres and looting. The report of Kigali Prosecutor General rather lauded the role of the prefectural, communal and even judicial authorities, but "after the occurrence of the events". Some authorities were cited as those behind the events. An independent inquiry should be able to establish responsibilities, especially when some people strived to maintain tensions in the region in order to discourage pacification efforts and measures.

1.3.8. In Sake and Mugesera *communes*, the local authorities took action only when unrest occurred. It should be admitted that the authorities were able to quell the events, as only one *secteur* was affected in Mugesera *commune*. Kibungo prefectural authorities went to the scenes of unrest and law enforcements agents restored order. In view of the rapid intervention and the short time in which the inquiry was conducted, it can be considered that the local authorities did their best.

1.3.9. Regarding Murambi *commune*, the report of the Prosecutor General at the Kigali Appeals Court indicates that in Rwankura the only *secteur* where there were confrontations, there had been tension for some time and the authorities were able to quell it in time. When the *bourgmestre* learnt about the confrontations he did not visit the scenes of unrest but waited until the following day to convene the Communal Security Council which, as it happens, was not held. It took the intervention of the *préfet* of Byumba *préfecture* to calm the situation in one *secteur* of the *commune*. Nevertheless, the report cited the responsibility of a certain Bizimungu, *conseiller* of the *secteur*, who was accused by all the witnesses interviewed.

It should be stressed that various sources of information cited the *bourgmestre* himself for the disappearance of people in the *commune* when the war raged in Mutara. He was also cited in the inter-ethnic conflicts in Rwankura *secteur*. An inquiry at the scene could shed more light on the matter.

I.3.10. In Mbongo *commune*, the *bourgmestre* reacted swiftly by requesting assistance from superior authorities who were able to contain the situation to avoid lots of damage. However, the report underlined the negative role of the Criminal Investigations Officer of the *commune* who was little cooperative and who in complicity with the President of the Canton Court incited the population against the *bourgmestre*. He did not fail to take advantage of every occasion to sow discord among the population in order to discourage the *bourgmestre*.

I.3.11. In some *communes* of Gitarama (Mugina, Rutobwe, Mushubati), there was unrest but were small-scale, with one death only. The reports do not establish the responsibility of any local authority, neither during nor after the unrest, particularly since they were quickly brought under control.

II. OPINION AND CONSIDERATIONS OF THE MINISTER OF JUSTICE

It results from the investigations conducted by the various Offices of the Prosecutor that the local administrative authorities have been involved in the inter-ethnic confrontations that occurred in some regions of the country since the war staged against Rwanda by RPF on 1 October 1990. Responsibilities are incurred at various levels: the unrest was not prevented through sensitisation and monitoring of the population, direct local participation in the confrontations in some regions, obstruction of investigations conducted by the judicial authorities and attitude of some public authorities who did nothing to calm things and restore harmony among members of the population. Some of the authorities have been identified in the reports. They are the following:

- Kagorora, Agricultural supervisor of Mikingo *secteur* in Kibilira *commune*;
- Ukizebaraza, member of the *cellule* committee and teacher in Rubona *secteur*, Kibilira *commune*;
- The *conseiller* of Rubona *secteur*, Kibilira *commune* (no other identification);
- The former *bourgmestre* of Kibilira;
- Sebagenzi and Mbwirabumva of Gaseka *cellule*, Statinsyi *commune*;
- The *bourgmestres* of Gaseke, Kinigi and Nkuli *communes*, who impeded the investigations on murder cases;
- The *bourgmestre* of Mikingo *cellule*;
- The *conseiller* of Rwankuba *secteur*, Murambi *commune*;
- Bernard Rutegesha, Léonard Kabirigi, Munyakayanza, members of the *cellule* committee;
- The *conseiller* of Kavumu *secteur*, Ngenda *commune* (no other identification);
- The Criminal Investigations Officer of Mbogo *commune* (no other identification).

Apart from such reports, other public authorities of the areas where unrest occurred are cited among the perpetrators of the unrest but the judicial services could not compile the materials necessary to incriminate them. The most cited is that of Gatete, that is, the *bourgmestre* of Murambi *commune*.

The reports are often contradictory and incomplete, individuals declared missing appear on the lists of persons killed. Moreover, those who drafted some of the reports could not refrain from including tendencies which cast doubt on their sincerity.

The events in our country aroused various opinions regarding the respect for human rights in Rwanda and tarnished its image on the international scene. The priority of the transitional Government is to revamp the image of Rwanda so as to regain the trust of its international partners and to strengthen the desire of the authorities to make Rwanda a real constitutional state. It is in this context that the Government of Rwanda decided to seek the assistance of an international commission in order to conduct inquiry on the public authorities' share of responsibility in the inter-ethnic confrontations that have occurred in Rwanda since 1 October 1990. The Minister of Justice has been mandated to set up the commission and he has already identified some organizations in this respect, namely the International Federation of Human Rights, the International Commission of Lawyers, Human Rights League, Amnesty International, and Africa Watch.

III. ORGANIZATION OF THE INTERNATIONAL COMMISSION OF INQUIRY

III.1 The Commission's objective

The objective of the Commission is to gather as much information as possible in order to establish the responsibility of the public authorities in the confrontations that occurred in the regions, on the dates indicated below. The Commission will identify the individuals who, by their direct or indirect action, their encouragement, instigation or passiveness, allowed the unrest to occur or to spread.

Regions to be covered

1. Gisenvi préfecture

Kibilira <i>commune</i> :	October 1990 and March-April 1992
Satinsyi <i>commune</i> :	October 1990
Gaseke <i>commune</i> :	January-February 1991
Giciye <i>commune</i> :	January-February 1991
Mutura <i>commune</i> :	January-February 1991
Kanama <i>commune</i> :	January-February 1991
Karago <i>commune</i> :	January-February 1991

2. **Ruhengeri préfecture**

Nkuli *commune*: January-February 1991
 Mukingo *commune*: January-February 1991
 Kinigi *commune*: January-February 1991
 Nkumba *commune*: January-February 1991

3. **Kigali préfecture**

Kanzenze *commune*: March 1992
 Gashora *commune*: March 1992
 Ngenda *commune*: March 1992
 Mbogo *commune*: March 1992

4. **Gitarama préfecture**

Mugina *commune*: March 1992

5. **Byumba préfecture**

Kivuye *commune*
 Cyumba *commune*
 Kiyombe *commune*
 Murambi *commune*, since October 1990: November 1991

III.2. Composition and organisation of the Commission

III.2.1. The Commission would be composed of 3 groups comprising 3 people each who would cover Gisenyi, Ruhengeri, Kigali and Byumba regions.

III.2.2. The Government of Rwanda would finance what the Commission would not finance.

III.2.3. The Commission would draft its work programme and time table.

III.3. Aim of the inquiry

The outcome of the inquiry should enable Rwanda to draft an action programme aimed at preventing the occurrence of similar events in Rwanda. First, the inquiry will make recommendations, so as to make it possible to institute legal action (where possible) against the perpetrators of the unrest and their accomplices or to take disciplinary action against the public authorities who may have played any role in the confrontations.

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The Commission will have an informative role because it would provide for public consumption, complete and independent information on the unknown perpetrators of the events and possibly on unidentified victims.