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This submission focuses on the issue of the protection of children in detention, and the protection of students, teachers, and schools during armed conflict.

Detention and Ill-Treatment of Children (Articles 19 and 37)

Since 2006, Human Rights Watch has been documenting the detention and ill treatment of children at Gikondo transit center, where children living or working on the street, street vendors, sex workers, homeless people, suspected petty criminals, suspected serious offenders, and others assumed to be from these groups have been detained.¹ For a 2015 report, Human Rights Watch interviewed 57 former detainees who had been held at Gikondo between 2011 and 2015: 27 men and boys and 30 women and girls. Ten boys and three girls were aged 18 or under at the time they were interviewed; the youngest was 13 years old. For a 2016 report, Human Rights Watch interviewed 43 former detainees from Gikondo and three other transit centers in other parts of Rwanda: Muhanga (Muhanga district), Mbazi (Huye district), and Mudende (Rubavu district).² This included interviewing 13 children, ages 10 to 17, who had been detained in Muhanga and Mbazi, between June 2015 and May 2016.

In February 2019, Human Rights Watch spoke to six children recently released from Gikondo transit center and confirmed the ill treatment and conditions of detention

¹ 'Swept Away: Street Children Illegally Detained in Kigali', Human Rights Watch, May 2006, <http://www.hrw.org/legacy/background/africa/rwanda0506/rwanda0506.pdf>; and "Why Not Call This Place a Prison?" Unlawful Detention and Ill-Treatment in Rwanda's Gikondo Transit Center', Human Rights Watch, September 24, 2015, <https://www.hrw.org/report/2015/09/24/why-not-call-place-prison/unlawful-detention-and-ill-treatment-rwandas-gikondo#>.

² 'Rwanda: Locking Up the Poor', Human Rights Watch, July 21, 2016, <https://www.hrw.org/news/2016/07/21/rwanda-locking-poor>

described in previous Human Rights Watch reports, including beatings, other ill-treatment and seemingly arbitrary arrests, are ongoing.³

Gikondo Transit Center

Although Rwandan government officials refer to the center as the Gikondo transit center,⁴ Gikondo has been used as a detention center since at least 2005.⁵

Gikondo was temporarily closed in 2006 but reopened in 2007.⁶ Conditions at Gikondo worsened from 2006 to 2015 as more people were unlawfully detained there and suffered humiliating abuses in a harsh environment. In August 2014, the office of the Mayor of Kigali and the National Commission for Children announced in a meeting that children would not stay at Gikondo transit center and that if a child did arrive there, “the child must be immediately sent to another place that suits him.”⁷ This welcome decision was an admission that children should not be held in this facility. However, during research for its 2016 report Human Rights Watch was told that children were still being detained at Gikondo and other transit centers across the country and, based on conversations with children in 2019, Human Rights Watch has confirmed that children are still being detained and subjected to ill-treatment at Gikondo.

Detention conditions

Police round-ups of poor people on the streets of Kigali are often the first step towards unlawful detention and inhuman and degrading treatment at Gikondo. The arbitrary way people are arrested is consistent with the complete absence of due process that continues once they are detained at Gikondo.⁸ Children are often times arrested by the police and spend days in their detention without charge before they are taken to Gikondo.

During interviews in 2015 and 2016, former Gikondo detainees told Human Rights Watch that up to 800 people could be held at the center at one time, in several large

³ Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

⁴ A sign reading “Kigali City Rehabilitation Transit Centre” was erected outside the center in mid-2014. In late July 2015, the sign was still there and a new concrete wall was being built outside the center

⁵ ‘Swept Away: Street Children Illegally Detained in Kigali’, Human Rights Watch

⁶ See US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Report on Human Rights Practices, 2007: Rwanda,” March 11, 2008, <http://www.state.gov/j/drl/rls/hrrpt/2007/100499.htm> (accessed March 4, 2019)

⁷ “Minutes of the meeting of 18/08/2014 in Kigali on the problem of street children and the program to remove the Transit Center in Gikondo dated 20/08/2014”, document on file with Human Rights Watch

⁸ “‘Why Not Call This Place a Prison?’ Unlawful Detention and Ill-Treatment in Rwanda’s Gikondo Transit Center’, Human Rights Watch.

rooms. Some described up to 400 detainees held in one room. The length of detention at Gikondo could range from a few days to several months. In most cases documented by Human Rights Watch, children were held at Gikondo without charge and with no regard for due process in violation of their rights.⁹

Ill-treatment and beatings of detainees by the police or by other detainees, acting on the orders or with the assent of the police, are commonplace at Gikondo. Former detainees spoke of routine beatings for actions as trivial as talking too loudly or not standing in line to use the toilet. An 11-year-old boy who was held at Gikondo in 2019 explained to Human Rights Watch how he was accused of being a vagabond and beaten. “We were all beaten,” he said. “When you commit an involuntary fault you can be beaten more than 20 times on the buttocks with a large club.”¹⁰

Detainees told Human Rights Watch of conditions that could only be described as deplorable and degrading. Detainees were not accorded basic necessities, such as a regular supply and reasonable quantities of food and clean water, and were often held in cramped conditions. Detainees slept on the floor, sometimes without mattresses.¹¹

Children in detention

Until late 2014, children accounted for a significant proportion of detainees at Gikondo. Detainees spoke of a room where street children, vagabonds, and street hawkers were held together. Between 2011 and 2014, Human Rights Watch documented the presence of adults in this room alongside the children.¹²

Additionally, Human Rights Watch spoke to six children aged between 11 and 15 in February 2019 who confirmed they had been detained at Gikondo for periods ranging from two weeks to four months. Some were released as late as January 2019. The detention conditions they described remain close to those previously documented.¹³

⁹ Until 2018, vagrancy and begging were offences under the 2012 Penal Code. Article 198 of the 2013 Code of Criminal Procedure states that: “A minor aged below fourteen (14) years shall not be subject to prosecution. A juvenile offender aged fourteen (14) years shall be subject to prosecution but cannot be detained in the same custody facilities as adult suspects. However, due to exceptional reasons, a minor aged between twelve (12) and fourteen (14) years for whom there are serious grounds for believing that he/she committed an offence, may, for the purposes of investigation, be held in judicial police custody for a period not exceeding seventy two (72) hours but solely when the offense committed is punishable with imprisonment of at least five (5) years.”

¹⁰ Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

¹¹ “‘Why Not Call This Place a Prison?’ Unlawful Detention and Ill-Treatment in Rwanda’s Gikondo Transit Center’, Human Rights Watch.

¹² Ibid.

¹³ Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

Young children detained with mothers

In 2015 Human Rights Watch documented how many women, especially street vendors, were arrested with their young children. Human Rights Watch interviewed ten women who were detained at Gikondo with their young children, some of whom were under one year old, others as old as four.¹⁴ One woman who had been detained at Gikondo four times told Human Rights Watch that each time she had to keep her youngest child with her because there was nobody else to take care of her.¹⁵ Sources in Rwanda informed Human Rights Watch of cases of mothers and their young children held in Gikondo in 2019.

The conditions at Gikondo are particularly unsuitable for young children. Former detainees told Human Rights Watch that while young children were given extra food, the quantity was not sufficient. They were not provided with milk or baby food. One former female detainee told Human Rights Watch, “The kids are given porridge once a day but it was bad and mixed with water. Sometimes there was no porridge so they gave them water that was used to cook the beans.”¹⁶

Female detainees with young children or babies were frequently beaten if the child defecated on the floor. Defecation on the floor by a detainee’s child was considered a serious offense at Gikondo. Detainees described not having access to water in the room, and being allowed to go out of the room to use the toilet only at fixed times.

Release from Gikondo

While some children told Human Rights Watch the police at the detention center used to register them before they were released, most said they were just told to leave. Some former detainees said they were transferred to rehabilitation centers, but many were simply released back onto the streets after the police read their names off a list and told them to leave.¹⁷ Some of the children Human Rights Watch spoke to in 2019 said they were returned to where they had been arrested.¹⁸

Transit Centers in Mudende, Mbazi, Muhanga

According to research in 2016, most children and adult detainees in Mudende, Mbazi, and Muhanga centers were not allowed to leave their room, except to go to the toilet

¹⁴ Ibid.

¹⁵ Human Rights Watch interview with former detainee at Gikondo, Kigali, February 16, 2014.

¹⁶ Human Rights Watch interview with former detainee at Gikondo, Kigali, February 16, 2014.

¹⁷ Human Rights Watch interviews with former detainees at Gikondo, Kigali, December 9, 2012, January 13, 2013, and June 10, 2014.

¹⁸ Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

twice a day. In most cases, food was no more than one cup of corn a day, and several former detainees complained of the lack of drinking water or the opportunity to wash.

Most of the 13 children interviewed by Human Rights Watch in 2016 said they were living or working on the street.¹⁹ In Muhanga, children were held in the same center as adults, while in Mbazi they were held in a separate building, in slightly better conditions. They received more varied food, and a greater quantity, and could move around more freely, but adults who visited the children's room said there was a lack of proper hygiene and no education.

Most said they were arrested because they could not show identity documents or were street vendors or street children. Two boys said they had gone to the Mbazi transit center voluntarily, looking for a better life. One ran away a few days after he arrived. A social worker took another boy out of the center, where there were no activities, to place him back in school.²⁰

Many said they had been beaten. Most of the children interviewed who had been in Muhanga told Human Rights Watch that they were beaten by police who administered the center or by other detainees.

The Rwandan Government's Response

In 2015 and 2016, the National Commission for Human Rights and members of the Rwandan Parliament confirmed some of Human Rights Watch's findings and endorsed a recommendation for an updated legal framework for all "transit centers."²¹

New Legal Framework for Gikondo

One month after Human Rights Watch published its 2015 report on the Gikondo transit center, the Kigali City Council adopted a new directive on the Kigali Rehabilitation Transit Center – the official name for the Gikondo transit center – laying out the center's objectives and procedures.²² The directive lists the rights of those taken to the center, including the rights not to be subjected to corporal punishment, harassed, or discriminated against; access to hygiene and health care; and the right to visits.

¹⁹ 'Rwanda: Locking Up the Poor', Human Rights Watch.

²⁰ Ibid.

²¹ Ibid.

²² Directive of Kigali City Council (N°001/2015) concerning the Kigali Rehabilitation Transit Center, in the Official Gazette 44 bis on November 2, 2015, https://www.primature.gov.rw/fileadmin/user_upload/documents/Official%20Gazettes/2015%20Official%20Gazettes/Official_Gazette_no_44_bis_of_02.11.2015.pdf, p. 64 (accessed March 4, 2019)

However, rather than eliminating arbitrary detention, the directive seems to embed detention practices that could conflict with Rwanda's human rights obligations. The directive does not reflect the government's obligations to take into account the specific needs of women and children (including infants), as laid down in international law and standards. The directive also does not prohibit the detention of children and adults in the same facilities or mention special treatment of, or alternative institutions for, women with infants and young children.

Furthermore, conditions inside Gikondo have not fundamentally changed since the directive was adopted. There has been some progress in terms of health and hygiene, and it appears that women are not beaten as regularly as before, but research conducted as recently as January 2019 suggests that conditions remain very poor and children are still arbitrarily detained.²³

Establishment of the National Rehabilitation Services

In its 2014-2015 annual report, the National Commission for Human Rights described its visits to 28 transit centers across Rwanda. It confirmed several problems in the transit centers, but concluded that human rights were respected. Despite being nominally independent, the commission rarely expresses strong or fundamental criticism of the Rwandan government's human rights record. In March 2016, the United Nations Human Rights Committee expressed its concern about the selection of the members of the commission and its perceived lack of independence.²⁴ In its 2016-2017 annual report, the National Commission for Human Rights determined that the 14 transit centers it had monitored from October 2016 to February 2017 generally respected human rights, and that detainees enjoy the right to medical care, to food, to be visited and to a safe environment.²⁵

Reports on transit centers from the National Commission for Human Rights should be viewed with skepticism not only because of the Commission's lack of independence. Former detainees from Gikondo said the police tightly controlled visits by outsiders and prepared them in advance to present an artificially positive image of the center.

²³ Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

²⁴ United Nations Human Rights Committee, Concluding observations on the fourth periodic report of Rwanda', May 2, 2016, Adopted by the Committee at its 116th session (7-31 March 2016), https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f4&Lang=en (accessed March 4, 2019).

²⁵ National Commission for Human Rights, Annual Activity Report, July 2016 – July 2017, http://cndp.org.rw/fileadmin/user_upload/Annual_Report_2016-2017.pdf, p. 10 (accessed March 7, 2019)

After the commission presented its report to parliament in October 2015, and a parliamentary visit to 11 transit centers, members of parliament were quoted in the media in March 2016, calling the transit centers “prisons” and speaking out against prolonged detention, including of children.²⁶

In March 2016, the National Assembly endorsed a National Commission for Human Rights recommendation to revise a ministerial order on rehabilitation centers for children.²⁷ The Rwandan Parliament adopted a Law establishing National Rehabilitation Services in March 2017, which specifies that “a rehabilitation center or a transit center may be established to accommodate [males, females or children], after demonstrating that premises are separately reserved for the different categories.”²⁸

An April 2018 ministerial order on the mission, organization, and functioning of transit centers established that a person “who has done acts or who exhibits deviant behaviors” can be admitted. The order defines deviant behaviors as “actions or bad behavior such as prostitution, drug use, begging, vagrancy, informal street vending, or any other deviant behavior that is harmful to the public.”²⁹ It states that a “competent person” can apprehend someone on this basis, that men, women, female and male children should all be placed in separate facilities, and that a person cannot exceed a period of two months in the transit center.³⁰ A June 2018 presidential order established three rehabilitation centers, including the Gitagata rehabilitation center where children and women can be transferred for counselling, medical care, and education.³¹

²⁶ ‘Give detention centres face lift, urge Rwanda MPs’, The East African, March 19, 2016, <https://www.theeastafrican.co.ke/news/Give-detention-centres-face-lift--urge-Rwanda-MPs/-/2558/3124850/-/item/0/-/undf2c/-/index.html> (accessed March 4, 2019).

²⁷ ‘Rwanda: Locking Up the Poor’, Human Rights Watch

²⁸ Law N°17/2017 of 28/04/2017 establishing the National Rehabilitation Service and Determining its Mission, Organisation and Functioning, Article 32, https://www.primature.gov.rw/index.php?id=2&no_cache=1&tx_drblob_pi1%5BdownloadUid%5D=194 (accessed March 4, 2019)

²⁹ Ministerial Order N°001/07.01 of 19/04/2018 determining Mission, Organization and Functioning of Transit Centers, Article 2.2 http://nrs.gov.rw/fileadmin/Laws_and_Regulations/Laws/Ministerial%20Order%20determining%20mission%20C%20organization%20and%20functioning%20of%20transit%20centers.pdf (accessed March 4, 2019)

Vagrancy and begging were previously criminalized in Organic Law N° 01/2012/OI of 02/05/2012 instituting the Penal Code, Articles 687 - 692. However, they were removed from Law N°68/2018 of 30/08/2018 determining offences and penalties in general, which replaced the 2012 Penal Code in August 2018.

³⁰ Ibid., Articles 8, 10, and 15.

³¹ Presidential Order N° 100/01 Of 02/06/2018 establishing Gitagata Rehabilitation Center, http://nrs.gov.rw/fileadmin/Laws_and_Regulations/Laws/Presidential%20Order%20establishing%20lwawa%20C%20Gitagata%20and%20Nyamagabe%20Rehabilitation%20Centers%20.pdf (accessed March 4, 2019)

Some of the children Human Rights Watch interviewed in February 2019 said they were detained at Gikondo transit center for up to four months and had slept in the adults' room. Two also mentioned that they had been transferred to Gitagata rehabilitation center from Gikondo.³²

Accountability for Abuses of Children in Detention

Despite the Rwandan justice minister's public promises to investigate and act on information related to possible human rights abuses, and despite multiple requests for information, Human Rights Watch is not aware of any investigation, prosecution, or other actions by the Rwandan authorities in relation to abuses in transit centers.³³

In its 2013 concluding observations on the third and fourth periodic reports of Rwanda, this Committee noted, "Children in vulnerable situations, such as children living in street situations and victims of child prostitution continue to be perceived as offenders and detained in an unofficial detention centre in Gikondo under poor living conditions and without any charges."³⁴ This Committee asked the government of Rwanda to "permanently close all unofficial places of detention, including the detention centre in Gikondo and stop the arbitrary detention of children in need of protection... and conduct thorough investigations of acts of arbitrary detention, ill treatment, and other abuses occurring in the centres."³⁵

In response, the Rwandan government stated, "Gikondo is a transit center [to] help police to deal with children in/on street waiting for their parents [to] come eventually recover them before direct[ing] them to reintegration centers for their education."³⁶

Human Rights Watch recommends that the Committee:

- Ask the Rwandan government what steps it has taken to permanently close all unofficial places of detention, to stop the arbitrary detention of children, and to

³² Human Rights Watch phone interviews with former detainees at Gikondo, Kigali, February 25, 2019.

³³ 'Rwanda: Locking Up the Poor', Human Rights Watch

³⁴ Committee on the Rights of the Child, "Concluding observations on the third and fourth periodic reports of Rwanda, adopted by the Committee at its sixty-third session (27 May-14 June 2013)," CRC/C/RWA/CO/3-4, June 14, 2013, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/RWA/INT_CRC_COC_RWA_13833_E.pdf (Accessed March 4, 2019), p. 17.

³⁵ Ibid, p. 18.

³⁶ Written and Additional Updated Information in Response to the List of Issues Related to the Consideration of the Third and Fourth Periodic Report (CRC/C/RWA/3-4) Submitted by the Government of Rwanda to the Committee on the Rights of [the] Child, April 2013, p. 23.

conduct thorough investigations of acts of arbitrary detention, ill treatment, and other abuses occurring in the centers.

- Ask the Rwandan government to clarify if “deviant behaviors” constitute an offence under Rwandan law, to explain how arrest and detention in transit centers constitutes a “measure of last resort” and how the maximum period of detention of two months can be considered the “shortest appropriate time”, in line with its obligations under the Convention on the Rights of the Child.³⁷
- Ask the Rwandan government what steps it has taken to ensure that implementation of the Law on National Rehabilitation Services is in line with its international human rights standards, and does not result in unlawful detention of children.
- Call for the immediate closure of unofficial places of detention, including Gikondo transit center and urge the Rwandan authorities to end arbitrary round-ups, arrests, detention, and beatings of street children.
- Urge the Rwandan authorities to bring to justice, in fair and credible trials, members of the Rwanda National Police and other individuals responsible for unlawful detention, ill-treatment, and other abuses against children in all unofficial and official places of detention.
- Encourage the government to take measures to fight discrimination and stigma against street children, vagrants and beggars and support these economically vulnerable persons through social protection schemes, education and reliable vocational training.

Protection of Education During Armed Conflict (articles 28, 38, and 39)

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict;³⁸ the importance of the continuation of education during armed conflict; and the implementation of the

³⁷ The Convention on the Rights of the Child, United Nations, Article 37 (b): No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

³⁸ Safe Schools Declaration, May 28, 2015,

https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed March 12, 2019).

Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.³⁹

Rwanda deploys a significant number of peacekeeping troops worldwide including currently in Sudan, the Central African Republic, and South Sudan— all countries where the military use of schools has been documented as a problem. As of March 2019, 84 countries have endorsed the Safe Schools Declaration. Rwanda has yet to endorse this important declaration.

As of January 2019, Rwanda was contributing 5,209 troops to UN peacekeeping operations. Such troops are required to comply with the UN Department of Peacekeeping Operations “UN Infantry Battalion Manual” (2012), which includes the provision that “schools shall not be used by the military in their operations.”⁴⁰

Moreover, the 2017 Child Protection Policy of the UN Department of Peacekeeping Operations, Department of Field Support, and Department of Political Affairs notes: “United Nations peace operations should refrain from all actions that impede children's access to education, including the use of school premises. This applies particularly to uniformed personnel. Furthermore ... United Nations peace operations personnel shall at no time and for no amount of time use schools for military purposes.”⁴¹

Human Rights Watch recommends that the Committee:

- Ask the government of Rwanda whether they have any laws or policies regulating the use of schools and universities by its armed forces for military purposes.
- Ask the government of Rwanda whether the United Nations’ provisions banning the use of schools by peacekeeping forces is included in any pre-deployment trainings for Rwanda forces.
- Encourage Rwanda to endorse the Safe Schools Declaration and take concrete measures to deter the military use of schools, including by bringing the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict into domestic military policy and operational frameworks.

³⁹ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed March 12, 2019).

⁴⁰ United Nations Infantry Battalion Manual, 2012, section 2.13, “Schools shall not be used by the military in their operations.”

⁴¹ UN Department of Peacekeeping Operations, Department of Field Support and Department of Political Affairs, “Child Protection in UN Peace Operations (Policy),” June 2017.