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L - Conrad K. Harper

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SUBJECT: Has Genocide Occurred in Rwanda?

ISSUES FOR DECISION

Whether (1) to authorize Department officials to state publicly that "acts of genocide have occurred" in Rwanda and (2) to authorize U.S. delegations to international meetings to agree to resolutions and other instruments that refer to "acts of genocide" in Rwanda, state that "genocide has occurred" there or contain other comparable formulations. (A resolution posing this issue is expected at the May 24-25 Special Session of the UN Human Rights Commission).

ESSENTIAL FACTORS

Events in Rwanda have led to press and public inquiries about whether genocide has occurred there. In light of the stark facts in Rwanda (see INR's analysis, Tab 1) and L's legal analysis (Tab 2), we believe that Department officials should be authorized to state the Department's conclusion that "acts of genocide have occurred" in Rwanda. This is the same formulation that we use with respect to Bosnia.

A Special Session of the UN Human Rights Commission will meet May 24-25 in Geneva to consider the human rights situation in Rwanda. The U.S. delegation will press for a strong

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resolution condemning the violence and calling for action, including the appointment of a Special Rapporteur. We expect other delegations to seek language in the resolution that condemns events in Rwanda as "genocide." We believe that U.S. delegations to such international meetings should be authorized to agree to resolutions and other instruments that provide that "genocide" or "acts of genocide" have occurred in Rwanda, or contain other formulations that indicate that some, but not necessarily all, of the violence in Rwanda is "genocide" within the meaning of the 1948 Genocide Convention. (In the case of Bosnia, we have shown flexibility in international fora, e.g., the World Conference on Human Rights, where we joined in a consensus statement that genocide is "taking place" in Bosnia).

#### DISCUSSION

As defined in the 1948 Genocide Convention, the crime of "genocide" occurs when certain acts are committed against members of a national, ethnic, racial or religious group with the intent of destroying that group in whole or in part. Among the relevant acts are killing, causing serious bodily or mental harm and deliberately inflicting conditions of life calculated to bring about physical destruction of the group. In addition, conspiracy, direct and public incitement and attempts to commit genocide, as well as complicity in genocide, are offenses under the Convention.

INR's assessment of relevant activities in Rwanda since the April 6 crash of the airplane carrying the Rwandan President is attached (Tab 1). L believes (Tab 2) that there is a strong basis to conclude that some of the killings and other listed acts carried out against Tutsis have been committed with the intent of destroying the Tutsi ethnic group in whole or in part. Moreover, there is evidence that some persons in Rwanda have incited genocide or have been complicit in genocide, which would also constitute offenses under the Convention.

A USG statement that acts of genocide have occurred would not have any particular legal consequences. Under the Convention, the prosecution of persons charged with genocide is the responsibility of the competent courts in the state where the acts took place or an international penal tribunal (none has yet been established); the U.S. has no criminal jurisdiction over acts of genocide occurring within Rwanda unless they are committed by U.S. citizens or they fall under another criminal provision of U.S. law (such as those relating to acts of terrorism for which there is a basis for U.S. jurisdiction).

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Although lacking in legal consequences, a clear statement that the USG believes that acts of genocide have occurred could increase pressure for USG activism in response to the crisis in Rwanda. We believe, however, that we should send a clear signal that the United States believes that acts of genocide have occurred in Rwanda. If we do not seize the opportunity presented by fora such as the UNHRC to use the genocide label to condemn events in Rwanda, our credibility will be undermined with human rights groups and the general public, who may question how much evidence we can legitimately require before coming to a policy conclusion.

RECOMMENDATIONS

That you authorize Department officials to state publicly that "acts of genocide have occurred" in Rwanda (all bureaus support).

Approve ✓ (W/C) 5/21/94 Disapprove \_\_\_\_\_

That you authorize U.S. delegations to the UN Human Rights Commission and other international fora to agree to resolutions and other instruments that refer to "acts of genocide" in Rwanda, state that "genocide has occurred" there or contain other comparable formulations (all bureaus support).

Approve ✓ (W/C) 5/21/94 Disapprove \_\_\_\_\_  
M.C.

Attachments:

- Tab 1 - INR Memorandum
- Tab 2 - Legal Analysis

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SELAF #2017 x 74110 5/16/93

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