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Swept Away
Street Children Illegally Detained in Kigali, Rwanda

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Summary

The authorities of Kigali, the capital of Rwanda, work hard to present the city in the best possible light, knowing that many international visitors see little beyond the city limits. As part of this effort, in 1997 the authorities began to regularly sweep the city to clear streets and public spaces of what they regard as undesirable persons, such as street children, beggars, street vendors and sex workers. In the early years street children were sent to reception centers far from the capital, but for at least the last year children have been held at an unofficial detention center located in a neighborhood of Kigali called Gikondo. Although only a short distance from the luxury hotels that cater to international visitors, the center, like the children and other persons it confines, is not seen by foreign guests.

Held at the Gikondo center in overcrowded buildings, the hundreds of detainees suffer from lack of adequate food, water, and medical care. Children are subject to abuse from adults detained in the same buildings. Police officers claimed that detainees should spend no more than three days at the center, but some, including children, have been held there for weeks or months. One thirteen-year-old boy died there on April 16, 2006, suffering from severe malnutrition; on the same day a young woman detainee, also reportedly malnourished, suffered a miscarriage and was hospitalized.

Authorities hold the detainees as "vagrants" under colonial-era regulations but rarely charge them formally, bring them to court, or afford them the due process rights guaranteed under the Rwandan constitution and international conventions by which Rwanda is bound.

The detention in particular of children in miserable conditions violates provisions of the United Nations Convention on the Rights of the Child and the African Charter on the Rights and the Welfare of the Child, to which Rwanda is a party, as well as the Rwandan law on the Rights and Protection of the Child Against Violence.

In 2003 the Rwandan government adopted a National Policy for Orphans and Other Vulnerable Children, which includes a section on street children. Under this policy, Rwandan authorities undertook to consult with all stakeholders on relevant issues, but they have not raised the existence of the Gikondo detention center with such important partners as the United Nations Children's Fund (UNICEF). The first that one UNICEF child protection officer had heard of the existence of the center was when a Human Rights Watch researcher informed her in late April 2006.

The current city administration found the Gikondo center in operation when it took office in January 2006. When asked about the Gikondo center, a vice-mayor of Kigali told a Human Rights Watch researcher that the city intended to close the facility.[1] City authorities should act immediately upon this intention and should ensure that, pending closure and afterwards, detainees receive needed legal, social, and medical assistance.

Context

A Rwandan government report in 2001 estimated there were some seven thousand children[2] living on the streets in urban areas. Among various reasons, some children turned to the streets because they had lost all the adult members of their family during the 1994 genocide and war, and others, orphaned by the epidemic of HIV/AIDS, were forced to try to support themselves on the streets.

Since 2003, Rwandan government policy has favored reducing the number of centers assisting unaccompanied children, and increasing the placement of children with foster families (although in some cases children continue on the streets because they prefer life there to placement with foster families whom they disliked or who treated them badly). According to information from a U.N. agency representative who requested anonymity, the major government "rehabilitation center" for street children, located some forty kilometers from Kigali at Gitagata, has taken in very few children since October 2005.[3]

In late April 2006 the security council of Nyarugenge district, a part of Kigali city, recognized the seriousness of the problem of street children and, by implication, the inadequacy of the solution of simply detaining them in places like the Gikondo center. They announced plans to create training centers where street children from Nyarugenge district could learn crafts and trades to support themselves.[4] Such plans, if implemented, would provide these children with the schooling and life skills training promised by the 2003 National Policy for Orphans and Other Vulnerable Children.

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[1] Human Rights Watch interview with Jeanne Gakuba, vice-mayor for social affairs, Kigali, Rwanda, May 4, 2006.

[2] In conformity with usage in the Convention on the Rights of the Child (1989) (art. 1) and the African Charter on the Rights and Welfare of the Child (1990) (art. 2), Human Rights Watch uses "children" to mean persons under the age of eighteen. For an investigation of the rights of children, including street children, up through 2000, see Human Rights Watch, "Lasting Wounds: Consequences of Genocide and War for Rwanda's Children," *A Human Rights Watch Report,* vol. 15, no. 5 (A), March 2003, [online] http://hrw.org/reports/2003/rwanda0403/.

[3] Human Rights Watch interview with representative of U.N. agency, identity withheld, Kigali, April 26, 2006.

[4] Radio Rwanda, evening news broadcast in Kinyarwanda, 7 p.m., April 26, 2006.

There are currently eleven centers operated by nongovernmental organizations caring for street children in Kigali, and another nine large centers outside of the capital.

The Gikondo Detention Center

Status of the Center

City and police officials say that the Gikondo center is operated by the Kigali city council,[5] and one of these officials admitted to a Human Rights Watch researcher that the center does not have legal status and does not adhere to basic norms for detention sites.[6] Under Rwandan law, the city council has no legal authority to establish or operate a facility that deprives persons of their liberty.[7] Not formally recognized, the center receives no regular budgetary allocation, a situation that may account at least in part for the scarcity of food and services provided to the detainees.[8]

Police officers at the Gikondo center and former detainees told Human Rights Watch that the center is guarded during the day by police and at night by members of the Local Defence Force, a poorly trained and ordinarily unpaid government-organized paramilitary force.[9]

Within the buildings certain adult detainees called "counselors" have been granted authority by guards to "maintain order" among other detainees. "Counselors" sometimes protect children against harassment by other detainees or provide them with a place to sleep at night (see below). According to former detainees, "counselors" often expect and receive payment for these services. In some cases "counselors" beat weaker detainees, including children, to extort money or belongings from them, or simply steal

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[5] Human Rights Watch interviews with police inspector Edward Baramba, Kigali, April 28, 2006, and Jeanne Gakuba, vice-mayor for social affairs, Kigali, May 4, 2006.

[6] Human Rights Watch interview with Jeanne Gakuba, vice-mayor for social affairs, Kigali, May 4, 2006.

[7] The Gikondo center is not the only unauthorized place of detention operated by Rwandan authorities. The Criminal Investigation Division (CID) of the police is reported to operate other more secret detention centers that have been criticized by the National Human Rights Commission since 2002 and that were also denounced by members of parliament in February 2006. The most notorious of these centers was called "chez Gacinya," or "Gacinya's place," after Maj. Rubagumya Gacinya, then head of the CID and recently named military attaché at the Rwandan embassy in Washington, D.C. See James Munyaneza, "Senate Pins Government," *The New Times* (Kigali), February 3, 2006.

[8] Human Rights Watch interview, Kigali, May 3, 2006.

[9] Notes by Human Rights Watch researcher of visit to Gikondo center, April 15, 2006. For more information on the history of the Local Defence Force in Rwanda, see Human Rights Watch, "Rwanda: The Search for Security and Human Rights Abuses," *A Human Rights Watch Report*, vol. 12, no. 1 (A), April 2000, [online] http://www.hrw.org/reports/2000/rwanda/.

their possessions outright.[10] As one former detainee said, "'Counselors' are thieves who are given power over us because they are physically strong."[11]

The Facility

The center, located a short distance from up-scale businesses and national government buildings, consists of two large single-storey concrete buildings within a barren walled compound. In places the wall has collapsed and rolls of razor-wire fence keep the detainees from leaving. The buildings, at least one of which was previously a warehouse, were also used in the past as a regular prison. They have small barred windows that admit little light. Once owned by Felicien Kabuga, a wealthy merchant now indicted by the International Criminal Tribunal for Rwanda on charges including genocide, the property is apparently now in the hands of Kigali city authorities. In late March 2006, police spokesman Theo Badege told human rights activists that the center had been in operation for more than a year.[12]

On the day that a Human Rights Watch researcher visited the center, one police officer guarded the gate. Another officer, inside the compound, prevented the detainees who were crowding the open doorways from coming out of the buildings. Those few detainees observed outside the buildings were doing various tasks, such as chopping wood to cook food.

At least some detainees were allowed to talk with visitors, but they could not leave the doorways. Nor could visitors enter the buildings. Local human rights monitors and representatives of centers caring for street children have sought permission to enter the buildings without success. Members of the Rwandan Red Cross were allowed to enter the buildings for a number of months in 2005 to provide basic medical care, a service they no longer provide. The International Committee of the Red Cross at one point supplied material assistance, presumably food, but no longer does so. Its representatives continue to have access to the buildings.[13]

Detainees

According to persons formerly detained in the Gikondo center, the persons held there include street children, sex workers, street vendors, drug users, foreigners without

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[10] Human Rights Watch interview with former detainees, Kigali, April 17, 2006.

[11] Human Rights Watch interview with former detainees, Kigali, April 27, 2006.

[12] Rwandan human rights monitors, interview with police spokesman Theo Badege, Kigali, March 21, 2006.

[13] Human Rights Watch interviews with Jeanne Gakuba, vice-mayor for social affairs, Kigali, May 4, 2006.

proper identity documents, the mentally ill, and persons suspected of minor crimes like petty theft.[14]

Police spokesman Badege told human rights activists in late March 2006 that persons detained at the Gikondo center were "vagrants."[15] In the Rwandan penal code vagrants are defined as persons "with no fixed domicile nor means of subsistence and who do not ordinarily engage in any trade or profession."[16] Residents of Kigali carry documents indicating that they are authorized to live in the city and are supposed to be able to move about freely. In some cases residents have been rounded up by the police and taken to the Gikondo center either because they do not have the necessary documents with them or for some other reason; Human Rights Watch's researcher learned of one instance in which a pastor's wife who is a legal resident of the city was detained for several days at the center before she was able to obtain her release.[17] In other cases, children who were registered and receiving care at recognized centers operated by nongovernmental organizations were mistakenly detained.[18] Children and other persons who have come to the city from elsewhere in Rwanda and who have not established legal residence in the city are subject to being transported back to their regions of origin. Many are sent to the Gikondo center until transport becomes available.

Some detainees rounded up by the police were brought to a police station before being taken to the center, but others were taken directly to the center from the streets. Although the law against vagrancy may be used as the pretext for rounding up children and others from the streets, few, if any, are actually charged with this offense.

A police officer told a Human Rights Watch researcher that detained persons were meant to spend no more than three days at the center before being sent back to their places of origin, but that shortage of transportation had made longer stays necessary.[19] According to former detainees interviewed by a Human Rights Watch researcher, many

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[14] Human Rights Watch interviews with former detainees, Kigali, April 17, 2006.

[15] Rwandan human rights monitors, interview with police spokesman Theo Badege, Kigali, March 21, 2006. Vagrancy is illegal under Rwandan law, though the crime is rarely prosecuted. Human Rights Watch is concerned that vagrancy laws may lead to arbitrary arrest and are *per se* inconsistent with the freedom of movement and the right to liberty and security guaranteed by international human rights law.

[16] Université Nationale du Rwanda. *Codes et Lois du Rwanda* (1995) Code Penal, Livre Deuxieme: Des Infractions et de Leur Repression en Particulier, article 284.

[17] Human Rights Watch interview, Kigali, April 27, 2006.

[18] Human Rights Watch interviews with staff of various centers caring for street children, Kigali, April 27, 2006.

[19] Human Rights Watch interview with police officer, Gikondo detention center, Kigali, April 15, 2006. The same explanation was given by police spokesman Theo Badege, interviewed by Rwandan human rights monitors on March 21, 2006.

persons spend weeks or even months in the detention center. One young woman said she had spent more than three months at Gikondo in late 2005. Other recently released detainees provided a Human Rights Watch researcher with the name of a boy who had been held more than four months at the time when they were released.[20]

Some 350 to 400 people are usually detained at the site, according to the police spokesman.[21] But an adult who had been present at the center recently estimated the number of persons detained in March and April 2006 as approximately six hundred, one third to one half of whom were children.[22] According to another informed source, the number of detainees varied according to how recently police had done roundups in the city streets, but could reach several hundred in the period just after such sweeps.[23] According to one visitor to the center, the number of detainees increased enormously in the week of May 8, when a delegation of the African Peer Review Mechanism was visiting Kigali.[24] The percentage of children among the detainees also varied according to the circumstances of when and where round-ups were done.

Conditions of Life in the Detention Center

The buildings are severely overcrowded. Detainees pay a "counselor" in order to be sure to have enough space on the floor to sleep lying down. The usual fee is 500 Rwandan francs (about U.S.$0.90), a large sum for a child who lives hand to mouth on the street. There are no mattresses or blankets provided by the center. The buildings house men and women as well as children of both sexes. Adult men, and boys thought likely to be troublesome (such as those who have been detained in the center two or three times previously), sleep in the same rooms, with other rooms for women and for children not expected to cause trouble.[25]

Detainees sometimes must pay for water, whether for drinking or for washing. A bucket of water for bathing can cost up to 1,000 Rwandan francs (about U.S.$1.80). At such a price, bathing is a luxury that few detainees can afford. Those who cannot pay may be denied water for days at a time.[26]

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[20] Human Rights Watch interviews with former detainees, Kigali, April 17 and 27, 2006.

[21] Rwandan human rights monitors, interview with police spokesman Theo Badege, Kigali, March 21, 2006.

[22] Human Rights Watch interview, Kigali, April 27, 2006.

[23] Human Rights Watch interview, Kigali, May 3, 2006.

[24] Human Rights Watch interview, Kigali, May 9, 2006.

[25] Human Rights Watch interviews with former detainees, Kigali, April 17, 2006.

[26] Human Rights Watch interviews with former detainees, Kigali, April 17, 2006. According to World Bank statistics for 2003, the average annual income of a Rwandan is about U.S.$220. World Bank, statistics for 2003, [online] http://devdata.worldbank.org/wdi2005/table1_1.htm.

Detainees are allowed to use latrines once a day, before daybreak. They are filthy. Because lines are long in the morning and because detainees are not allowed to use the latrines at any other time of day, many urinate in the rooms where they sleep and spend their days.[27]

Food is scant and poor in quality. According to former detainees, the usual ration is a handful of boiled maize and beans once a day or, sometimes, once every two days. Detainees have no utensils for eating. They line up in front of large basins of cooked food and receive a lump of food doled out by means of a wooden paddle onto pieces of paper if the detainees have them, or else the detainees take the food using some part of their shirts, or directly into their hands.[28]

One ten-year-old boy described his arrival at the center:

> At about ten o'clock in the morning we were arrested by a member of the Local Defence Force in the center of Kigali. They took us to the police station at Muhima, where we found about sixty other children. We waited for eighteen hours, crammed in the courtyard of the police station, before we were taken to the "prison" at Gikondo… we passed the entire night without eating. The next day, they let us leave the room where we were kept to go to the toilet, and then they made us return to the room. In the afternoon, the "counselors" gave us some maize mixed with a few beans. Each of us got a handful, which was not enough.[29]

The 2003 government policy statement mentioned above refers to schooling and training of children housed in "transit centers," and according to police inspector Edward Baramba, the Gikondo center is one such "transit center." Yet no training is provided there.[30] Nor is there any program of exercise or other organized activities.[31]

The conditions described above constitute inhuman and degrading conditions for any detainee, and children are particularly vulnerable to the physical consequences of the deprivation and abuse at the center. According to former detainees and persons who

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[27] Human Rights Watch interviews with former detainees, Kigali, April 17, 2006.

[28] Human Rights Watch interviews with former detainees, Kigali, April 17, 2006.

[29] Human Rights Watch interview with former detainee, Kigali, April 27, 2006.

[30] Human Rights Watch interview with police inspector Edward Baramba, Nyamirambo police brigade, Kigali, April 28, 2006.

[31] Human Rights Watch interviews with former detainees, Kigali, April 17 and 27, 2006.

regularly work with street children, several children have died at the Gikondo center.[32] In a recent case, a boy of about thirteen died at approximately 3 p.m. on April 16, 2006. At about 7 p.m., when it had gotten dark, the "counselors" carried the body outside. Children confined in the building could not see what was done with the body. Also on April 16, a young malnourished woman detainee suffered a miscarriage and was hospitalized.[33]

Release

It appears that in most cases, detainees are released as they were detained, with little or no formal procedure. Children are released in no better educational or psychological condition and possibly in worse physical condition than when they were taken from the streets. Most return within hours or days to the life they had known on the streets, once again surviving as best they can through begging, petty crime, and providing sexual services.[34]

Given the absence of any real gain to either the child or society as a result of the detentions, it appears that the policy serves the primary purpose of simply removing the children and other persons from sight for certain periods of time.

Legal Considerations

Street children in Kigali—arguably some of the neediest and most vulnerable children in Rwanda—in practice enjoy no meaningful protection from the state, and often have their rights violated by the authorities who should protect them. The detention of persons and in particular street children in Gikondo violates a number of human rights guarantees by which Rwanda has agreed to be bound, both under international human rights law and national human rights legislation.

Rwanda is a party to the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention on the Rights of the Child (CRC).[35] Rwanda is also a

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[32] Human Rights Watch interviews with former detainees, Kigali, April 17 and 27 and with care givers at centers for street children, Kigali, April 27, 2006.

[33] Human Rights Watch interview with former detainee, Kigali, April 17, 2006.

[34] H. Mwiholeze, "Sexual Abuse Drives Girls to the Streets," *Focus*, Kigali, April 4-May 15, 2006.

[35] Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990) and ratified by Rwanda February 23, 1991; the International Covenant on Civil and Political Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (entered into force March 23, 1976), acceded to by Rwanda on March 23, 1976.

party to the regional African Charter on the Rights and the Welfare of the Child,[36] and to the African Charter on Human and People's Rights (the Banjul Charter) that in addition to protecting basic civil and political rights requires the state to ensure "the protection of the rights of the woman and the child as stipulated in international declarations and conventions."[37] Domestically, Rwanda has passed its own law to protect children and assure their rights, and (as noted above) has established a national policy that sets out laudable standards for the treatment of vulnerable children, including street children.

A regulation dating to the nineteenth-century colonial era apparently serves as the legal basis for rounding up "vagrants." The law, although arguably incompatible with current norms and standards governing grounds of detention, does at least provide some minimal protection for those detained: it requires that they be brought before a competent tribunal, and that children be held separately from adults.[38] Although this is the law on the books, the basic protection provided by this regulation was not afforded in practice to the detainees interviewed by a Human Rights Watch researcher.[39]

Detainees were held at the Gikondo center without having been brought before a competent judicial authority, without charge and in the absence of appropriate due process. Such deprivation of liberty violates Rwanda's obligations under both the ICCPR and the Banjul Charter.[40] The CRC provides that children accused of a crime have the right not to be detained arbitrarily or unlawfully,[41] and that children should be imprisoned only as a last resort, for as brief a period as possible, and separately from adults. Other guarantees include that children deprived of their liberty have the right to prompt access to legal and other assistance, and the right to challenge the legality of their detention before the courts or other competent authorities and the right to a prompt decision on any action.[42]

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[36] African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force November 29, 1999, ratified by Rwanda on May 11, 2001.

[37] African [Banjul] Charter on Human and People's Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, ratified by Rwanda on July 15, 1983.

[38] Décret du Roi Souverain: Vagabondage et Mendicité 23 Mai 1896, Article 1: "Tout individu trouve en état de vagabondage ou de mendicité sera arrête et traduit devant le tribunal compétent; Article 2: Les jeunes vagabonds resteront, pendant la durée de leur internement, séparés des individus d'un age plus avancé." According to the Kigali vice-mayor for social affairs, this regulation is still in force. Human Rights Watch interview with Jeanne Gakuba, vice-mayor for social affairs, Kigali, May 4, 2006.

[39] Human Rights Watch interviews with former detainees, April 17 and 27, 2006.

[40] International Convention on Civil and Political Rights, Article 9; African Charter of Human and Peoples' Rights, Article 6.

[41] Convention on the Rights of the Child, Article 37 (b).

[42] Ibid., Art. 37 (d).

The CRC also provides that institutions, services, and facilities responsible for caring for children must conform to standards of health, safety, and supervision set by competent authorities.[43] But the roundup of street children and their detention at Gikondo not only imposes an extrajudicial penalty on children who have committed no offense beyond that of being poor and homeless, but exposes them to many forms of inhumane and degrading treatment and risk of physical and mental injury, neglect, maltreatment, and sexual abuse.

The detainees' conditions of overcrowding, together with scarcity of basic provisions such as food and water and very limited hygiene and exercise, amount to inhuman and degrading treatment.

In 2004 the United Nations Committee on the Rights of the Child, the body responsible for monitoring the implementation of the CRC, in examining the second periodic report of the government of Rwanda, expressed concern about the way the government dealt with street children, particularly its detaining children in poorly maintained centers. It recommended that the Rwandan government "stop rounding up these children and sending them to detention centers."[44]

The African Charter on the Rights and the Welfare of the Child contains guarantees akin to those in the CRC, including that children who come in contact with the criminal justice system "shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth."[45] The Charter commits Rwanda to "(a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment; and (b) ensure that children are separated from adults in their place of detention or imprisonment."[46] Children are also to be afforded full due process rights if accused of an offense. Children are to be protected from all forms of abuse and are to be allowed freedom of association.[47]

The detention of adults and street children in Gikondo for alleged "vagrancy" without due process, in inhumane conditions and without the effective legal protection clearly

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[43] Ibid., Art. 3 (para. 3).

[44] Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Rwanda, CRC/C/15/Add.234 (July 1, 2004), [online], http://daccessdds.un.org/doc/UNDOC/GEN/G04/424/66/PDF/G0442466.pdf?OpenElement, paras 68-69.

[45] African Charter on the Rights and Welfare of the Child, Article 17.

[46] Ibid.

[47] Ibid., Articles 16 and 14 respectively.

violates not only international obligations but national legislation. In particular, Rwanda's Law Relating to Rights and Protection of the Child Against Violence echoes many provisions of international law, guaranteeing that in case of imprisonment children be separated from adults; and that appropriate administrative, legal, social and educational measures must be taken to ensure the protection of every child against every form of violence, mental or physical attack or brutality, abandonment, neglect, stress, or exploitation.[48]

Recommendations

To the Rwandan government

- Immediately close the Gikondo detention center and any other irregular detention centers elsewhere in the country, and either release detainees or present them before a magistrate in accordance with Rwandan law. If any are to be further detained, ensure that they are detained in legally recognized facilities and in accordance with Rwandan criminal procedure.
- Ensure that children released from detention are reunited with family members or have the opportunity to enter the care of appropriate centers.
- Permit human rights organizations and other representatives of international agencies immediate access to the Gikondo detention center and allow them to monitor the closing of the facility and the release of detainees or their appearance before magistrates.
- Investigate how and under what authority the center was opened, and investigate any instances of harm to persons detained there. Conduct these investigations with a view to prosecuting those who have committed any offenses against detainees and to taking appropriate action against those responsible for the treatment of the detainees in Gikondo.
- Repeal the 1896 regulations which permit detention for "vagrancy." Ensure that powers permitting detention or that restrict rights such as freedom of movement are clearly set out in law. Ensure that laws regulate specific, foreseeable conduct and comply with international human rights standards.

[48] Law Relating to Rights and Protection of the Child Against Violence, Law no. 27/2001 of 28/04/2001, Arts. 21 and 22 c.

To international donors

- Use your influence to ensure that the Gikondo center and any others like it be closed immediately, and that detainees of such facilities be treated in accordance with Rwandan law and international human rights norms.
- Press the Rwandan government to provide sustainable mechanisms and programs to protect and assist vulnerable children. Assist the Rwandan government in this by providing the means necessary for such mechanisms and programs.