

RWANDA

**LASTING WOUNDS:
Consequences of Genocide and War for Rwanda's Children**

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I. INTRODUCTION

Rwanda's children have seen the worst of humanity. Eight years after a group of politicians set in motion a genocide in an attempt to retain power, the devastating consequences for those who were left behind are unmistakable. Traditional protective structures for children including family networks, the judicial system, and the education system have been torn apart. As a result, children—many of whom survived unspeakable atrocities—are still the victims of systematic human rights violations day in and day out. In the face of the daunting challenge of rebuilding a society devastated by both war and poverty, protecting their rights has been sidelined. But this does not do Rwanda's children justice. The Rwandan government can and must do more to break the cycle of abuse and exploitation that affects tens of thousands of Rwandan children. Failure to protect their human rights is creating a dangerous legacy for them, and for the future of Rwanda. (Human Rights Watch uses the term “child” to refer to all persons under the age of eighteen.)

Those who planned and executed the genocide of 1994 violated children's rights on a massive scale. Not only did they rape, torture, and slaughter children along with adults in massacre after massacre around the country. Carrying their genocidal logic to its absurd conclusion, they even targeted children for killing—to exterminate the “big rats,” they said, one must also kill the “little rats.” Countless thousands of children were murdered in the genocide and war. Many of those who managed to escape death had feared for their own lives, surviving rape or torture, witnessing the killing of family members, hiding under corpses, or seeing children killing other children. Some of these children now say they do not care whether they live or die.

Some five thousand people were arrested on charges they committed crimes of genocide before they reached the age of eighteen. Although they garner less sympathy, children who took part in the genocide are also victims. Their rights were first violated when adults recruited, manipulated, or incited them to participate in atrocities, and have been violated again by the Rwandan justice system. One boy who confessed and was convicted of genocide said he had been given a choice of killing his sister's children or being killed himself. He was sixteen years old at the time. Large numbers of these children were in fact arrested unjustly. Another boy, arrested at age thirteen after the genocide, confessed to having killed in order to escape torture, although he now maintains that his confession was false. He had just witnessed other detainees being tortured at the hands of Rwandan government soldiers. His father, among others, had died as a result of torture the night before. He and a thousand others who were younger than fourteen in 1994, and thus too young to be held criminally responsible under Rwandan law, were freed after being transferred from detention facilities to reeducation camps in 2000 and 2001. The government had been promising to release them since 1995.

As many as four thousand children who were between fourteen and eighteen years old during the genocide continue to languish in overcrowded prisons. Their adolescence is gone. Despite repeated, hollow promises to give their cases priority within the over-burdened justice system, they have been subjected to the worst of a bad situation. Juvenile defendants have been tried at an even slower rate than adults. Few have enjoyed the right to adequate legal counsel and other due process protections guaranteed under Rwandan and international law. A few hundred, for whom prosecutors had not conducted investigations or made case files during their years of imprisonment, were provisionally released in 2001 after their neighbors cleared them of wrongdoing in public meetings. Ironically, now that the government has finally made some progress in dealing with the massive failures of the justice system—including organizing community-based courts to deal with the bulk of genocide cases and releasing most of those who had been below the age of criminal responsibility and some without case files—it has become even harder to draw attention to the thousands of young adults who remain in detention for crimes they allegedly committed as children. “We feel that justice has left us,” one of them told Human Rights Watch.

Perhaps the most devastating legacy of the genocide and war is the sheer number of children left on their own, and the government's failure to protect them from abuse and exploitation. On Rwanda's green hills, up to 400,000 children—10 percent of Rwandan children—struggle to survive without one or both parents. Children who were orphaned in the genocide or in war, children orphaned by AIDS, and children whose parents are in prison on charges of genocide, alike, are in desperate need of protection. Many Rwandans have exhibited enormous generosity in caring for orphans or other needy children. Yet, because so many Rwandans are living in difficult circumstances themselves, to

some, vulnerable children are worth only their labor and their property. Foster families have taken needy children in, but some have also exploited them as domestic servants, denied them education, and unscrupulously taken over their family's land. Government officials have done little to protect these children's rights, instead trusting that extended families will care for them. But traditional societal networks have been severely eroded by poverty, the HIV/AIDS epidemic, and, not least, the consequences of the genocide and war.

Thousands of children—many of whom had been exploited for their labor or their property and denied the right to education at home—have migrated to city streets to fend for themselves. There, they face a near constant risk of harassment by law enforcement officials and arbitrary arrest. Municipal authorities continue to round children up by force in an effort to “clean the streets,” despite promises to direct their efforts at protecting the children without violating their rights. Girls living on the streets are frequently raped, sometimes even by law enforcement officials, yet few of those responsible have been prosecuted.

The international community has provided billions of dollars to assist in the reconstruction and rehabilitation of Rwanda and continues to donate tens of millions of dollars each year. Yet inadequate resources have been devoted to address the desperate needs of child protection. Donors have failed to ensure that money earmarked for speedy trial of those accused of genocide as children, for example, is actually used for that purpose. Likewise, donors have failed to ensure that funds allocated to pay school tuition for orphans are distributed fairly. In addition, the donors have repeatedly failed to denounce blatant human rights violations such as forcible roundups and beatings of street children, and failed to use their leverage to stop such violations.

This report—based on hundreds of interviews conducted between 1995 and 2002 with children, child rights experts, social workers, representatives and staff of local and international organizations, the United Nations Children's Fund (UNICEF), and officials of the Rwandan government—documents widespread violations of the rights of the child in post-genocide Rwanda. The majority of Rwandan children have been victims of armed conflict. Thousands have been arbitrarily arrested and denied prompt access to justice. Hundreds of thousands more living around the country have been abused, exploited for their labor, exploited for their property, or denied the right to education. Thousands have migrated to city streets in an effort to escape these abuses only to find themselves vulnerable to harassment by Rwandan law enforcement agents.

The Rwandan government can and must do more to protect their rights. The government claims to have embraced international standards and has put a partial legal framework for child protection in place. But laws are not enough without adequate enforcement mechanisms. Eight years of promises to protect their rights has meant little for children in practice. The government should take concrete measures to establish a system of juvenile justice in accordance with international standards. Officials at all levels must use their power to put a stop to the abuse and exploitation of children on the hills and on city streets. The future of Rwanda depends on it.

II. RECOMMENDATIONS

To the Rwandan Government:

The Government of Rwanda must strive to improve the protection of vulnerable children. The government cannot condone widespread abuse and exploitation of children simply because Rwanda is a poor country. Nor can the government delegate to society its obligation to protect children's rights. The Convention on the Rights of the Child, which Rwanda ratified in 1991, requires that policymakers incorporate child protection concerns into new policies as the government embarks on ambitious programs including constitutional and land reform. The Government of Rwanda must not only enact concrete legislative protections for children but must also make sustained efforts to ensure that they are enforced.

Juvenile Justice

- Develop and implement as soon as possible a system of juvenile justice that emphasizes the best interests of the child and provides children with a fair hearing and equal protection of the law in accordance with international standards. Children accused of infringing the law have the right to treatment in a manner consistent with the promotion of their sense of dignity and worth, taking into account their age and the desirability of promoting their reintegration into society. The juvenile justice system should be employed to treat those accused of crimes of genocide while they were children as well as children, including those living on the streets, accused of common crimes.
- Immediately release all remaining prisoners arbitrarily detained on charges of genocide while they were children—especially those younger than fourteen, the minimum age for criminal responsibility, at the time of the crime; those against whom there is not substantial evidence; and those who are likely to have completed their sentences in pretrial detention (including all prisoners accused solely of property crimes, for which the maximum penalty is restitution).
- Expedite the case files and trials of all those accused of crimes committed while they were fourteen to eighteen years old if they are not released.
- Ensure that children accused of genocide or common crimes who were fourteen to eighteen years old at the time of the crime and whose cases are in the regular justice system have prompt access to effective legal counsel and other due process protections afforded them under international human rights law, in addition to the separate trials and reduced penalties that should be afforded them under national law.
- Amend the law on *gacaca*, the popular justice system being put in place to try those accused of genocide, to ensure that defendants who were children at the time of the crime receive additional protections as required by the Convention on the Rights of the Child.
- Follow-up with those who are or have already been released after spending their adolescence in prison to provide them with the necessary education, training, and protection to ensure that they enjoy their human rights.
- Provide training and issue instructions on children's rights for members of the National Police and Local Defense Forces, in particular to cease the use of physical force during interrogation. Investigate and prosecute any police or security agents accused of having beaten or otherwise seriously mistreated children.

Abuse and Exploitation

- Draft and implement binding standards for the protection of children who lack parental care including orphans, children in foster care, children with a parent in prison, children living without adults, and the increasing numbers of children affected by AIDS. The standards should make explicit that these children have the right not to be exploited for their labor, have the right to education, and have the right to own and inherit property.

The standards should be disseminated widely to the population. Local authorities should be trained to enforce the standards, and those who fail to do so should be disciplined.

- Take immediate steps to identify vulnerable children and monitor their protection. These should include deployment of additional social workers and lawyers or paralegals at the local (district) level to monitor children's rights proactively. They should have the power to intervene with local authorities and, if necessary, in tribunals when they suspect a child is being abused or exploited.
- Ensure that the official minimum age of eighteen is respected for recruitment for the Rwandan Defense Force and the Local Defense Forces. For example, instruct local authorities and commanders in charge of recruitment to verify the age on identity cards of all new recruits. Officials who violate this rule should be held accountable.
- National and municipal authorities should immediately cease forcible roundups of street children. Resources should be devoted to creating other programs such as education and training programs and encouraging children to take advantage of them, and to addressing the abuse and exploitation that caused them to flee to city streets in the first place.
- Ensure that officials do not arbitrarily deny government assistance for school fees to needy children in marginalized groups. Local authorities who do not comply should be disciplined.
- Address the severe problem of child domestic labor, particularly among child domestics including foster children. Efforts should include the creation of mechanisms to enforce their rights as set forth in the Convention on the Rights of the Child and public information campaigns about the exploitative nature of domestic labor for children.
- Ensure that child protection concerns are reflected in important new legislation and policies currently being developed including the new constitution and land law and policy.

To Rwanda's International Donors and UNICEF:

- Publicly and privately urge the Government of Rwanda to cease abusing children's rights including forcible roundups of street children and denial of due process protections for children in conflict with the law whenever they occur; ensure that donor funding does not support these actions.
- Work with the Government of Rwanda to ensure that child protection concerns are reflected in the range of new legislation and policies currently being elaborated including the new constitution, fiscal decentralization policies, and land law and policy.
- Monitor the use of aid money allocated to the justice system and gacaca to ensure that appropriate safeguards for minors are respected.
- Provide resources and technical assistance to facilitate the government's efforts to provide education and protection for vulnerable children.
- Allocate additional resources for Rwandan nongovernmental organizations to provide training and other forms of assistance to vulnerable children and to monitor the protection of children's rights.

III. BACKGROUND

In April 1994, a group of Hutu extremists took control of the Rwandan government and launched a genocide of the Tutsi minority, then some 10 percent of the Rwandan population. Within three months they had murdered at least half a million men, women, and children, Tutsi as well as moderate Hutu, some of them with extraordinary cruelty.¹

President Juvenal Habyarimana and a close circle of supporters had governed since 1973, when Habyarimana had taken power in a coup. A Hutu, Habyarimana was initially popular with the majority Hutu, some 90 percent of the population. But by the end of the 1980s, the ruling group was losing support, partly because of corruption and increasing repression, partly because of general economic decline. Under pressure from a growing internal opposition and from international donors, Habyarimana was facing the end of his personal monopoly of power and the end of the exclusive control of his party, the National Republican Democratic Movement (*Mouvement National Républicain Démocratique*, MRND). At the same time, his regime was attacked by the Rwandan Patriotic Front (RPF), a group based in Uganda and made up mostly of Tutsi refugees. Tutsi had ruled Rwanda before and during the colonial era but were driven from power by a revolution beginning in 1959 that left some 20,000 Tutsi dead and drove hundreds of thousands more into exile. In the face of continued Rwandan refusal to permit their return, the refugees had organized an effective army to cross the border. In 1990, the Rwandan government began discussions that seemed to offer a possibility of resolving the refugee crisis, but the RPF launched its attack anyway on October 1, 1990.

Habyarimana and his followers attempted to use the RPF attack to rebuild their slipping hold on power by rallying the majority Hutu against the Tutsi. They began a campaign to label all Tutsi and Hutu allied with them as *ibytso*, “accomplices” of the RPF. The government arrested some 8,000 Tutsi and Hutu opposed to the government immediately after the invasion and thousands more in subsequent weeks. In mid-October, local government officials directed a massacre of Tutsi, the first in a series of killings that would prepare the way for and finally culminate in the genocide of 1994.

The war continued for nearly three years, interrupted by occasional cease fires and negotiations. In 1991, under considerable international pressure to democratize, the regime permitted the establishment of opposing political parties, several of which allied themselves with the RPF and so further undermined the power of Habyarimana and his immediate circle. By 1993 the extremists, determined to hold onto power, put in place all of the elements necessary for the genocide: a propaganda machine that operated first through the written press and national radio and later through a supposedly private radio station, *Radio Télévision Libre des Mille Collines* (RTL); the organization of militia groups—the most notorious of which was the *Interahamwe*—recruited in part from unemployed young men and trained to kill; supplies of arms and ammunition that had been distributed clandestinely; and a network of committed administrative, military, and political leaders ready to lead the attack on the Tutsi minority.

The international community ignored both the smaller massacres between 1990 and 1993 and the preparations for the catastrophic genocide. It focused instead on bringing about an end to the war between the Rwandan government and the RPF, a goal apparently achieved in August 1993 with the signing of the Arusha Accords. As stipulated in the accords, the United Nations provided a peacekeeping force (United Nations Assistance Mission in Rwanda, UNAMIR) to facilitate the transition to an elected government and to oversee the integration of the RPF army into the Rwandan

¹ For a detailed study of the genocide, see Human Rights Watch, *Leave None to Tell the Story: Genocide in Rwanda* (New York: Human Rights Watch, 1999). A recent Rwandan government count of genocide victims claims that more than a million were killed. “Government Puts Genocide Victims at 1.07 Million,” U.N. Integrated Regional Information Networks (IRIN), December 19, 2001. For a discussion of the problem of statistics, see *Leave None to Tell the Story*, pp.15-16.

The word “children” is used in this report to mean anyone under the age of eighteen. Article 1 of the Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.” The African Charter for the Rights and Welfare of the Child also defines a child as a human being under the age of eighteen (art. 2).

Armed Forces (*Forces Armées Rwandaises*, FAR). But the U.N. wanted a cheap success and failed to provide either the mandate or the forces necessary to ensure a prompt and orderly transition.

Habyarimana had signed the accords only under duress and was determined to prevent implementation of the agreement. He created one obstacle after another to the installation of the transitional government, playing skillfully upon divisions within the internal opposition that was to share power with the Habyarimana group and with the RPF in the new government. The RPF rejected attempts to change the terms of the agreement, and the process dragged on from August 1993 to April 1994. During that time, both sides prepared to reopen the war. The extremists around Habyarimana pushed forward their plans for genocide, which they apparently considered a weapon for simultaneously winning the war against the RPF and recapturing political power within Rwanda.

On April 6, 1994, Habyarimana's plane was shot down as he was returning from a peace conference in Tanzania. People close to Habyarimana, including those at Radio RTLM, immediately blamed the RPF for his death but offered no convincing proof of this charge. The identity of those responsible for downing the plane has yet to be determined. The killing of Habyarimana was used as a pretext for initiating the massive killings that had been planned for months, both of Tutsi and of those Hutu who were opposed to Habyarimana.

Shortly after the killing began Rwandan army soldiers killed ten Belgian peacekeepers, apparently in reaction to reports that Belgians had helped shoot down Habyarimana's plane. The extremists had spread reports of Belgian complicity to ensure an attack on Belgian troops, the best trained and the best equipped troops in the UNAMIR force. Five days later Belgium withdrew its troops, as the extremists had hoped they would, and began exerting pressure on other members of the Security Council to remove the entire peacekeeping force. On April 21, the Security Council decided to remove all but several hundred of the UNAMIR soldiers who were then protecting some 20,000 persons at risk, many of them Tutsi.

Within a few days of the start of the killing, the organizers of the genocide were confident that the international community would not intervene. They extended and intensified the killing after the departure of most of the UNAMIR forces. Following lines laid out by national political, administrative, and military leaders, local-level authorities and politicians led the efforts to annihilate the Tutsi and moderate Hutu. Soldiers or national policemen (officially part of the army) launched and directed the killing in many communities. Party leaders directed their militia to join in the slaughter, sending them around the country as needed to initiate or intensify killings. Ordinary citizens also joined in attacks, following the orders of officials or militia heads. Many of these ordinary citizens acted from fear, both fear of the Tutsi whom they had been taught were coming to kill them, and fear of officials or militia who threatened reprisals against anyone who did not join in the carnage.

Once the genocide began, the RPF renewed its military offensive against the government, instigating massive movements of refugees, most of them Hutu, into Tanzania in late April. Fearing that these refugee movements would destabilize the whole region and horrified by the continued slaughter, the U.N. decided on May 17 to send an expanded peacekeeping force, UNAMIR II, to Rwanda. Because of bureaucratic delays at the U.N. and the lack of political will among most member states, the new force did not begin to arrive until August. By that time, the RPF had defeated the genocidal government and had established a new government.

The defeated government and army led a mass exodus of some two million Hutu into neighboring countries in July 1994. In a refugee crisis of unprecedented scale, some 50,000 predominantly Hutu refugees died of disease, hunger, and lack of water in neighboring Zaire in the next few weeks. Hundreds of thousands of others who believed they were threatened by the RPF advance took refuge in displaced persons camps in southwestern Rwanda in an area first protected by French troops and later supervised by UNAMIR.

Within months, soldiers of the defeated Rwandan army (now known as ex-FAR), members of militia, administrators, and political leaders who had directed the genocide began rebuilding their strength in Zaire. Using

refugee camps as military bases in violation of international law, they began mounting incursions into Rwanda.² In the absence of any effective international action to halt these attacks, the Rwandan government allied with the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL), a group opposed to the government of Mobutu Sese Seko in Zaire that was cobbled together for the occasion. In alliance with Uganda, Rwanda and the ADFL overthrew Mobutu, established a new government, and renamed Zaire the Democratic Republic of Congo (DRC, hereafter referred to as Congo). In the course of this war, the armed forces of the new Rwandan government, known as the Rwandan Patriotic Army (RPA),³ destroyed the refugee camps in eastern Congo, killing tens of thousands of civilians on the spot or in later pursuit through the forests. At this time, hundreds of thousands of refugees were repatriated to Rwanda, some of them against their will. Thousands of others returned in later years, but an estimated 173,000 people from the original camp population were still unaccounted for in 1999.⁴

During 1997 and 1998, ex-FAR and former militia members as well as new recruits who had not participated in the genocide launched incursions into Rwanda, particularly in the northwest. The RPA responded to these attacks ruthlessly. In these military operations both sides attacked civilians, causing numerous casualties. Seeking to deprive the combatants of any support from the population, Rwandan authorities forced many local residents to move to government-supervised camps. Nearly half of the population of the northwest had been displaced by the end of 1998, either to the camps or to forests in Rwanda or Congo.

By late 1998, the RPA had largely managed to push the combatants back across the border into Congo where fighting has continued in a second Congo war with Rwanda and its new local ally, the Congolese Rally for Democracy (Rassemblement congolais pour la démocratie, RCD) which is fighting the Congolese government.⁵ In this war, Rwandan military officers, politicians, and businessmen have profited by exploiting Congo's extensive natural resources including gold, diamonds, timber, and coltan, a mineral used in cellular phones and other products.⁶ Rwanda withdrew most of its forces from the Congo in 2002, but the situation in the region remained tense.

² Human Rights Watch Arms Project, "Rwanda / Zaire: Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide," *A Human Rights Watch Report*, vol. 7 no. 4, May 1995, p. 3; UNHCR Inspection and Evaluation Service, *Refugee Camp Security in the Great Lakes Region*, April 1997.

³ In 2002, Rwanda changed the army's name to the Rwanda Defence Force.

⁴ UNHCR Briefing Notes, Rwanda: Repatriations from DRC, May 4, 1999. See also, Human Rights Watch, "Democratic Republic of Congo, What Kabila is Hiding: Civilian Killings and Impunity in Eastern Congo," *A Human Rights Watch Report*, vol. 9 no. 5(A), October 1997. More than one thousand refugees per month returned to Rwanda from Congo most months through 2001. Most of these had fled Rwanda in 1994, but others fled more recently in 1997-1998 or subsequent periods of insecurity.

⁵ Laurent Desire Kabila was assassinated in January 2001 and his son, Joseph Kabila, succeeded him as president of the DRC. The RPA continues to fight against the new Kabila government.

⁶ See the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, transmitted by the Secretary General to the Security Council in a letter dated April 12, 2001. U.N. Doc. S/2001/357; Addendum to the report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, transmitted by the Secretary General to the Security Council in a letter dated November 13, 2001, U.N. Doc. S/2001/1072.

IV. CHILDREN ATTACKED

Children Targeted in the Genocide

Countless thousands of children were slaughtered during the Rwandan genocide. Proof of the carnage was everywhere throughout the country in the months after the killing. On a path winding up a hillside in Nyakizu in Butare province, a small red sweater lay discarded. Inside was the ribcage of an infant.⁷ When children went back to school at Kaduha in Gikongoro province, the bones of other children still lay strewn about the schoolyard in which they played.⁸ Of the bodies exhumed by Physicians for Human Rights at a mass grave in Kibuye province, some 44 percent were of children under the age of fifteen and 31 percent were under ten. Most had been killed by machete; fewer than 1 percent, the more fortunate, had been killed by gunfire.⁹ Among the victims treated by physicians in western Rwanda, some 30 percent were children and most had been injured by machete.¹⁰

Over time, the bones have disappeared but many living children throughout Rwanda bear evidence of the genocide in amputated limbs and scars from machete wounds, especially across the face, head, and neck. They and all of the others, even those with no mark on their bodies, bear invisible but nonetheless real scars from having experienced horrors beyond anything imaginable. According to a survey of three thousand children done by UNICEF, 80 percent of children interviewed experienced a death in the family during the period of the genocide; 70 percent witnessed a killing or an injury; 35 percent saw other children killing or injuring other children; 88 percent saw dead bodies or body parts; 31 percent witnessed rape or sexual assault; 80 percent had to hide for protection; 61 percent were threatened that they would be killed; and 90 percent believed that they would die.¹¹

Children had largely been spared death in previous armed conflicts in Rwanda. An elderly resident of Butare town, then in her mid-eighties, told Human Rights Watch in 1995 that she had observed the genocide with horror. She had seen the killing of Tutsi since the 1950s but she said this slaughter was different because “it killed babies on the back, children who were beginning to walk, pregnant women, old people.” The elderly woman, a Hutu, had become a target when informers told the militia that she was hiding her Tutsi grandchildren.¹² Straton Nsanzabaganwa, director of social planning and protection of vulnerable groups in the Ministry of Local Administration and Social Affairs, confirmed that children had seldom been targeted before even during the ethnic massacres of 1959 and 1973. With the 1994 genocide, he said, children lost their protected status.¹³

The targeting of Tutsi children along with adults carried the idea of “self-defense” to its logically absurd and genocidal end. To encourage assailants to kill children, some instigators stated that even the youngest could pose a threat; they often reminded others that Paul Kagame or Fred Rwigema, RPF commanders who led the guerilla force, had once been babies too.

Across the country, individual killers carried out their “work” with unfathomable cruelty. Two Hutu sisters each married to a Tutsi husband had to choose to die with their husbands at Mugonero church in Kibuye or to leave them to die. One chose to leave, hoping to save her eleven children. The children, classified as Tutsi because their father was

⁷ Human Rights Watch field notes, Nyakizu, Butare, July 20, 1995.

⁸ Human Rights Watch field notes, Kaduha, Gikongoro, February 28, 1995.

⁹ Human Rights Watch interview, Kigali, March 12, 1996.

¹⁰ France, Assemblée Nationale, *Enquête sur la tragédie rwandaise (1990-1994)*, Tome III, volume 2, p. 383.

¹¹ Leila Gupta, UNICEF Trauma Recovery Programme, *Exposure to War-Related Violence Among Rwandan Children and Adolescents: A Brief Report on the National Baseline Trauma Survey*, (UNICEF Rwanda, February 1996), p. 6. The three thousand children were randomly selected from thirty communes in all eleven of Rwanda’s prefectures. Half the children interviewed lived in family settings, and the other half lived in centers for unaccompanied children. Because the research was conducted in 1995 while many Hutu children were still displaced or in exile, Tutsi children might have been over-represented.

¹² Human Rights Watch interview, Butare, August 16, 1995.

¹³ Human Rights Watch interview with Straton Nsanzabaganwa, director of social planning and protection of vulnerable groups in the Ministry of Local Administration and Social Affairs, Kigali, October 3, 2001.

Tutsi, would not ordinarily have been allowed to live, but assailants had said that they would be allowed to depart safely if she agreed to go with them. When she stepped out of the door of the church, eight of the eleven children were struck down before her eyes. The youngest, a child of three, begged for his life after seeing his brothers and sisters slain. “Please don’t kill me,” he said. “I’ll never be Tutsi again.” He was killed.¹⁴

Seventeen-year-old Jonathan H.¹⁵ of Cyangugu testified that he saw “many dead bodies” thrown into the latrine pit behind the outhouses at the Shangi Parish school, including children thrown into the latrine pit and buried alive. Others were made to take off all their clothes and were then killed with machetes at the edge of the pit and then thrown inside.¹⁶

Even infants were killed or left to die. The family of a Hutu member of the Social Democratic Party (PSD) in Butare was massacred. The next morning corpses were found scattered in front of the house, including the body of a three-month-old child who had been shot in the back of the head lying at his mother’s breast, which had also been blown open by a bullet.¹⁷ One man who survived a massacre in Nyakizu commune, Butare, told Human Rights Watch that he saw a small child trying to nurse at her dead mother’s breast.¹⁸

In massacre after massacre, children were slaughtered alongside adults. On April 21, 1994, soldiers and militia members came to the Groupe Scolaire in Butare where six to seven hundred children and several hundred other displaced persons from Kigali had sought refuge. They called the displaced persons out to the courtyard, separated them into groups on the basis of their identity cards, and began killing the Tutsi, mostly with machetes and clubs. Local residents joined in the slaughter. According to one witness, several women killed other women and children.¹⁹

After a massacre at Matyazo near Butare, dozens of infants and small children were saved and brought to Ngoma church nearby. That church too was attacked and the children who survived that attack were put out in a field in front of the church. There the killers moved among the small bodies, clubbing them to death one after the other, chatting among themselves as they carried out their “work.”²⁰

In the first weeks of the genocide, authorities incited attacks primarily on the most obvious targets—men who had acknowledged or could be easily supposed to have ties with the RPF. Only later did they insist on the slaughter of women, children, the elderly, and others who were generally regarded as apolitical. In early May a physician asked interim Prime Minister Jean Kambanda and other officials to protect Tutsi children who had sought refuge at a hospital in Kibuye. They did not intervene, and the children were killed soon after. Lt. Colonel Simba, head of the so-called self-defense program for Butare and Gikongoro, called for a “final cleaning” on May 21 to “clear the brush,” i.e. to kill all the Tutsi still in hiding. Eight children who had been hidden by their grandmother were subsequently killed in one locale, and eleven children were killed at another home.²¹ At a meeting in Ndora commune, Butare, on June 7, 1994, Callixte Kalimanzira, administrative head of the Ministry of Interior and Communal Development, warned the population that the RPF was using small children (*abana bato*), suggesting that they, too, were enemies to be killed.²²

¹⁴ Human Rights Watch interview, Kigali, September 13, 1995.

¹⁵ Children’s names have been changed to protect their identities.

¹⁶ Testimony collected by Special Investigation Unit, U.N. Human Rights Field Office, Cyangugu, Rwanda, SIU Letters, Notes, Reports, Statements by Prefecture (1994).

¹⁷ Human Rights Watch interviews, Butare, October 25, 1995 and January 13, 1996; Brussels, December 12, 1995; ICTR-96-4-T, testimony of Dr. Rony Zachariah.

¹⁸ Human Rights Watch interview, Nyakizu, Butare, July 20, 1995. The survivor’s wife and children were slaughtered in the massacre.

¹⁹ Human Rights Watch interview, October 29, 1995.

²⁰ *Leave None to Tell the Story*, pp. 486-92.

²¹ Human Rights Watch interviews, Butare, October 21, 1995 and Nyakizu, Butare, August 28, 1995.

²² Célestin Rwankubito, Burugumesitiri wa Komini Ndora, “Inama y’Abaturage ba Komini Ndora yo kuwa 7 Kamena 1994” enclosed in Célestin Rwankubito, Burugumesitiri wa Komini Ndora, to Bwana Perefe wa Perefegitura, no. 132/04.04/2, June 16, 1994 (Butare prefecture).

In some cases, killers spared small children or girls, who “had never done anything bad,” as a group of attackers told a woman when they declined to kill her and girls she was hiding.²³

Grace M., thirteen at the time of the events, was spared while most of her family was slain. She lived with her grandmother, three aunts, and little brother before the genocide. Her three aunts Murerwa, Dansila, and Vestine were killed, as was her little brother.

It started on Friday. They took Murerwa to kill her in the evening. I went to hide. I didn't know where my grandmother was, and that made me scared.... They said they were going to kill everyone but not the girls since they would not make anything of their lives.

Grace M. survived the next few days by hiding.

On Saturday we continued to hide in the bush. On Sunday I got to where my mother lived ... and stayed there. Then the military came to kill us.... Neighbors with machetes [killed Dansila and Vestine] Yes [I knew the killers].... [it was] because of our ethnicity. They said that when very white milk has little black specks of dirt in it, they must be removed as quickly as possible.

[I didn't see them being killed] because I was running but I know where their bodies are. My grandmother had gone to get wood for the fire to make the food and Vestine was with the cows. She and Dansila went to find Vestine and heard the cries of people and the attackers banging on the doors, and she told Vestine to leave the cows since if the attackers were going to take the cows they would take them anyway and at least Vestine could still have her life. But Dansila and Vestine stayed with the cows. I ran to hide. There were lots of people hiding at that time. They killed lots of people that day.

That night I spent with Eliabu. Eliabu asked me to go and find a cow. While I was gone they killed Eliabu and her family. I heard them being killed so I ran away.

Grace M. said she kept running for the next two weeks until she arrived at Bugesera, where she waited until the genocide was over. When asked if she was afraid to go home she said, no. “If I died I would be dead, and if I didn't then I would live. None of this is my choice.”²⁴

Many sought refuge and were able to escape the massacres by hiding with relatives or family friends. Others told Human Rights Watch that their would-be protectors turned them away at the door or, worse yet, alerted killers to their presence. Many Tutsi children had to flee the massacres by themselves because their parents had been killed or their families dispersed.

In some cases, desperate parents separated from their children or pretended not to know them, believing this would increase their chances of survival. Marie Claire U. said that her father had initially evaded assailants and they had hidden together. When the killers came for him again, he realized that they could no longer stay together. He left the children alone in their hiding place and was almost immediately caught. The children saw him struck in the head and killed. Marie Claire U. and five of her siblings survived, but her twin sister was killed.²⁵

A Tutsi woman fled from Kigali after her husband had been assassinated. Because her features fit those of a stereotypical “Tutsi,” she feared her children would also be marked for death. She told them to pretend not to know her

²³ Human Rights Watch interview, Kizi, Maraba, June 14, 1995.

²⁴ Human Rights Watch interview, Nyanza, Butare, March 9, 1996.

²⁵ Human Rights Watch interview, Nyanza, Butare, February 25, 1996.

when they came to barriers. The youngest, who did not understand, begged her mother to stay close to her, while the mother shooed her away like an unwanted stray.²⁶

Rose S., a small, quiet orphan, described seeing a woman attacked at a barrier while she was fleeing on her own after her mother's death.

We were hiding behind the road block and we saw a motorbike coming with a man and a woman who had a baby on her back.... N told her to get off.... They took the woman off and the man went on ... B was there and so was E, who took the baby.... B banged the woman on her head with a hammer ... we didn't see that but we heard all the noise ... and the woman was thrown in the grave with her baby ... I went with M, another child, to see what had happened ... we were curious ... and we looked in the hole and saw the woman who wasn't completely dead, she was still moving a bit. Then I was scared.²⁷

Daniel R., a ten-year-old from Taba commune, related how he tried to flee to Kigali to save himself. He saw that other unaccompanied children were being killed, so he begged a stranger to let him carry a mattress and pretend to be his son. In that way, he was able to get past the barriers where Tutsi were being selected for slaughter.²⁸

Theresa M., eight years old at the time of the genocide, survived because her would-be killer was tired. Her entire family was killed. Interviewed at an orphanage two years after the genocide, she said:

During the war I was in the bush because they ... the Hutu... wanted to hit me with a machete ... because I am Tutsi. My mother was killed because she was Tutsi. Some Hutu killed her. I didn't know them. The Hutu who killed my mother did this [pointing to an inch-long scar across the bridge of her nose and another very close to her left eye]. I didn't see it because of this [again she pointed to her scar]. There was a lot of blood and it hurt a lot. It took a long time to heal. I was hiding in the bush with my mother. They found us and hit us. My mother wasn't dead; she went home and died there. I heard cries of "Oh ... I'm dying," ... it was my mother. Then I was scared so I ran away.

I spent the night in the bush. There wasn't anyone else, just bodies, lots of bodies. I didn't know any of them, just my little sister. I found her on a hill where she had gone to hide. She had also been hit [killed] with a machete. I was there for many days.... One day I met a man. He was Interahamwe. I didn't know him. He was dressed in black clothes. He was alone. He said he was going to kill me and throw me in a pit. He took me to the pit—it was full of dead people, men and women and children. Then he said, "I'm tired of killing at the moment. You're lucky, you can go," and so I ran.²⁹

Many adolescent girls, as well as some very young ones, suffered rape and sexual torture.³⁰ Two years after such an experience, Nadia U. was still traumatized. In a tearful interview during which she barely looked up, she described being raped when she was only eleven years old. The militia attacked her house, and although she thought she recognized some of them, she was not sure because their faces were covered in a chalky paste.³¹ They carried machetes and nail-studded clubs. Nadia U.'s parents and brothers were hacked to pieces in front of her. Then, one of the militia said, "don't kill the girl. I am going to take her and kill her myself." He told her that he was taking her as his wife. Nadia U. was taken to his house where she was locked in the kitchen.

²⁶ Human Rights Watch interview, Kigali, April 12, 2001.

²⁷ Human Rights Watch interview, Nyanza, Butare February 25, 1996.

²⁸ Human Rights Watch interview, Kigali, February 25, 1998.

²⁹ Human Rights Watch interview, Nyanza, Butare, March 9, 1996.

³⁰ Human Rights Watch interview, Butare, July 25, 1995. For a detailed analysis of sexual violence during the genocide, see Human Rights Watch/Africa, *Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath*, (New York: Human Rights Watch, 1996).

³¹ Assailants sometimes covered their faces with kaolin in order to hide their identities.

He only came to rape me; he never brought any food. He came about five times. He would say, "Lie down or I'll kill you." So I was afraid. I would just go to the bed. He threatened to kill me with his machete. He would keep the machete near the bed while he raped me. I have never told anyone before what had happened to me. I am ashamed and scared that people will laugh at me.³²

After two weeks with the rapist, Nadia U. escaped and went to live with an elderly widow.

Children as Victims of Combat

As the RPF fought to take control of the country and defeat the genocidal government, members of its army, too, killed civilians. Most of the victims were Hutu and many of them were children.³³ Some of these killings constituted crimes against humanity. RPF soldiers killed seventy-eight persons, of whom forty-six were listed as children, at Murambi in Byumba prefecture between April 13 and 15, 1994. In another case, RPF soldiers assembled both local residents and persons from a neighboring displaced persons camp in Mukingi, Gitarama prefecture, for a meeting on June 19, 1994. The soldiers opened fire on the crowd of hundreds of people. Some people fled down the road next to the field and were shot trying to escape into the woods on the adjacent hills. Others were caught and killed with hammers, hoes, or other blunt instruments. The soldiers killed without regard to age, sex, or ethnic group. One of the victims was a Tutsi woman identified as the daughter-in-law of a man named Gahizi. Others included the wife, three children, and daughter-in-law of Karemangingo and ten people of the family of Rwabigwi. Approximately half of the bodies found and photographed by a Human Rights Watch researcher in the nearby woods were the remains of women and children. In addition, the body of a baby was visible floating in a nearby stream. Major Sam Bigabiro, who was reportedly implicated in the Mukingi killings, was later convicted by an RPA military court of having directed a similar slaughter in the nearby commune of Runda on July 2, 1994.³⁴

RPA troops killed thousands of children outright when they attacked displaced persons camps inside Rwanda, refugee camps in Zaire in late 1996, and hundreds of smaller sites where persons in flight subsequently sought refuge in the forests of Zaire.³⁵ Of the thousands of children who fled into the forest, large numbers traveled without adults. According to one such child, he had no idea where he was going and sometimes walked all day only to find himself at nightfall back where he started.³⁶ Those who fled deep into the forest lived in makeshift camps in precarious conditions, rarely served by any kind of humanitarian assistance. Some children who had adult support at the start ended up on their own as parents or friends died or were slain. One thirteen-year-old who returned to Rwanda from Congo in 2001 first lost his parents and then lived with an older sister until she married and could no longer look after him. The child was left on his own until he was forcibly conscripted by armed combatants opposed to the current Rwandan government who made him join their force to help transport equipment.³⁷

So deep was the trauma associated with Rwanda that some children refused to go home even when humanitarian agencies had located their families and could promise a reunion. "Even when you produce a photo of a member of their family showing they are safe, the child may ask for a photo of a different family member or a letter or other evidence to prove the family are safe and it is therefore safe for him to return," said a staff member of an international aid agency who worked tracing the families of unaccompanied children.³⁸ More than one hundred children in Tanzanian camps refused to be reunited with their families in Rwanda; others refused to return to Rwanda even when their parents present in Tanzania had decided to go back.³⁹

³² Human Rights Watch interview, Rusatira, Butare, March 23, 1996.

³³ For further information on abuses committed by RPF forces, see Human Rights Watch, *Leave None to Tell the Story*, pp. 702-723.

³⁴ Pronouncement of the judgment in trial RC/ 0025/ EMG/ KER/ RC0042/ CM/ KGL/ 97, *Ministère Public v. Major Sam Bigabiro and Cpl. Denis Gato*, January 30, 1998.

³⁵ Human Rights Watch/Africa press releases, April - May 1995; "Refugee Children in the Rwanda-Burundi Emergency, UNHCR Regional Support Unit for Refugee Children, Information Notes, Kigali, January 1996.

³⁶ Human Rights Watch interview, Butamwa, Kigali Rural, November 13, 2000.

³⁷ Human Rights Watch interview, Ruhengeri, June 19, 2001.

³⁸ Human Rights Watch interview, Kigali, March 22, 1996.

³⁹ Refugee Children

Children as Tools of Violence

Thousands of Rwandan children have been used as tools of genocide and war. Some joined in the campaign to annihilate the Tutsi. Others were recruited by the RPF when it was a guerrilla force or enlisted in the army or Local Defense Forces of the current Rwandan government. Children are recruited to fight in Congo on the side of the Rwandan ally, the RCD,⁴⁰ as they are by rebels fighting the Rwandan government, now known as the Army for the Liberation of Rwanda (ALIR).⁴¹ Although they garner less sympathy, these children taught to kill are victims too.

Children as Perpetrators of Genocide

Some children participated actively in the genocide as members of the Rwandan army and the *Interahamwe* while others did so as part of the general mobilization of the civilian population. Children, because of their emotional and mental immaturity, were even more susceptible to manipulation by the same kind of propaganda that moved adults. Given that Rwandan children are usually taught to obey adults, these youngsters were even readier than adults to obey orders coming from authorities.

Rwandans questioned for a 1995 study carried out in eight communes, some more affected by the genocide and some less so, described the crimes they saw children commit in 1994. Almost all the participants said that children were involved in the gamut of crimes associated with the genocide: they committed murder, raped women and young girls, burned and destroyed houses, stole property, and pointed out people in hiding to the militias. Some groups also said that children kept an eye on the people that were marked for death so they could not escape. In another group, participants said that some children worked as informers, posing as orphans and asking people in hiding for refuge. A few days later, the children would return to the militias and give them the names and locations of those in hiding.⁴² Thirty-five per cent of the children interviewed for a 1995 UNICEF study said they saw children killing or injuring other children.⁴³

Some who committed these crimes followed the example of their elders. Many children in detention interviewed by Human Rights Watch researchers said they had parents and older siblings in prison as well. Some simply joined in looting in hopes of profiting or because others were doing so. Still others acted under extreme duress and participated in the violence only in order to save themselves or family members from slaughter.

Children who took part in the genocide, like adults, rarely speak of what they did for fear of incriminating themselves. Of the more than one hundred detained children interviewed for this report, only three (all of them already convicted of genocide) admitted their involvement in genocide-related crimes. One of them killed two small children because he believed “they were accomplices of the RPF” and that he should heed the call of the authorities “to fight against the enemy.” The second, a boy living on the streets, was drawn into looting and destroying property.

A third child, Roger M., admitted having killed his sister’s children. He was found guilty of genocide and sentenced to time served in pre-trial detention in Gitarama Prison. He was released soon after his sentencing in September 1997. A quiet and thoughtful young man, he was living with his mother, father, and surviving family members in Taba commune, Gitarama, when he spoke to Human Rights Watch researchers. Roger M., who was sixteen at the time of the genocide, said:

The militia came to our home and took me, my grandmother, my mother, and my sisters. They killed my sister. She was married to a Tutsi. My mother is Tutsi. My sister, the one they killed, had four children. They were ten, seven, five, and two years old. They told my mother she would have to give

⁴⁰ Human Rights Watch, “Reluctant Recruits: Children and Adults Forcibly Recruited into Military Service in North Kivu,” *A Human Rights Watch Report*, vol. 13 no. 3(A), May 2001.

⁴¹ Human Rights Watch, “Rwanda: Observing the Rules of War?” *A Human Rights Watch Report*, vol. 13 no. 8(A), December 2001.

⁴² Save the Children Federation – USA in collaboration with Haguruka, Kanyarwanda, and LIPRODHOR, *Children, Genocide, and Justice: The Rwandan Perspectives on Culpability and Punishment for the Children Accused of Crimes Associated with Genocide*, (Kigali, 1995) p. 9.

⁴³ Leila Gupta, *Exposure to War-Related Violence Among Rwandan Children and Adolescents*, p. 6

them 5,000 francs for them to kill the children. Otherwise I would have to kill them. My mother said, "My son is not a killer." They said, "We will teach him to kill."

They took me and the children to the mass grave. They told me to kill the children. I refused. I was very scared. One of the men beat me with a big stick. I realized that they could kill me, so I took the hoe and struck the children on their heads and pushed them into the grave.

I came back home and told my family what happened. My family said it was horrible, but they understood that I had no choice.

I really don't have the words to describe how I was feeling. There were so many emotions. They were still alive, the children. They were not dead [when I pushed them in the grave].⁴⁴

At least five thousand children and young people have been arrested on charges of genocide, as is discussed below. A recent study of detainees accused of committing genocide as children found that many of them showed signs of severe trauma.⁴⁵

In some cases, children risked their own lives to save others, as did adults. They took food to people in hiding or refused to reveal the ethnic identities of their friends and classmates in the face of death. One elderly informant described how children provided information to both killers and to victims:

During the day, rumors circulated about which family would be attacked that night ... In those meetings in town, they planned. Sometimes they said, tonight we will attack a family that has this number of people in the household, this number of children ... When they had those meetings in town, children went to listen, and they would come back to warn the family. Children could move about, listening and giving warnings. But there were other children who spied on those children who were giving warnings.⁴⁶

This woman and her family managed to escape after a thirteen-year-old boy came to warn her that they were going to be attacked that night. She had often given the boy handouts of food before the genocide.

Kadogo with the RPF Guerrilla Army: 1990 - 1994

The RPF used thousands of *kadogo*,⁴⁷ or child soldiers, in its ranks as it sought to topple first the government of former President Habyarimana and later the genocidal regime. A 1996 Rwandan government study identified 5,000 children who had been part of the RPF forces, 2,600 of whom were under fifteen years of age at the time of their military service.⁴⁸ Under international pressure to demobilize and rehabilitate the children, the new Rwandan government established a "Kadogo School" at the Non-Commissioned Officers School in Butare in 1995. Some 3,000 children received education, material assistance, and help with family reunification from 1995 through 1998.⁴⁹ Approximately 800 of them later attended secondary school at government expense.⁵⁰

Gilbert B. said he left primary school in 1993, before he turned fourteen, to join the RPF. He killed at least three people as a child soldier. When the war ended in 1994, Gilbert B. was demobilized without any provision for his future. When he returned to his home in Gitarama, he learned that his parents had been killed and their house destroyed. In a

⁴⁴ Human Rights Watch interview, Taba, Gitarama, February 7, 1998.

⁴⁵ Human Rights Watch interview with the representative of Penal Reform International, Kigali, February 21, 2002.

⁴⁶ Human Rights Watch interview, Butare, May 29, 1995.

⁴⁷ Kadogo means "little one" in Swahili.

⁴⁸ Ministry of Labor and Social Affairs, *Children in Difficult Circumstances: Policy and Plan of Action*, (Kigali, March 1996) p. 10.

⁴⁹ The school was created by an agreement of the Ministry of Defense, Ministry of Rehabilitation and Social Integration, and UNICEF.

⁵⁰ The Ministry of Labor and Social Affairs published monthly bulletins in 1995-1996 providing updated information on the kadogo and other children's rights issues, entitled *Children: The Future of Rwanda*.

rage, he killed a fourth person, a Hutu boy he knew who had also been recruited by the RPF. Gilbert said that he deeply regrets having killed people and, since his demobilization, he has suffered from depression. He tried to live with an older sister who is married and has a family of her own, but he felt he did not belong so he went to live on the streets. "I had no place to live and I was alone in total isolation," he said. "I was going to commit suicide. I had so many problems. I was out of control. I had no one to help me. I could not see any solutions."⁵¹

If the total figure of 5,000 kadogo is correct, some 2,000 children like Gilbert B. did not benefit from the kadogo school. Another former kadogo, Pierre N. from Kigali Rural, stayed in the army until 1996, when he was demobilized to pursue his studies. The army did not pay his school tuition, but he struggled to make ends meet. Now a tough adolescent, Pierre N. explained:

Once two bullets have gone by your ear, you will not be afraid of the third one. In the bush, if you find someone first, you kill him. If he finds you first, he kills you. That's how it is. In the morning, you find that you are still alive and that some of your friends are still alive.

He abandoned his studies in 1999 when local authorities recruited him for the Local Defense Force in his home commune. Then aged sixteen or seventeen, he was ordered to serve against his will and without his parents' consent. When asked how old he was when he joined the RPF in 1994, when he used a gun and grenades to chase Interahamwe away, he replied, "Let's just say I was under fourteen."⁵²

Children in ALIR: Refugees, then Soldiers

Since 1998, the Rwandan government has continued fighting armed groups in the Congo, many of them led by soldiers or militia of the former government. In this ongoing conflict, both sides have used children as part of their fighting forces.

From May through July 2001, several thousand Hutu combatants of the Army for the Liberation of Rwanda (ALIR) entered Rwanda and engaged the RPA in combat.⁵³ They brought with them hundreds of haggard children, some as young as eleven years old. Human Rights Watch researchers interviewed more than twenty of these children who had been captured by or had surrendered to government forces. Almost all had been taught how to fire weapons, though one said he had refused to learn because he "didn't want to spill blood."⁵⁴ Only one said he had actively participated in battle. The others described being used as porters, as domestic servants, as decoys to shout or otherwise make noise to distract or frighten opponents during battle, or as spies. At least several dozen child soldiers were killed during the fighting.⁵⁵

Many of the children had been abducted by ALIR forces in eastern Congo where they were refugees. Others joined the combatants in search of food and protection, often after their parents had died or they had become separated from their families. Some had been there since 1994, while others had fled during the 1997-1998 insurgency. Gregoire K. fled Rwanda with his mother in 1998 and lived with her in the Congo forest. One day Rwandan government soldiers came and dispersed the camp where they had been living, forcing his mother to return to Rwanda. Gregoire came back from looking for food and firewood to find the camp deserted, his mother and the others gone. Alone and with nowhere else to go, he wandered to a nearby ALIR camp and joined their ranks.⁵⁶

When the RPA captured ALIR combatants in the first skirmishes in 2001, its soldiers detained both children and adults at military positions near the point of capture. In June 2001 they transferred some sixty children along with

⁵¹ Human Rights Watch interviews, Kigali, April 18, 2001; July 21, 2000.

⁵² Human Rights Watch interview, Kigali, September 29, 2000.

⁵³ See Human Rights Watch, "Observing the Rules of War?"

⁵⁴ Human Rights Watch interview, Ruhengeri, June 18, 2001.

⁵⁵ Human Rights Watch interviews, Gisenyi, June 8, 2001 and Ruhengeri June 18-19, July 9-10, 2001.

⁵⁶ Human Rights Watch interview, Ruhengeri, June 18, 2001.

nearly 400 adults to the Muhoza military camp in Ruhengeri. When Human Rights Watch researchers visited them soon after, the children appeared tired, hungry, and despondent.⁵⁷ In July Rwandan authorities moved all the captives to a “solidarity camp” at Mudende in Gisenyi to follow a program of ideological re-education. Following protests from UNICEF that the children should be separated from the adults, they transferred the children in August to the Gitagata center in southern Rwanda where they were to undergo rehabilitation programs with the aim of returning them with their families. By then, the children numbered more than 300. The location at Gitagata in southern Rwanda made it difficult for families, most of whom lived in the northwest, to visit the children and so hampered efforts at reintegrating the children. But for most of the children, the camp represented a considerable improvement over other places they had lived since 1994. A Rwandan journalist who observed the children at Gitagata singing, dancing, and playing the drums remarked that they looked “like flowers that had been watered.”⁵⁸ In mid-December 2001, the International Committee of the Red Cross (ICRC) began to reunite some of the children with their families.⁵⁹

Ongoing Recruitment of Children inside Rwanda

To a limited extent, Rwandan government forces have continued to recruit children for military or paramilitary service. A new law on child protection, which entered into force in 2002, prohibits military service for children under eighteen.⁶⁰ But this law does not refer to service in the Local Defense Force, a government-organized civilian militia group. Human Rights Watch has documented several instances of recruitment of minors for the Local Defense Force since the program was established in 1998.⁶¹

Because all Rwandan citizens must obtain government-issued identity cards at the age of sixteen, authorities can easily check the age of adolescents at the time of recruitment into the army or Local Defense Force. Any young person without such a card must be presumed to be younger than sixteen years old. Authorities ordinarily collect identity cards when young people are recruited and thus have no excuse for not knowing whether those selected are under age. When communal⁶² officials in Kigali Rural collected identity cards of young recruits in July 2000, at least two of the group were minors. Yet the authorities told them all to be prepared to join the army or the Local Defense Force in the near future.⁶³

A local official in Nyarubuye commune who was responsible for recruitment explained that anyone over the age of fourteen could be part of the Local Defense Force in his sector, even though he knew the law set eighteen as the minimum age. Only people like himself, who had important responsibilities and a family to support, he said, could be exempt from their duty to serve their country. He pointed at a teenager standing nearby who, he said, was a member.⁶⁴

Some local authorities, young members of the Local Defense Force, and other witnesses described the recruitment process: local authorities drew up lists of eligible young men after receiving instructions about how many recruits were needed, either from civilian authorities or from the military; they called the youths to a meeting and then immediately sent them away for training, sometimes without even allowing them to notify their families. The youths and their

⁵⁷ Human Rights Watch field notes, Ruhengeri, June 18-19, 2001.

⁵⁸ Human Rights Watch interview, Gitagata, Kigali Rural, August 23, 2001.

⁵⁹ “Rwanda: Children formally (sic) working with militias reunited with families,” Rwanda News Agency, BBC Monitoring, December 18, 2001; “Rwanda: ICRC reunites third batch of war-affected Children,” U.N. Integrated Regional Information Networks (IRIN), December 21, 2001.

⁶⁰ Law No. 27/2001 of 28/04/2001 Relating to Rights and Protection of the Child Against Violence, published in *Official Gazette* No. 23, Dec. 1, 2001, art. 19 (English version).

⁶¹ Human Rights Watch, “Rwanda: The Search for Security and Human Rights Abuses,” *A Human Rights Watch Report*, vol. 12, no.1 (A), April 2000, p. 12.

⁶² Until 2001, communes were an administrative unit of government, now called districts. Each district is made up of several administrative “sectors,” which are made up of administrative “cells.”

⁶³ Human Rights Watch interviews, Kigali, October 16, 2000 and September 29, 2000 and Kigali Rural, October 11, 2000.

⁶⁴ Human Rights Watch interview, Nyarubuye, Kibungo, October 30, 2000.

families rarely had a chance to object.⁶⁵ In other cases, soldiers reportedly arrived in communities and forcibly rounded up youths.

In a limited number of areas, primarily in Kigali Rural, Ruhengeri, and Gisenyi, soldiers have occasionally conducted forcible roundups of youths for military or paramilitary service. An elderly woman saw RPA soldiers arrive in trucks to round up youths near her Kigali Rural home in November 2000. Shortly thereafter, she saw teenage boys and young men who had managed to escape capture running away. Her neighbors confirmed that large Tata-brand trucks had left full of youths on October 31, November 5, and November 7, 2000, just hours before Human Rights Watch researchers arrived. She also recalled a similar incident in June 2000. That time, she heard the trucks drive up in the middle of the night and then heard screams. The next morning she saw mothers lamenting that their sons had been taken away.⁶⁶ Witnesses or family members reported similar recruitment drives in at least ten communes of Kigali Rural, Gisenyi, and Ruhengeri in June and November 2000. Residents of Kigali, Kigali Rural, Ruhengeri, and Gisenyi who saw trucks drive by full of youths during those months told Human Rights Watch researchers that some of those in the trucks looked younger than fifteen years old.

Children do not appear to have been deliberately targeted for military service but soldiers and local officials who carried out the roundups did little to ensure that recruits were at least eighteen years of age. One young man who had been recruited in November 2000 estimated that two thousand young recruits, most of whom were at least eighteen, were assembled at Muhoza Camp in Ruhengeri, awaiting assignment in Congo. Before arriving at Muhoza, his group had transited through the Cyabingo commune office. There, he said, a major in the RPA looked over the group to find anyone who seemed very young. He sent home fifteen would-be recruits who looked very young. The major did not, however, check identity cards to verify the ages of the others who also looked young.⁶⁷

In November 2001, the Rwandan government recruited an estimated thirty people per sector to join the Local Defense Force as tensions heightened with former ally Uganda. Residents of Gisenyi told Human Rights Watch researchers in December 2001 that they believed one boy who had been recruited in this drive was just fourteen years old. Recruitment of minors for military service reportedly increased around the same time in Congo, where Rwanda was accused by a senior U.N. official of recruiting adolescents in Isiro (Orientale Province), Fizi (South Kivu Province), and Kalemie (Katanga Province) in late 2001.⁶⁸

Members of the Local Defense Force typically are trained for three months before receiving uniforms, access to weapons, and assignments in their home regions. They receive no compensation for their service and continue to live at home. After six months or more of experience, some are recruited for the regular army, making it necessary for local authorities to seek replacements among an already diminished pool of young men left in the community. A Ruhengeri boy, born in 1983, volunteered to join the Local Defense Force in 1998. In late 2000, at age seventeen, he was recruited to join the RPA.⁶⁹ Three members of the Local Defense Force from one sector of Ruhengeri, aged fifteen to seventeen, were sent to Congo in 2000. Within months all three had been killed.⁷⁰ A nurse who treated RPA soldiers as young as fifteen who had been injured in combat, including a sixteen year-old who had lost both his legs, lamented, “*ababyeyi babyarira ubusa*,” or “their parents give birth for nothing.”⁷¹

⁶⁵ Human Rights Watch interviews, Ruhengeri, December 7, 2000.

⁶⁶ Human Rights Watch interviews, Kigali Rural, November 7, 2000.

⁶⁷ Human Rights Watch interview, Ruhengeri, December 7, 2000.

⁶⁸ “DRC: U.N. confirms Rwandan troop reinforcements in East,” U.N. Integrated Regional Information Networks (IRIN), December 6, 2001.

⁶⁹ Human Rights Watch interviews, Ruhengeri, December 7, 2000.

⁷⁰ Human Rights Watch interview, Kigali, August 10, 2000.

⁷¹ Human Rights Watch interview, Kigali, November 9, 2000.

V. "JUSTICE HAS LEFT US": NO LONGER CHILDREN, ACCUSED OF GENOCIDE

Rwanda is the first country to try people for acts of genocide committed while they were children. Those convicted of these crimes must be punished but at the same time they should be seen as victims entitled to special care aimed at their rehabilitation and reintegration into society. Balancing the community's need for justice against the best interests of the child is a difficult task in any circumstances, one made particularly complex here because of the scale and horror of the crimes committed. The Rwandan government has the obligation to deliver justice and at the same time to establish a strong juvenile justice system for the future. Thus far it has largely failed to do either.

The Rwandan Penal Code defines "minors" as children aged between fourteen and eighteen at the time of the alleged infraction, and the term minor is commonly used in Rwandan parlance to denote people in this age group who have been accused of genocide.⁷² This report will use the term minor to refer to those accused of having committed genocide as children, even though they have since reached the age of majority.

Some five thousand "minors" have been arrested since the end of the genocide, many arbitrarily, and most have been detained under inhumane conditions for years without trial.⁷³ In June 2002, UNICEF estimated that 4,000 such minors, all now young adults, remained in prison.⁷⁴ Starting in 1995, the Rwandan government repeatedly promised to bring them swiftly to justice. At various it has promised to release those below the age of criminal responsibility (fourteen at the time of the crime) and those against whom there was no evidence, to hire and train more investigators and prosecutors to compile their case files, and to ensure that the system as a whole would treat their cases as a priority.⁷⁵ From the beginning though, progress was slow, in part because the Rwandan government and its international donors chose to allocate resources to other pressing problems. In 1999, when the government officially endorsed the creation of *gacaca* jurisdictions, officials further delayed action on juvenile justice.⁷⁶

Over the years, the government has slowly increased the pace of genocide trials, yet has tried minors at a slower rate than adults. The government also failed to release significant numbers of people who had been wrongfully detained, including minors, until December 2000. By November 2001, the government claimed that it had released 1,500 detainees accused of committing genocide while they were children, by then all young adults. They were released because they were too young at the time of the alleged crimes to be held criminally responsible for their actions or because there was no significant proof against them.⁷⁷ These prisoners, who should never have been arrested in the first place, lost their adolescence in prison.

⁷² Décret-loi instituant le code pénal, Journal Officiel de la République Rwandaise, 17ème année, no. 13 bis, 1 juillet 1987, Livre Premier, ("Penal Code") Art. 77.

⁷³ Human Rights Watch asked the Ministry of Justice for statistics on the numbers of people incarcerated for crimes allegedly committed while they were children on several occasions in 2001, which the International Committee of the Red Cross provides the government regularly, but the information was not forthcoming. The United Nations reported that 4454 juveniles were detained at the end of 2000. Officials at the Ministry of Justice and international agencies informally reported higher figures in 2001. UNICEF reported that the government had released 1,500 juvenile detainees as of November 2001. "Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in Rwanda Submitted by the Special Representative of the U.N. Commission on Human Rights to Rwanda, Michel Moussalli, Pursuant to Resolution 1999/20," U.N. Doc. E/CN.4/2000/41, February 25, 2000, para. 117; "Rwanda: Government frees 552 child genocide suspects," U.N. Integrated Regional Information Networks (IRIN), November 14, 2001.

⁷⁴ "Rwanda: Interview with UNICEF Representative Theophane Nikyema," U.N. Integrated Regional Information Networks (IRIN), June 10, 2002. A November 2002 Rwandan government document puts the number of minors at 4,500, but does not say how many of these are accused of genocide as opposed to more recent crimes. Technical Committee and Ministry of Local Government, "Draft National Policy for Orphans and Other Vulnerable Children in Rwanda," November 12, 2002, p. 14.

⁷⁵ Ministry of Labor and Social Affairs, *Children: The Future of Rwanda*, no. 3, September 30, 1995, p. 17; Coordination meeting of international actors in the justice system, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Kigali, October 17, 2000.

⁷⁶ Human Rights Watch interview, Kigali, July 18, 2000. *Gacaca* is a system of popular justice to try the backlog of genocide cases, as discussed below.

⁷⁷ "Government frees 552 child genocide suspects," IRIN, November 14, 2001.

Since these releases, it has become even harder to draw attention to the plight of the thousands of young adults who are still languishing in detention for crimes they allegedly committed as children. As one report on the progress of genocide trials observed:

After five years in detention, the delinquent will have grown up. Of course his reasoning and his behavior will have changed. Judges today have a tendency to judge him as an adult, meaning that a juvenile trial is the same as that of an adult! That interferes with the priority treatment of minors over other defendants.⁷⁸

Legal Responsibility of Children for Genocide

All governments including that of Rwanda bear an obligation to punish those guilty of the crime of genocide.⁷⁹ Any prosecution of juveniles against whom there is credible evidence of the crime of genocide must be carried out in accordance with national and international law. It must be recognized that children are rarely autonomous actors in the commission of crimes bearing the gravity of genocide. It is questionable whether a child as young as fourteen has the emotional and mental maturity to hold the requisite *mens rea* (criminal intent) for genocide, “the intent to destroy, in whole or in part, a national ethnical, racial or religious group.”⁸⁰ During the genocide, the governing elite used the full authority of the state as well as several channels of propaganda to incite persons into killing Tutsi. Children were even more susceptible to such manipulation by adults in positions of authority.

Few minors are accused of being among the planners or most horrific perpetrators of genocide. Out of more than two thousand persons listed by the Rwandan government as suspected planners, instigators, and most notorious killers of the genocide, only 1 percent were under eighteen during the genocide. The International Criminal Tribunal for Rwanda has not indicted anyone for crimes committed while they were children, although its statute does not contain any limitations regarding age.⁸¹

Yet some Rwandans in the government and on the hills believe that child perpetrators are just as guilty as adults who committed genocide. Nearly all Rwandan participants in a 1995 study by Save the Children – USA recognized that the children were susceptible to influence by authorities, politicians, and parents, but concluded that these children committed crimes of their own volition and were not forced to do what they did. In all crimes other than genocide, the respondents felt that children should be punished differently from adults, but not so for genocide. Most of those interviewed said the punishment for children guilty of genocide should be death. A group of respondents from one area greatly affected by the genocide stated, “These children, one should not compare them with other children.”⁸²

⁷⁸ LIPRODHOR (Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme) Centre de Documentation et d'Information sur les Procès de Génocide, *Procès de Génocide au Rwanda Deux Ans Après (Dec. 96-Dec. 98)*, Kigali, 1999, p. 35.

⁷⁹ Convention on the Prevention and Punishment of the Crime of Genocide, 1948. Rwanda became a party to the Genocide Convention in 1975.

⁸⁰ Ibid, art. II.

⁸¹ Statute of the International Criminal Tribunal for Rwanda, art. 5. Annex to Security Council Resolution 955, U.N. Doc. S/RES/955, November 8, 1994. To date, the focus of international tribunals has been on prosecution of commanders and the worst offenders. The statute for a permanent International Criminal Court precludes the court from prosecuting anyone under the age of eighteen at the time of a crime. Rome Statute of the International Criminal Court, art. 26, U.N. Doc. no. A/CONF. 183/9 (July 17, 1998), 37 I.L.M. 999. Chief among the considerations that led to this limitation was that children accused and found guilty of such crimes are still entitled by law to special treatment and protection, aimed at furthering their education, rehabilitation and reintegration into their communities, which the Court would be hard pressed to meet; and a belief that adults who manipulated and used children's vulnerability towards their own destructive ends were more deserving of prosecution than children. The Special War Crimes Court for Sierra Leone, however, has the power to prosecute someone for crimes committed between the ages of fifteen to eighteen if it considers the accused to be among those “who bear the greatest responsibility.” However, a report by the United Nations secretary-general recommended limiting this jurisdiction to cases where the prosecution would not interfere with the child's rehabilitation program. Report of the Secretary-General on the establishment of a Special Court for Sierra Leone, U.N. Doc. S/2000/915, October 4, 2000, Paras. 29 - 38.

⁸² Save the Children Federation – USA et al., *Children, Genocide, and Justice*, p. 26.

Rwandan Legislation

The National Assembly in August 1996 passed a law, commonly referred to as the organic law, governing genocide prosecutions, crimes against humanity, and other crimes committed in connection with them.⁸³ The law divides crimes of genocide into four categories, the first being for planners and leaders of genocide, and for perpetrators of sexual torture; the second for those who committed or were accomplices in murder; the third for those who committed serious attacks without intending to cause death; and the fourth for those responsible for property damage.

Category one carries a maximum penalty of death for adults, or twenty years for those tried as minors. The organic law requires the attorney general to establish and publish a list of suspected category one offenders in the *Official Gazette*. The list, which is also available on the Rwandan government's web site, includes twenty-two suspects who were born between 1976 and 1979. Those born in 1976 could be considered adults if the government proved they committed crimes of genocide after the date of their eighteenth birthdays. In theory, being named on the category one list does not violate the presumption of innocence since those named must all be tried and convicted before being pronounced guilty. But many Rwandans assume otherwise and, except for those most scrupulous about legal procedure, consider those named on the list to be guilty. Those whose names are published lose the possibility of reducing their punishment by confessing in the plea-bargaining process established by the law and have no right to appeal having been placed on the list.⁸⁴ According to the organic law and the gacaca law, children in the first category are to be tried as adults. With the establishment of the gacaca jurisdictions, panels of judges at the most local level are to assume responsibility for classifying suspects into categories. That juvenile defendants probably could not have the requisite capacity to organize genocide should likely exclude them from category one offenses; however this is not incorporated into the law.

The organic law provides for minors (at the time of the crime) to be tried in proceedings separate from adults' trials. Within the existing civilian courts, called the Tribunals of First Instance, and in military courts, the organic law created specialized chambers with exclusive jurisdiction over the crime of genocide.⁸⁵ Each specialized chamber was headed by a president, and comprised of benches of three magistrates. Within each specialized chamber, the law called for the formation of at least one bench of "magistrates for minors," to have exclusive jurisdiction over the cases of minors.⁸⁶ These benches for minors, which once functioned somewhat effectively, now have largely ceased to operate, as discussed below, and minors are now routinely tried with adults. In any case, the law creating gacaca jurisdictions abolished the specialized chambers.

Persons convicted of a crime who were minors at the time of its commission are entitled to reduced penalties. They cannot be sentenced to death or life imprisonment but to a maximum term of twenty years. For any other sentence, they should receive only half of the applicable penalty.⁸⁷ Additionally, the Penal Code allows magistrates to consider mitigating circumstances in sentencing, which could further reduce penalties to a minimum of five years (to replace the death penalty), a minimum of two years (to replace a life sentence), and a minimum of one year (to replace a sentence of

⁸³ "The organic law of 30 August 1996 on the Organization of the Prosecution of Offences Constituting the Crime of Genocide or Crimes Against Humanity," *Official Gazette of the Republic of Rwanda*, September 1, 1996.

⁸⁴ Human Rights Watch, *Leave None to Tell the Story*, p. 752.

⁸⁵ There are twelve Tribunals of First Instance in Rwanda, one for each of Rwanda's twelve administrative provinces. Tribunals of First Instance have general jurisdiction for all civil and criminal matters. Above them are four Courts of Appeal based in Kigali, Nyabasindu, Cyangugu, and Ruhengeri. At the top is the Supreme Court which is divided into six sections, including the Court of Cassation, which is the court of last resort for cases in the Tribunals of First Instance. Below the Tribunals of First Instance are canton courts, for minor criminal charges and small-sum civil suits.

⁸⁶ Organic law, arts. 19 - 20.

⁸⁷ Penal Code, art. 77.

five to twenty years.)⁸⁸ The penalty for category four crimes, whether committed by adults or minors, is restitution and should not involve imprisonment at all.⁸⁹

To ease the burdens placed on the judicial system and to speed prosecution of all cases, the government has established a system of plea-bargaining which offers reduced sentences to suspects, adult and juvenile, who confess prior to trial. Confessions must include a detailed description of the offenses committed including the names of victims, witnesses, accomplices, and conspirators, and an apology and offer to plead guilty. The prosecutor has a three-month time limit to verify and accept or reject the confession. If accepted by the prosecutor, the case is forwarded to court where magistrates try the accused. The practice of plea-bargaining has resulted in many trials where a number of accused persons are prosecuted together in “group trials.” If minors are involved in such cases, they are then tried together with the adults.⁹⁰ In practice, confessions have rarely been processed within the required time limit, and at present speed many may not even be registered by the time *gacaca* trials begin.⁹¹ In February 2002, less than half of approximately 16,000 confessions made to date had been processed. In order to ensure that prisoners who confessed in a timely fashion receive the reduced penalties to which they are entitled, prosecutors in Gitarama launched an effort to register, but not verify, 5,000 confessions made by prisoners in local *cachots* or lockups.⁹²

Since the end of the genocide, the Rwandan government has detained over 120,000 persons accused of genocide, most of whom were jailed without regard for procedures specified by Rwandan law. The Rwandan National Assembly attempted to regularize these detentions by passing a law on September 8, 1996 that stipulated that detentions of adults and minors must be regularized by December 31, 1997 and that pretrial detention orders must be limited to six months.⁹³ The Assembly then passed new laws extending the deadline for regularization of pretrial detention three times, most recently in July 2001. The 2001 law authorized continued pretrial detention of those arrested before January 2000 and still lacking case files, pending the establishment of *gacaca* jurisdictions. However, the law requires timely confirmation by the courts of provisional arrests warrants and completion of case files for those arrested more recently in conformance with the Code of Criminal Procedure.⁹⁴

The organic law grants accused persons “the same rights of defence given to other persons subject to criminal prosecution, including the right to the defence counsel of their choice, but not at government expense.”⁹⁵ There is no

⁸⁸ Penal Code, arts. 73, 82, 83.

⁸⁹ It is possible that many children in detention are accused only of property damages. Human Rights Watch is not aware of any statistics on this question.

⁹⁰ Organic law, arts. 6 and 7. Many minors have not made use of the procedure, maintaining that they are innocent. Others refuse to confess out of suspicion of a system they have grown to distrust, or out of loyalty to or fear of reprisals from those they would have to name as accomplices (some of whom may be either their own family members or fellow detainees). Those who confess are not usually separated from the rest of the prison population, nor are pretrial detainees separated from convicted persons.

⁹¹ Human Rights Watch interview, Kigali, September 28, 2001.

⁹² Human Rights Watch interview, by telephone, with the prosecutor general for the Court of Appeals at Nyabisindu, Kigali, February 12, 2002.

⁹³ This law applies only to prisoners accused of genocide. However, in practice, its norms have been applied to those accused of common crimes as well. Regularization of detention requires the creation and completion of the case file, known as the dossier, which includes the arrest warrant, the recorded testimonies of the witnesses and accusers, the charge sheet, and the pretrial detention order.

⁹⁴ Law no. 35/01 of 7/7/2001 Relating to Provisional Modification of the Criminal Procedure Code for Persons Being Prosecuted for Genocide or Crimes Against Humanity, Committed Between 1 October 1990 and 31 December 1994 (English Version), *Official Gazette of the Republic of Rwanda*, no. 15, August 1, 2001, pp. 14-15, arts. 1 and 2.

⁹⁵ Organic law, art. 36. *Avocats sans Frontières* (ASF) originally organized teams of foreign lawyers to defend genocide suspects. With time, more and more Rwandan lawyers were available for this task, and ASF organized and financed their representation of genocide suspects. In 2001, the Bar Association took over the role of providing Rwandan defense lawyers, and ASF no longer does so. A steering committee made up of the Bar Association, the Ministry of Justice, and UNDP processes requests to assign lawyers, who are paid with funding from UNDP. Judicial defenders, who have had limited legal training, are also authorized to represent genocide suspects at trial. The Danish Center for Human Rights sponsors some 110 of these defenders, and others belong to the *Corps des Défenseurs*.

right to state-funded counsel under Rwandan law, in violation of the International Covenant on Civil and Political Rights, which guarantees free legal assistance “in any case where the interests of justice so require,”⁹⁶ and the Convention on the Rights of the Child, which guarantees accused children “legal or other appropriate assistance in the preparation of and presentation of his or her defense.”⁹⁷ Rwandan law allows detainees, including children, access to counsel only once a trial date has been set, which could be years after their arrest and initial interrogation.⁹⁸

A new Rwandan law on child protection expressly prohibits subjecting children to torture and inhumane and degrading treatment and further criminalizes “any sadistic torture including disproportional punishment; ill-treatment; inhuman or degrading punishment on a child.”⁹⁹

In 2002, Rwanda began implementation of the popular justice system called gacaca to try genocide cases. A law creating gacaca jurisdictions entered into force in March 2001¹⁰⁰ and, in the first step towards implementation of the complex four-tiered system, the population elected nineteen judges for each of more than 11,000 jurisdictions in October 2001. Jurisdictions are located at the cell, sector, district, and province levels. Gacaca is likely to speed up the pace of trials and further reduce penalties (with the possibility of transforming into community labor half of the penalty, already reduced for those who confess). Under the gacaca system, the accused have no right to legal counsel.¹⁰¹ Gacaca judges—few of whom have had any legal training and some of whom are illiterate—underwent six days of training based on a manual explaining the gacaca law in April and May 2002. The only reference in the manual, and in the law, to distinctions between suspects who were children in 1994 and those who were adults concerns reduced penalties.¹⁰²

The Rwandan Justice System

Eight years after the end of the genocide, Rwanda’s justice system is still poorly equipped to deal with the massive backlog of genocide cases, including those of minors. Any judicial system in the world would have difficulty in effectively prosecuting an excess of 120,000 accused. Even before 1994 the judicial system functioned badly and many judges, prosecutors, and attorneys were killed or fled the country during the genocide and war, or were subsequently accused of crimes. With financial and technical assistance from international donors, the government has reconstructed its justice system little by little but often has had to resort to personnel with relatively little training.¹⁰³ For example, lay people were hired as judges in 1997, but given only six months training. In 2000, the first class of new lawyers graduated from the National University of Rwanda and assumed positions of responsibility, though few had prior legal work experience. Progress in rebuilding the justice system has been slow and inconsistent, in part due to a lack of political will.

The Ministry of Justice and UNICEF operate a joint project, housed in the ministry, to deal with juvenile justice issues. The project originally had a mandate to work on cases of those accused of genocide as minors, to which has been more recently added responsibility to address the growing problem of child rape. Its tasks include assuring that cases of minors get priority, providing legal representation at trial, maintaining a database, and drafting a law on juvenile justice. Staff of the project have also verified the ages of detainees to ensure that older ones do not benefit from reduced penalties by lying about their ages. In November 2000, the project was funding twenty prosecutors (officers of the

⁹⁶ International Covenant on Civil and Political Rights, art. 14(3)(d).

⁹⁷ Convention on the Rights of the Child, art. 40(2)(b).

⁹⁸ The Convention on the Rights of the Child states that every child deprived of liberty “shall have the right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.” Art. 37(d).

⁹⁹ Law Relating to Rights and Protection of the Child against Violence, arts. 20 and 32 (English version).

¹⁰⁰ Organic law setting up “GACACA Jurisdictions” and organizing prosecutions for offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 31, 1994, No 40/2000 of 26/01/2001, *Official Gazette of the Republic of Rwanda*, no. 6, March 15, 2001.

¹⁰¹ Human Rights Watch press release, “Rwanda: Elections May Speed Genocide Trials,” October 4, 2001.

¹⁰² Cour Suprême Département des Juridictions Gacaca, Projet, *Manuel explicatif sur la loi organique portant création des juridictions Gacaca*, 2001, p. 131.

¹⁰³ Human Rights Watch, *Leave None to Tell the Story*, pp. 748-749.

public ministry) and twenty-six investigators (inspectors of judicial police). All were supposedly working on the cases of minors but they made little progress, in part because they were sometimes assigned cases having to do with adults. In addition they often lacked means of transportation and communication. The project's biggest accomplishment has been organizing two "solidarity camps"¹⁰⁴ and release from prison in 2000 and 2001 for those under the age of criminal responsibility, fourteen at the time of the crime, as discussed below. By the time these releases began, all of those known to have been children at the time of their alleged crimes of genocide and still in jail were over eighteen years old.¹⁰⁵

The project is also charged with ensuring that minors have legal assistance at trial. In 1997 UNICEF reached a tentative and informal arrangement with the Rwandan bar association to provide attorneys to represent those charged as minors at UNICEF expense (to be paid on a per case basis with an honorarium and allowance for expenses, with estimated total costs of U.S. \$1,000 per case). However, this agreement was not implemented at the time as UNICEF felt that funds "would be better directed towards improving the justice system as a whole."¹⁰⁶ *Avocats sans Frontières*, which had been defending adults and minors in genocide trials, briefly suspended its representation of defendants tried as minors after this agreement but later resumed providing assistance after it saw that UNICEF and the bar association had failed to follow through.¹⁰⁷

Since then, UNICEF has provided funding for the Ministry of Justice Project to retain lawyers for juvenile defendants, but this assistance does not reach all minors being tried. The coordinator acknowledged that there have been failures to provide the needed lawyers due to administrative errors as well as funding shortfalls. He said that the Ministry of Justice did not provide representation for any minors from March through September 2001.¹⁰⁸ The Danish Center for Human Rights created a team of five judicial defenders to specialize in juvenile justice in 1999. Their work was interrupted when all Danish Center defenders were obliged to suspend their activities at various points in time due to conflicts among the Danish Center, the bar association, and the *Corps des défenseurs judiciaires* (Association of Judicial Defenders). Frustrated that they were not able to work, the team entered negotiations with the Ministry of Justice to represent minors through the Ministry of Justice/UNICEF Project in mid-2000. The coordinator encouraged them to begin working in July 2000 pending completion of formalities. In the succeeding months, they began work on thirty-eight cases and completed eleven of them. In mid-November 2000, the ministry, which had yet to sign the contract or pay the defenders for three months work, ordered them to suspend all work—including their representation of minors at trials already in progress. In December, the ministry terminated the agreement with the defenders.¹⁰⁹

International donors have also continued to finance Rwandan and foreign lawyers and judicial defenders who, at times, represent defendants charged as minors independently of the project.¹¹⁰ Foreign lawyers who attempted to ensure that adults and children accused of genocide had the right to legal assistance initially found their efforts rebuffed. One European lawyer said that a senior justice official had once threatened him by saying that he must be Interahamwe for wanting to help other Interahamwe.¹¹¹ Another said that, even in 2002, magistrates had complained to him that the quality of representation by Rwandan lawyers was very poor.¹¹²

¹⁰⁴ Solidarity camps are organized by the National Commission on Unity and Reconciliation (NURC) to provide reeducation. Camps have been held for various segments of the population including returning refugees, students beginning university, and local government officials.

¹⁰⁵ Human Rights Watch interviews, Kigali, November 16, 2000 and September 27, 2001 and with staff of international organizations working with children under fourteen, September 24, 2001.

¹⁰⁶ Human Rights Watch interview with Steven Allen, UNICEF country representative, February 2, 1998.

¹⁰⁷ Human Rights Watch interview, Kigali, November 14, 2000.

¹⁰⁸ Human Rights Watch interview, Kigali, September 27, 2001.

¹⁰⁹ Human Rights Watch interviews, Kigali, December 11, 2000 and November 16, 2000.

¹¹⁰ *Avocats sans Frontières* planned to cease provision of foreign defense lawyers in June 2002. Human Rights Watch interview, Kigali, February 20, 2002.

¹¹¹ Human Rights Watch interview, Kigali, May 17, 2001.

¹¹² Human Rights Watch interview, Kigali, February 20, 2002.

The Ministry of Justice/UNICEF Project has yet to embark in earnest upon the major task of developing a juvenile justice system.¹¹³ The project has at times initiated efforts and suspended them shortly thereafter, citing budget shortfalls. In some cases it did lack the money but, according to some donors, the ministry had in some cases allocated the money to other projects. UNICEF has failed to require demonstrable progress in implementing the mandate of the project and, in some cases, has itself failed to provide the necessary funding. A senior UNICEF employee acknowledged in late 2001 that the juvenile justice system was still a “disaster.”¹¹⁴

There have been a few limited initiatives to train justice officials in juvenile rights. In 1997, the Ministry of Justice, with support from UNICEF, provided a three-day training course in Nyanza for selected magistrates and prosecutors, but this was in fact more of a basic training course on the genocide law. The session dealing with minors lasted for only a few hours, and did not provide detailed instruction on the unique situation of minors or on the existence of special protections for minors under international standards.¹¹⁵ Between 1997 and 2001, there was no further training of judicial personnel regarding juvenile justice.¹¹⁶ Subsequent training sessions organized for magistrates have focused on fundamental aspects of the organic law and difficult legal issues arising out of the gacaca law. A foreign legal expert conducting some of the training stressed that training on more specialized issues such as juvenile justice would have to be addressed later.¹¹⁷

The government has created various initiatives to accelerate the preparation of case files for all detainees, adult and minor, with mixed success: screening commissions (commissions de triage) in 1995, mobile teams (groupes mobiles) in May 1997, then council chambers (chambres de conseil) in late 1997.¹¹⁸ Council chambers, which continue to function, have worked to meet the recurring deadlines for regularization of arrest and detentions by providing provisional arrest warrants (mandats d’arrêt provisoire) for prisoners presented to them. Prior to the December 31, 1997 deadline for pretrial detention, they released hundreds of detainees but, once that deadline had been extended, their work slowed.¹¹⁹ At the end of 1999, before the next extension expired, prosecutors and council chambers scrambled to regularize the pretrial detention of as many prisoners as possible by issuing provisional arrest warrants for them. Council chambers, which approved thousands of provisional arrest warrants in less than three months in 1999, were widely considered to be doing little more than rubber-stamping existing situations. One local human rights activist compared the council chambers to a “dipping tank” where large numbers of cows are dipped in pesticide. When the deadline passed and was once again extended by parliament, the council chambers slowed their pace once again.

Note on Ages

Under Rwandan and international law, a child’s age at the time of the crime determines his or her criminal responsibility. Children under the age of fourteen at the moment of the crime are not considered criminally responsible in Rwanda. Those aged fourteen to eighteen may be held responsible, but are entitled to a reduction in penalties because of their minority.¹²⁰ Thus, a person accused of committing genocide while aged seventeen in 1994 must still be entitled to the protections afforded children in conflict with the law, even at age twenty-five in 2002.

It is sometimes difficult to verify ages of detainees either because births were never recorded or because communal records disappeared or were destroyed during the genocide and subsequent war. In the absence of written proof of age, investigators have resorted to interviewing the neighbors of those who claim to be juveniles and other imperfect methods to ascertain their ages. Further, records that do exist generally refer only to the year of birth, not the exact

¹¹³ Human Rights Watch interviews, Kigali, September 27, 2001 and November 16, 2000.

¹¹⁴ Human Rights Watch interview, Kigali, September 12, 2001.

¹¹⁵ See Aloys Habimana, CLADHO (Collectif des Ligues et Associations de Défense des Droits de l’Homme au Rwanda), *Seminaire sur les Procès des Mineurs*, 1997.

¹¹⁶ Human Rights Watch notes from the meeting, April 30, 2001.

¹¹⁷ Human Rights Watch interview, Kigali, February 10, 2002.

¹¹⁸ Human Rights Watch, *Leave None to Tell the Story*, p. 755.

¹¹⁹ Ibid.

¹²⁰ Penal Code, art. 77.

date, making it difficult to establish whether genocide suspects born in 1976 and 1980 had passed their fourteenth or eighteenth birthdays when the alleged crimes were committed.

Prosecutors have asserted that prisoners have lied about their age in the hopes of receiving reduced penalties, justifying their challenges to detainees' claims of minority at the time of the genocide. When pressed to accord self-declared minors their rights, prosecutors and courts have given them the benefit of the doubt, but only after time-consuming investigations and litigation. This was the case in one trial in military court in Rwamagana and another before the Tribunal of First Instance in Ruhengeri. In both cases, the defendants had legal representation. Their lawyers successfully argued that the young men should be treated as minors because prosecutors were not able to prove that they were lying about their ages.¹²¹ Prison authorities seriously beat detainees who attempted to attend a training session on children's rights and the justice system, claiming that they were really eighteen in 1994 and thus should not be allowed to attend the training. They conducted the beatings in full view of judicial defenders working for the Danish Center for Human Rights who had come to lead the training.¹²²

When not pressed to make special provision for minors, officials have treated all detainees as adults. As discussed below, courts have sentenced numerous minors to full penalties instead of the reduced prison terms that Rwandan law mandates. In Rilima prison in Kigali Rural, the director initially allowed only thirteen minors, all of whom were still younger than eighteen, to attend another training session with Danish Center judicial defenders about the criminal justice process and children's rights. Only after lengthy discussion with the trainers did the director allow 127 young adult detainees who were children at the time of their alleged crimes to attend. A person who witnessed the incident said that this was not likely a mere oversight. Correctional personnel commonly use the term minor, as defined in the penal code, to refer to those under eighteen at the time they allegedly committed genocide and they keep prison statistics according to this definition.¹²³

Arbitrary Arrests

When I was arrested they came to find me where I was. I was looking after the cows in a valley. They were our cows. They came and took me, slapped me on my face and took me to the commune and interrogated me. They wrote my dossier. The [police inspector] did the dossier.... They asked me how many people I had killed. I said none and they hit me. They kept hitting me until I was really feeling bad. And then I accepted that I had killed one person—I don't know who, I don't know the name.

—Testimony of a boy who was ten years old during the genocide, four years below the legal age for criminal responsibility. Nyanza Prison, March 20, 1996.

Among the tens of thousands of persons detained since 1994 without regard for legal formalities or their rights are thousands of children. RPA soldiers arrested Jean Louis R., aged thirteen at the time of the genocide, on August 24, 1994 near his Kigali Rural home in Shyongi. He told Human Rights Watch researchers that he was held first in a local bar and later transported to Kigali's Nyabugogo market, where he spent the night in a cargo container along with other prisoners, men and women, adult and children. He and the other prisoners were beaten before being placed in the container. Later, the soldiers tied their hands behind their backs and placed heavy bricks on their chests to extort confessions from them. Having witnessed others suffer, he confessed immediately once they began to tie his hands, though he maintains the confession was false. His father, who was detained with him, and other detainees in the

¹²¹ Human Rights Watch interviews, Kigali, December 11, 2000 and November 14, 2000; Radio Rwanda evening news broadcast, October 5, 2000.

¹²² Human Rights Watch interview, Kigali, December 11, 2000.

¹²³ Human Rights Watch interview, Kigali, December 11, 2000.

container died that night. Prosecutors never processed Jean Louis R.'s "confession," and, in any case, he was too young to be held criminally responsible. He was finally released in late December 2000 because of his age.¹²⁴

A thirteen-year-old genocide survivor from Nyamata was arrested—presumably by accident—on New Year's Day 1995. He had survived the massacres by hiding, but his parents and siblings were slaughtered. He told Human Rights Watch researchers that local authorities had summoned him to testify as to what he had seen from his hiding place. When he replied that he had not seen anything, they put him in custody. Perhaps they only meant to question him further, but somehow authorities kept him in prison and he ultimately spent six years incarcerated with adults and children accused of genocide. In late 1995, he met a group of RPA soldiers who he said attempted to organize his release. But authorities then transferred him to Gitagata Reeducation Center for Children, a center that housed some detainees who were below the age of fourteen at the time of the genocide. In 1998, he and several other boys were transferred again, this time to Gikondo central prison, he believes as punishment for having complained that there was not enough food at Gitagata. He was finally released only in December 2000 because of his young age.¹²⁵ When a Human Rights Watch researcher brought the child's situation to the attention of a senior prosecutor who was unaware of the child's case, he first denied that anyone so young would have been detained at all. When reminded that the government had publicly acknowledged the detention of hundreds of children under fourteen and had recently taken steps to release some 500 of them, the prosecutor sighed and said, "There are always casualties of war."¹²⁶

Alexander B. of Butare was fourteen when arrested in 1994. He said:

My parents died in June 1994. We didn't flee during the war. They were killed at home. They were shot by the military. The military killed the people who didn't flee. I saw them being shot. We saw them coming, my parents were in the house and my brothers and I were outside. We ran....

When we got back home [after a month] our house had been looted, the doors had been taken and three days later I was arrested. I was arrested by a councilor I knew and six soldiers I didn't know. They arrested other people, too, who are also here, in the cell block for the men. I was arrested in the morning and spent the day in the commune. In the evening we were hit and in the morning, too. The next day in the morning we were presented to the [police inspector] and were hit again with electric wire and plastic sticks. I was hurt, they hit us hard and they did this [pointing to a scar the size of a coin]. They showed us papers with names of people who had been killed written on them. There were about ten names and they asked me if I knew them and if I said no they hit me. I knew some of them but not all. When I said I didn't know them they hit me more because they said I had killed them during the war. I didn't kill them. They then put together the dossier....

I lived with my two little brothers, one who was twelve and one who was thirteen.... I don't know where my brothers are now; I haven't seen them since I was arrested. I don't know whether they were arrested or not since no one has ever visited me.¹²⁷

In April 1995, Human Rights Watch estimated that some 1,500 people were being arrested per week.¹²⁸ UNHCR, UNICEF, and the U.N. High Commissioner for Human Rights (UNHCHR) had all complained about arrests and physical violence against children returning from refugee camps in 1995.¹²⁹ Francine M., for example, aged eleven or twelve at the time of the genocide, said she was arrested in 1995 after a woman from her home region accused her. Five years later, the accuser came to visit her in detention and asked forgiveness for having falsely accused her. Francine M.

¹²⁴ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹²⁵ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹²⁶ Human Rights Watch interview, Kigali, December 19, 2000.

¹²⁷ Human Rights Watch interview, Butare, March 15, 1996.

¹²⁸ Human Rights Watch, "Rwanda: The Crisis Continues."

¹²⁹ Ministry of Labor and Social Affairs, *Children: The Future of Rwanda*, no. 3, September 30, 1995, p. 8

begged her accuser to tell prosecutors that she was innocent but to no avail. Almost one year after that apology, at age eighteen, Francine was released because she was too young to be held criminally responsible.¹³⁰

Authorities carried out many arrests of adults and children during the massive repatriation of Hutu refugees from Zaire (now the Congo) and Tanzania in late 1996 and in the following months. Many children and adults interviewed by Human Rights Watch reported being summarily arrested within days of their return from exile. Some repatriates from that period told researchers that they were afraid to speak to acquaintances in public or otherwise draw attention to themselves lest someone point a finger at them, leading to what might become indefinite detention in overcrowded, inhumane conditions. They added that many had learned that they could falsely accuse their rivals or their neighbors without consequence, for example in order to facilitate the taking of the accused's property.

Marc B.'s father was arrested days after his return to Kigali from exile in November 1996, reportedly because of the role he played in a political party during the genocide. Authorities returned to arrest Marc B., who was fourteen at the time of the genocide, later the same day. A relative told Human Rights Watch researchers that the reason they gave for arresting the boy was that, as the oldest child in the family, he must have accompanied his father in the man's criminal acts. Marc B. remained in pretrial detention at the Gikondo central prison in early 2002.¹³¹

Some minors reported that they were arrested after police or local authorities came to their homes looking for adult family members who had fled, or were detained along with older relatives in group arrests. Eric R., who was fifteen years old at the time of the genocide, explained:

The councilor arrested me January 15, 1997. They asked for my brother, but he is dead. He was involved in a group of Interahamwe in 1994. They said that he had tried to kill someone. The councilor told me I would be released when my brother comes back.¹³²

Two girls in Miyove, arrested in 1995, told Human Rights Watch researchers in 1998 that they were arrested after soldiers came looking for their brothers, but could not find them.¹³³ André K. of Kigoma commune, Gitarama, told a similar story, but he remained in prison even after his father was arrested. He was fourteen during the genocide.

They came to find my father and when they didn't find him they took my mother and me. My father was in exile in the camps. My brother was in Kigali. The councilor of the sector came and said that if my father came they would let us go.... They came to our house and said they were taking me in my father's place. We were taken to Nyanza brigade.... We were interrogated by [a police inspector] —he came in with a woman I had never seen before and she said my father had sent me to get a machete. She said he had said, "Go and get a machete at home." ... That was all she said. She was lying.... Other people were detained at the same time, thirty of us.... I spent four days there and then we were brought here [to Nyanza central prison]....

I was put in the cell block with children, the boys were put in that room as they are now. Then there were just seven boys. Each day another would arrive until now. Before we could lie down. Now we can't, there are too many of us.... My father came in June.... I am not allowed to see my mother. The last time I saw her was in the brigade. I don't know how she is.

Some authorities continued to arrest children arbitrarily and in violation of the law long after emergency conditions had ended. Communal authorities arrested a Butare boy, only twelve at the time of the genocide, in August

¹³⁰ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹³¹ Human Rights Watch interview, Kigali, February 16, 2002.

¹³² Human Rights Watch interview, Rutonde Cachot, Kibungo, February 19, 1998.

¹³³ Human Rights Watch interview, Miyove Prison, February 13, 1998.

1998. They should have known his age, having given him an identification card when he turned sixteen earlier that year.¹³⁴

Miscarriage of Justice: Detention and Mistreatment of Children below the Age of Criminal Responsibility

Children younger than fourteen at the time of the crime are not supposed to be detained in prisons or local jails, as they cannot be charged with any criminal offense under Rwandan law. Rather, they should go through a rehabilitation program and be reintegrated into society. Nevertheless, hundreds of such children were arbitrarily arrested between 1994 and 1998 and detained for periods of years. The youngest child accused was seven years old during the genocide. All were initially housed with other prisoners in prisons and lockups.

In June 1995, the Ministry of Justice reopened the Gitagata Reeducation Center for Children, which served as a residential center for psychiatric patients prior to the genocide, to house some of the detained children who were below the age of responsibility.¹³⁵ Gitagata technically had a capacity limited to 200 children but, at times, has housed more. Many “under-fourteens” never made it to Gitagata at all. Some, like Jean Louis R., literally missed the bus to take them there. He told Human Rights Watch he had gone to visit his uncle in the adult wing of Kigali central prison while a truck came to take the youngest children to Gitagata and left without him.¹³⁶ Others in prisons were told to wait for impending transfer, but their transfers never came.

For those who were sent there, Gitagata initially represented an improvement over the abominable conditions in lockups and central prisons, described below. At the very least, they were no longer mixed in with adult inmates. When Human Rights Watch researchers visited Gitagata in February 1996, conditions appeared acceptable with the exception of an inadequate supply of water. One thirteen-year-old boy said he had not washed for a month. The director admitted that what little water they had, which the children carried in buckets from a nearby lake, was not safe to drink and they lacked the resources to boil it.¹³⁷ There was less overcrowding than in prisons and lockups and children received some educational programming. One boy who was formerly detained there told Human Rights Watch researchers that he learned basic literacy skills at Gitagata.¹³⁸ Another said he had not been able to take classes at Gitagata, but that was because he already knew how to read and write.¹³⁹ For a while, one boy said, the children had had food and clothes and activities. By mid-1998, though, conditions at Gitagata grew progressively worse. Children then started to complain about chronic food shortages, lack of activities and programming, and epidemics of malaria and other diseases.¹⁴⁰ In 2000, staff of UNICEF and other international agencies dealing with children in detention unanimously described conditions in Gitagata as abominable.¹⁴¹

At first, the opening of Gitagata also symbolized the prospects for under-fourteens to be rehabilitated and returned to their families. But, in fact, that turned out to be a long way off for most. In February 1996, the director of Gitagata told Human Rights Watch researchers that some seventy children out of 163 detained there had case files.¹⁴² But a U.N. human rights monitor who had been making weekly visits to Gitagata in 1996 said she had yet to see a single case file with her own eyes. Although she said that compiling files for fewer than two hundred children should not be an onerous task, she saw lack of organization and accountability hamper any real progress.¹⁴³ As the years went by, there

¹³⁴ Human Rights Watch interview, Busogo, Ruhengeri, December 19, 2000.

¹³⁵ Then Ministry of Gender, Family and Social Affairs, the division of social affairs of which is now incorporated in the Ministry of Local Government, took over its administration. A local NGO, ASOFERWA, was responsible for administration and programming at Gitagata.

¹³⁶ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹³⁷ Human Rights Watch interviews, Gitagata Reeducation Center, February 28, 1996. Prison guards were present while researchers interviewed the children.

¹³⁸ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹³⁹ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹⁴⁰ Human Rights Watch interviews, Busogo, Ruhengeri, December 18, 2000.

¹⁴¹ Human Rights Watch interviews, Kigali, July 31, 2001, November 7 and 14, 2000, and July 18, 2000.

¹⁴² Human Rights Watch interview, Gitagata, February 28, 1996.

¹⁴³ Human Rights Watch interview, Kigali, March 18, 1996.

was less and less talk about case files for the hundreds of detained children below fourteen as they could not be held criminally responsible in any case.

One hundred sixty-three children, less than one-fourth of the total under-fourteens who were detained, were released from Gitagata and reintegrated with their families in 1998.¹⁴⁴ No further releases of this group were made until more than two years later.

In November 2000, authorities transferred some five hundred under-fourteens from Gitagata, prisons, and lockups to a “solidarity camp” in Busogo, Ruhengeri organized by the Ministry of Justice/UNICEF Project on Children in Conflict with the Law and the National Commission on Unity and Reconciliation. There the young people followed a six week long program of ideological re-education as a last step before returning home. Of those transferred to the camp, approximately fifty were boys currently younger than fourteen years old who had been arrested for allegedly raping young girls recently. The rest were young men who had been detained for periods of years on genocide charges.¹⁴⁵ Conditions in the camp were far from ideal—two young persons died of malaria and dozens of others were seriously ill—but they had enough to eat and, on the whole, Busogo represented an improvement from where they had been before. Participants at the camp were taught about Rwandan history and human rights, and were encouraged to accuse adults in the *gacaca* proceedings already being discussed at that time. Many of them may be faced with the dilemma of inculcating their own family members. Like participants in other solidarity camps run by the National Unity and Reconciliation Commission, the youths were required to perform military exercises, but unlike others, they did not learn to shoot firearms.¹⁴⁶

ASOFERWA, a Rwandan NGO working on women’s and children’s issues, administered the programs at the camp and was charged with following up the children’s reintegration into society. This is a daunting task given the number of orphans—estimated as one half the participants by one youth—the number who had had no contact with their families for years; and the number who had had little or no education and who did not know how to farm or otherwise make a living. Some Rwandans questioned whether the Busogo camp had given the youths, whose entire adolescence was spent in prison, sufficient background to be reintegrated into society.¹⁴⁷ Several months after their release, Human Rights Watch researchers attempted to locate two of the young men we had interviewed at Busogo without success. Neighbors believed they had migrated to Kigali to try to make a living as domestic workers or on the streets.

Officials closed Gitagata when most of its residents were moved to the 2000 solidarity camp, suggesting that they considered the problem resolved.¹⁴⁸ But it soon became clear that authorities still detained hundreds of under-fourteens throughout the country. Sixteen were left at Gitagata because they were too sick to travel.¹⁴⁹ A youth who had been detained at Gikondo rattled off the names of six fellow detainees who were below the age of criminal responsibility and who remained at that prison.¹⁵⁰ The Prosecutor of Butare told Human Rights Watch researchers that, on a visit to one lockup in April 2001, he found three detainees who had been under fourteen at the time of the genocide.¹⁵¹ As more

¹⁴⁴ U.N. Integrated Regional Information Networks (IRIN), Update no. 625 for Central and Eastern Africa (Tuesday 9 March 1999).

¹⁴⁵ Numbers given range from 484 to 509 participants.

¹⁴⁶ Human Rights Watch interviews, Busogo, Ruhengeri, December 18-19, 2000. The medical assistant at the camp attributed the illnesses to the fact that many had been given only half the recommended dosage of chloroquine when ill with malaria when they were detained elsewhere, and that those who had become resistant to the drug had had no alternative treatment.

¹⁴⁷ “Le sort des mineurs relaxés,” *Amani*, no. 24-25, February - March 2001, p. 8.

¹⁴⁸ The Ministry of Local Government reopened Gitagata in August 2001 to house child soldiers formerly with Hutu rebels who had recently been captured or surrendered. See Human Rights Watch, “Rwanda: Observing the Rules of War?”

¹⁴⁹ Human Rights Watch interview with Jean Louis Ndirirwa, coordinator, Ministry of Justice/UNICEF Project on minors in conflict with the law, November 16, 2000.

¹⁵⁰ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

¹⁵¹ Human Rights Watch interview with Jules Marius Ntete, Prosecutor of the Republic, Butare, April 25, 2001.

and more such cases came to their attention, officials at the Ministry of Justice told their keepers to hold them where they were and wait for further instructions.¹⁵²

In September 2001, the Ministry of Justice/UNICEF Project on Children in Conflict with the Law organized another six-week solidarity camp in Kigali for approximately 400 additional under-fourteens in Kigali. Announcements broadcast on the national radio station encouraged fourteen- to eighteen-year-olds (at the time of the genocide) who had been freed in pre-gacacas, discussed below, to come to Kigali for the solidarity camp as well.¹⁵³

International observers who had been urging the government to release the under-fourteens for years were taken by surprise by the announcement of these solidarity camps. At a monthly coordination meeting for actors in the justice sector a week after the Busogo camp had begun, a Human Rights Watch researcher asked representatives of the Ministry of Justice, U.N. agencies, donor embassies, and international NGOs about the camp. Most had not heard of the camp, and none knew whether there were concrete plans to release the participants after the camp.¹⁵⁴ The Ministry of Justice/UNICEF Project likewise hastily organized the 2001 camp, without coordinating with UNICEF, the International Committee of the Red Cross, or other relevant actors in advance. UNICEF was notified of the camp less than a week before it began, when the Ministry of Justice asked it for money to pay for it.

International officials have repeatedly raised the issue of minors detained illegally with the government but rarely achieved success. In an exceptional case, Michel Moussalli, then Special Representative of the U.N. Commission on Human Rights to Rwanda, spoke to President Kagame about the problem in October 2000 and obtained from Kagame the promise that the under-fourteens would be released by the end of the year.¹⁵⁵ True to the president's word, the government did release some 500 under-fourteens in December 2000. The Rwandan government and Moussalli both gained international praise and positive press for this achievement.¹⁵⁶ International attention was not, however, drawn to the fact that at least 400 others who were under fourteen in 1994 had not been released and would spend another year in prison.

The extensive media coverage of the solidarity camps has given some observers the mistaken impression that all detainees who were children at the time of the genocide had been released, including those aged over fourteen, even though thousands of such minors remain in detention.¹⁵⁷ In December 2001, after the camp had concluded, another young man who had been under fourteen years old during the genocide was identified in the Gisovu central prison in Kibuye. When his existence was brought to the attention of the local prosecutor, he was reportedly released.¹⁵⁸ This case highlights the possibility that others, too, have been overlooked.

Justice Delayed: Criminal Cases Dragging on for Years

In order for those detainees who were fourteen to eighteen at the time of the genocide to be held criminally responsible for their actions, prosecutors must prepare case files, transfer the files to tribunals, and try them. The government has repeatedly proclaimed its intention to make these cases a priority. Yet, eight years later, many of the estimated 4,000 "minors" who remain in prison still lacked case files and had been tried at a slower rate than adults. As Bernadette M. of Kibungo said:

¹⁵² Human Rights Watch interviews with Jean Louis Ndahirwa, Kigali, November 16, 2000 and with Jules Marius Ntete, Butare, April 25, 2001.

¹⁵³ Human Rights Watch interview with Jean Louis Ndahirwa, September 27, 2001.

¹⁵⁴ Coordination meeting hosted by GTZ, Kigali, November 15, 2000.

¹⁵⁵ Statement of the Special Representative of the U.N. Commission on Human Rights to Rwanda Mr. Michel Moussalli, 55th Session of the GA of the U.N. (3rd Committee), New York, November 1, 2000.

¹⁵⁶ Maggie O'Kane, "Children of Genocide: Six years after one of the worst massacres in history, the genocide children are going home," *Guardian* (London), December 21, 2000.

¹⁵⁷ Avocats Sans Frontières, *Justice Pour Tous au Rwanda: Rapport d'activités 2000*, Kigali, December 2001, p. 19.

¹⁵⁸ Human Rights Watch interview, telephone, Kigali, December 20, 2001.

The minors are the Rwandans of tomorrow but we are in prison in big numbers, and have been here for years. We need to be taught—until now we haven't been learning. There should be a way to get our dossiers done and judged. If they are guilty, find them guilty. If they are innocent, find them innocent. The problem for us is that we don't go before the court. We want to go before the judges. If we are not accused we should be released. We feel that justice has left us.¹⁵⁹

Case Files

Recent efforts to accelerate completion of case files for prisoners in Butare and Gitarama, spearheaded by the Belgian NGO Citizens' Network and the prosecutor general for the Nyabisindu court of appeals, have revealed that case files are in a much worse state than previously feared. Many prisoners in central prisons, adults and children, have no case files at all, i.e. they have never been through the council chambers. Existing case files may have no more than the detainee's name and identity card number. Few contain the results of comprehensive investigations. In September 2001, many detainees at a prison in Kibuye told an international aid worker they had not been interviewed by a prosecutor in up to three years, if ever.¹⁶⁰

As in other aspects of the judicial system, minors are frequently last in line to be investigated. The Special Representative of the U.N. Commission on Human Rights to Rwanda reported that only 35 percent of prisoners aged fourteen to eighteen at the time of the genocide had complete case files at the end of 2000.¹⁶¹ When Human Rights Watch researchers visited Rutonde lockup in 1998, the minors detained there said that—despite overcrowding, lack of water, and poor sanitation—their most urgent complaint by far was that they had received no information or progress on their cases. Although the police inspector had been visiting the lockup daily, he interrogated only the adult prisoners. None of the twenty-two we interviewed said they had been questioned, despite the fact that they had been detained there for close to or more than a year.¹⁶²

Even in 2002, some minors still lacked case files. Human Rights Watch researchers attended a ceremony in Kabagare district (formerly Murama commune) in Gitarama in February 2002 at which prisoners who had confessed asked the victims' families for forgiveness. Most of the 800 prisoners at Murama lockup had confessed, apparently motivated by Seventh Day Adventist religious beliefs. At the end of the ceremony, the prosecutor general for Nyabisindu announced the release of twenty-six prisoners who had spent seven years in the lockup though there were no concrete allegations of wrongdoing against them. He later told Human Rights Watch researchers that three of those released were minors in 1994.¹⁶³

Primary responsibility for building case files lies with prosecutors and police inspectors, but their work has been extremely slow. Given their enormous workload, prosecutors designated to work on minors' cases have not had much opportunity to do so, as minors' cases have not been uniformly prioritized within the system. Although UNICEF had provided support for at least twenty-six special investigators for children (two per prosecutor's office) who began working in late 1997, the ground they were to cover is immense. The special investigators for children, based in the prosecutor's office, must coordinate with police inspectors based at the commune level, who conduct the bulk of the fact finding. With few working telephones at the commune levels, communication between the field and the office has been difficult and time consuming. UNICEF provided two motorcycles for each prosecutor's office for its special investigators to use. However, support for fuel and repair of broken vehicles has been difficult to obtain at times. "We heard UNICEF would supply fuel, and promised a per diem for [investigators] when they're in the field. So far we've been waiting," said a prosecuting attorney in Butare in 1998.¹⁶⁴ When researchers visited the Gikongoro parquet, a

¹⁵⁹ Human Rights Watch interview, Kibungo, February 19, 1998.

¹⁶⁰ Human Rights Watch interview, Kigali, September 28, 2001.

¹⁶¹ Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in Rwanda Submitted by the Special Representative of the U.N. Commission on Human Rights to Rwanda, Michel Moussalli, Pursuant to Resolution 2000/21, U.N. Doc. E/CN.4/2001/45, March 21, 2001, para. 29.

¹⁶² Human Rights Watch interviews, Rutonde, Kibungo, February 14, 1998.

¹⁶³ Human Rights Watch interview, Kabagare, Gitarama, February 15, 2002.

¹⁶⁴ Human Rights Watch interview, Butare, February 17, 1998.

prosecutor said the investigators' two motorbikes were broken and awaiting transport to a government garage in Kigali.¹⁶⁵ Other prosecutors and investigators may not have had any training at all in children's rights.

Prosecutors and ministry officials have taken several high profile actions towards completing minors' case files. In late August 2000, for example, the Ministry of Justice attracted international praise and media attention for reinstating mobile groups of prosecutors to prepare minors' case files in order to accelerate their eventual trial.¹⁶⁶ These groups prepared tens of case files that month. However, they failed to transfer the files promptly to courts—a necessary step for the cases to move forward—allegedly because the ministry had no money to photocopy them.¹⁶⁷ In 2001, prosecutors finally managed to make case files for hundreds of minors and released many of those against whom they found no evidence. With the help of a mobile group sponsored by the Ministry of Justice/UNICEF Project, Butare prosecutors completed seventy-five minors' files and sent them to the tribunal in March 2001. Shortly thereafter, though, the law creating gacaca jurisdictions entered into force, leaving courts and prosecutors in limbo, not knowing what to do next.¹⁶⁸

Citizens Network has organized and financed intensive investigations for prisoners, adult and minor, in certain lockups in Gitarama and Butare provinces. It has also assisted prosecutors to interview detainees, adults and minors, in lockups and central prisons, and to register their confessions if they confessed. After initial investigations, prosecutors take detainees against whom there is no evidence or incomplete evidence to a meeting of the population of their sector. They present the detainees one by one and encourage the population to come forward to say what they know about their conduct during the genocide. At these presentations, which have been referred to as pre-gacaca presentations, prosecutors and prisoners who have confessed preach to the population that they have a religious duty to tell the truth. Prosecutors are supposed to free immediately all detainees who have been cleared by those attending at the meeting. As of October 2001, approximately 30 percent of those presented from Ntongwe lockup of Gitarama province had been freed after their communities cleared them of charges.¹⁶⁹ Minors, the elderly, and the infirm are supposed to be given priority in these procedures. However, some adult detainees have reportedly bribed prosecutors to ensure that they will be presented at one of these meetings.¹⁷⁰ Minors are less likely to be able to raise money to do this.

Peter R., a young man who was fourteen during the genocide, was freed amid cheers from the crowd at one public meeting attended by Human Rights Watch researchers in Ntongwe. Large numbers of people stood to defend him, alleging that an adult prisoner, who was also presented that day, had falsely accused Peter R. because of a property dispute. Peter R. had spent seven years in prison without ever speaking to a prosecutor. None of the other detainees presented that day were charged as minors¹⁷¹ nor did any minor detainees participate in another presentation Human Rights Watch observed in Runda the following week.¹⁷²

The Ministry of Justice/UNICEF Project also initiated similar presentations in 2001 specifically for detainees who were minors in 1994. A Human Rights Watch researcher attended one of these presentations in Nyamirambo, Kigali, on May 7, 2001. Thirty-seven minors without case files had been brought from the Kigali central prison, but only seventeen were presented to the meeting. Six neighborhood residents came forward to accuse one boy. Those present affirmed the innocence of most of the others, though. Fourteen people lined up behind one boy to show they thought his hands were clean, and twelve behind others. No one stood up when others were presented—either because no one with evidence had come to the session, which had been announced on the radio, or because participants were reluctant

¹⁶⁵ Human Rights Watch interview, Gikongoro, February 16, 1998.

¹⁶⁶ See, e.g., "Rwanda vows to speed trials of minors: 4000 youths held in 1994 massacres," Reuters, August 13, 2000.

¹⁶⁷ Human Rights Watch interview, Jean Louis Ndahirwa, Kigali, November 16, 2000.

¹⁶⁸ Human Rights Watch interview with Jules Marius Ntete, Butare, April 25, 2001.

¹⁶⁹ Parike Ya Gitarama, Imbonerahamwe igaragaza ibyagezweho n'igikorwa cyo kujyana abafungwa ku mirenge bakekwaho kuba ariho bakoreye icyaha (genocide) PAID/PJG, September 27, 2001. Human Rights Watch interviews, Kigali, October 9 and September 28, 2001.

¹⁷⁰ Human Rights Watch interviews Ntongwe, September 25, 2001; Gisenyi, September 20, 2001; Kigali, August 30, 2001.

¹⁷¹ Human Rights Watch field notes, Ntongwe, Gitarama, September 25, 2001.

¹⁷² Human Rights Watch field notes, Runda, Gitarama, September 30, 2001.

to speak out. In a departure from the procedure used at the presentations organized by Citizens' Network, none of the minors was freed that day—not even those whom the public unanimously considered innocent.¹⁷³ At a similar presentation for minors in Butare, the population “acquitted” one, accused seven, and did not come forward to testify either way for six others.¹⁷⁴ Radio Rwanda reported that, out of 262 minors imprisoned at Rwamagana, “only” sixty-two, approximately 23 percent, were cleared in the presentations.¹⁷⁵

Some detainees may go free because victims or others refuse to testify against them. In one case a woman felt unable to publicly accuse the man who, as a teenager, had raped her and her young daughter. In the absence of any accusations, he was released and the woman now laments that his release has caused her to experience the trauma of her rape all over again.¹⁷⁶

Trials

Despite efforts to accelerate completion of minors' case files, as with most prosecutors, the courts have not made trials of minors a priority. In 2000, minors at the time of the crime made up only 1.2 percent of those who had been tried though they represented 3.5 percent of the prison population. In other words, minors were tried three times more slowly than adults were.¹⁷⁷ As of June 2002, 7,024 persons, adults and minors, among the more than 100,000 in detention had been tried.¹⁷⁸

The system has also failed to provide other special dispositions for minors, including due process protections guaranteed under the Convention on the Rights of the Child.¹⁷⁹ As mentioned above, certain jurisdictions have continued to try minors together with adults rather than separately before judges designated specially to try minors.¹⁸⁰ Judicial authorities also give inadequate consideration to the social background of the minor, to his or her mental state at the time of the alleged crimes, and to his or her emotional and mental immaturity and susceptibility to external influence and manipulation.

As noted above, detainees, including minors, are allowed access to legal counsel only once a trial date has been set, often years after their arrest and initial interrogation. Further, not all have access to a lawyer even at trial in practice. Human Rights Watch researchers interviewed Robert U. in Gikongoro prison after his trial had already taken place.

The court sent me a letter saying I was to appear in court. I also got another paper saying that I could get a lawyer. I signed it. I can't read very well, but I'm getting better. The chief prisoner helped me understand these letters. Then I went to court. I never met a lawyer. The magistrate did not ask me if I wanted a lawyer at trial. I went to court only that one time.¹⁸¹

Robert U. had confessed and received a reduced sentence under the confession and guilty plea procedure.

However, the fact of confession does not diminish in any way the necessity and importance of defense counsel, particularly in the sentencing phase of those convicted as minors. For example, in the case of John S., the prosecutor recommended a sentence of twenty years (the maximum sentence permissible for minors convicted of category two

¹⁷³ Human Rights Watch field notes, Kigali, May 7, 2001.

¹⁷⁴ Radio Rwanda evening news broadcast, May 21, 2001.

¹⁷⁵ Radio Rwanda, morning news broadcast, November 23, 2001.

¹⁷⁶ Human Rights Watch interview, Kigali, February 16, 2002. The gacaca law classifies rape in the first category of genocide crimes. As such, rape will fall outside of the jurisdiction of gacaca courts and may only be tried in the regular criminal courts.

¹⁷⁷ Avocats Sans Frontières, *Justice Pour Tous au Rwanda*, p. 19.

¹⁷⁸ Felicien Kamashabi, “Les procès de génocide continuent,” *Le Verdict*, No. 38-39, May-June 2002, p. 11.

¹⁷⁹ Art. 37.

¹⁸⁰ Avocats Sans Frontières, *Justice Pour Tous au Rwanda*, p. 19.

¹⁸¹ Human Rights Watch interview, Gikongoro prison, February 6, 1998.

crimes), yet the court ordered a sentence of five years after consideration of extenuating circumstances put forward by defense counsel.¹⁸²

Courts have increasingly moved to try genocide suspects in groups in order to speed up trials. However, group trials have actually led to increased violations of the rights of those charged as minors and conflicted with the supposed prioritization of their cases. Group trials can take a long time to complete, exacerbated by the difficulty of coordinating the schedules of all involved. Some groups of defendants have grown so large as to be unwieldy, such as one in Rilima in 2000-2001 that had 126 defendants including six minors.¹⁸³ In Rwamagana, a juvenile being tried in military court implicated thirty adults in his confession. His trial was then postponed for months as prosecutors searched for those adults, completed their case files, and joined them to the trial.¹⁸⁴

The prevalence of group trials has also led to failures to try children separately from adults and before minors' benches. A Rwandan who has followed genocide trials closely since 1996 remarked that, around the same time that prosecutors began to try suspects in large groups, special minors' benches seemed to stop functioning. The Court of First Instance at Kibungo is the only court where he observed minors being tried separately since the group trials began, though not by minors' benches. A magistrate told him that the minors' benches were not suspended pursuant to an official policy. Rather, the magistrate reportedly said that many spots on the minors' benches had become vacant when magistrates had been transferred to other posts, and consequently the tribunals no longer used those benches.¹⁸⁵ Even where minors' benches (which were formed in only some of the specialized chambers) existed, the magistrates presiding over them did not always have specialized knowledge of children's rights.

Group trials also pose a dilemma for legal assistance. The coordinator of the Ministry of Justice/UNICEF Project said that group trials are not cost-effective from a juvenile justice perspective because they take too long and, thus, the project decided not to sponsor lawyers for them.¹⁸⁶ *Avocats sans Frontières* and the Danish Center for Human Rights have represented detainees at group trials, providing enough lawyers or defenders to avoid conflicts of interest among the accused, for example between one who has implicated another who professes his innocence. They represent those charged as minors as part of the group, but acknowledge that they are not necessarily guaranteed the individual attention to which they are entitled.¹⁸⁷

LIPRODHOR, a local human rights NGO that has monitored genocide trials since 1996, initially monitored trials of minors separately.¹⁸⁸ However, with the advent of group trials, their observers found it too difficult to identify juvenile defendants.¹⁸⁹

Penalties

The only tangible benefit that Rwandan law grants for those charged as minors is reduction in penalty if convicted. Roger M., tried after he confessed, was freed after the court sentenced him to three years imprisonment, which he had already served in pretrial detention. He had confessed and pled guilty to the crime of second-category genocide, the category of genocide under Rwandan law reserved for perpetrators, conspirators, or accomplices of intentional homicide or serious assaults resulting in death. As discussed above, he said he had been forced by Interahamwe to kill his sister's small children, in order to save his own life.¹⁹⁰ Attorneys of *Avocats sans Frontières* and defenders of the Danish Center for Human Rights have likewise found that many minors they represented at trial have been sentenced to time they

¹⁸² Human Rights Watch interview, Kigali, February 4, 1998.

¹⁸³ Human Rights Watch interview, November 14, 2000; Radio Rwanda Evening News Broadcast, June 15, 2001.

¹⁸⁴ Human Rights Watch interview with foreign lawyer, November 14, 2000; Radio Rwanda evening news broadcast, October 5, 2000.

¹⁸⁵ Human Rights Watch interview by telephone, Kigali, January 28, 2002.

¹⁸⁶ Human Rights Watch interview, Kigali, November 16, 2000.

¹⁸⁷ Human Rights Watch interviews, Kigali, December 11 and November 14, 2000.

¹⁸⁸ See LIPRODHOR, *Procès de Génocide au Rwanda Deux Ans Après*, pp. 33-35.

¹⁸⁹ Their most recent report does not present data on trials of detainees who were minors at the time of the crime. LIPRODHOR, *Quatre ans de procès de génocide*.

¹⁹⁰ Human Rights Watch interview, Taba, Gitarama, February 7, 1998.

already served in pretrial detention, in some cases even less. *Avocats sans Frontières* represented twelve minors at trial in 2000. All twelve were convicted, but ten were sentenced to less than seven years imprisonment.¹⁹¹

Courts have erroneously sentenced some minors to more severe penalties in numerous cases. Judicial defenders assisted Emmanuel M. in a twenty-eight-person group trial in Rusumo, Kibungo in 2000. Unfortunately, the defenders were not aware of his age until after the trial finished. Thus, they failed to request a reduced penalty for him and he was erroneously sentenced to the maximum penalty.¹⁹² Human Rights Watch researchers interviewed one boy in Kibungo who had been tried and convicted of genocide although, according to his reported age, he would have been only twelve at the time of the genocide and thus not chargeable.¹⁹³ Another minor was sentenced to death although his case file clearly indicated that he was born in 1979 and, as such, could receive a maximum penalty of twenty years under the penal code. Appeal of the boy's sentence was pending as of December 2001.¹⁹⁴ As noted above, Rwanda has not carried out a death sentence against any minors.

Conditions of Detention

The wave of arrests following the genocide quickly filled Rwanda's prisons and lockups well beyond capacity. Conditions became life threatening as overcrowding reached monumental proportions and adequate food, clean water, and basic medicines were often unavailable. In 1995, detainees in overcrowded prisons and lockups were dying at an alarming rate.¹⁹⁵ While conditions have improved since then, they remain far below minimum recognized international standards.¹⁹⁶ Minors in detention are even more vulnerable than adults. The hierarchy of prisoners is well organized and, as minors inevitably fall to the bottom of it, they are relegated to the worst of bad conditions.

Separation of Children from Adults

Separation of children from adults in prison, among the most fundamental requirements in relevant international standards, was rarely achieved for children accused of genocide.¹⁹⁷ Six of Rwanda's thirteen central prisons, including the central prisons at Butare Karwanda, Gikondo in Kigali, and Nsinda in Kibungo, now have separate wings for minors.¹⁹⁸ In other central prisons, separation is generally incomplete. Children might need to cross through the adult sections to reach toilets or showers, for example.¹⁹⁹ Some child prisoners have remained in the adults' wing of prisons even in prisons with minors' wings. A researcher who visited Nsinda prison in Kibungo in February 2002 found some 450 young men aged twenty or more in the minors' wing and met a fourteen-year-old boy, accused of a recent rape, who was together with adult detainees in the adult wing.²⁰⁰

While efforts to provide separate facilities for minors continue, the issue has lost its relevance for those accused of genocide. Detainees who were minors at the time of the genocide are a vulnerable group and should, ideally, remain separated from older adults. However, because they are now adults themselves, they may pose a danger to children accused of recent common crimes. The government has apparently failed to inform prison officials to abide by the

¹⁹¹ *Avocats Sans Frontières, Justice Pour Tous au Rwanda*, p. 19.

¹⁹² Human Rights Watch interview, Kigali, December 11, 2000.

¹⁹³ Human Rights Watch interview, Kibungo Prison, February 19, 1998. The Rwandan government carried out one public execution of twenty-three people convicted of genocide in April 1998, all adults, but has not carried out any death sentences since then.

¹⁹⁴ *Avocats Sans Frontières, Justice Pour Tous au Rwanda*, p. 19.

¹⁹⁵ Human Rights Watch/Africa, "Rwanda: The Crisis Continues," p. 4. and "Human Rights Watch/Africa, "Rwanda: A New Catastrophe?," *A Human Rights Watch Report*, vol. 6, no. 12(A), December 1994, p. 10.

¹⁹⁶ See U.N. Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

¹⁹⁷ Convention on the Rights of the Child, art. 37(c).

¹⁹⁸ Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in Rwanda Submitted by the Special Representative of the U.N. Commission on Human Rights to Rwanda, Michel Moussalli, Pursuant to Resolution 1999/20, U.N. Doc. E/CN.4/2000/41, February 25, 2000, para. 117.

¹⁹⁹ Human Rights Watch interviews, Kigali, October 1, 2001; December 11 and November 14, 2000.

²⁰⁰ Human Rights Watch interview, Kigali, February 13, 2002.

provisions of the Convention on the Rights of the Child that require those presently under eighteen to be separated from those who have become adults.²⁰¹

At the solidarity camp held in Busogo in 2000 for detainees who were below the age of criminal responsibility at the time of their alleged crimes, officials arranged for forty-eight children currently under fourteen, all of whom had been accused of raping young girls, to stay together with young men accused of genocide who were under fourteen in 1994. In some cases the boys and young men shared the same beds. A camp official told a Human Rights Watch researcher that he thought their sharing beds would reduce the incidence of homosexual acts among the older boys and had not considered the risk it posed for the younger ones.²⁰²

Lockups

The first place of detention for most Rwandan prisoners is the local lockup, of which there are more than 150 around the country.²⁰³ District authorities, who report to the Ministry of Local Government and Social Affairs, control the lockups, but the central government does not provide a budget for their operation. Detainees, through their families, are responsible for their own food and supplies. It is difficult to monitor the large number of lockups dispersed across the country and local burgomasters, now called mayors, have at times denied access to international monitors seeking to investigate conditions in these lockups. The Ministry of Local Government, too, has at times refused to grant NGOs access to visit lockups. While conditions vary widely from one lockup to another, they have generally improved in recent years as the bulk of detainees have been transferred to central prisons, thus reducing overcrowding. However, cases of ill-treatment (particularly at the time of arrest and during the first days of detention) and instances of insufficient food, water, medicines, and poor sanitation still exist.²⁰⁴

Conditions in lockups can be abominable, far below recognized standards for adults as well as children. During and after the massive post-genocide arrests of 1995-1998, detainees complained of overcrowding to the point that they could not even lie down to sleep. At Rutonde lockup in 1998, some 464 detainees, all but nine accused of genocide, were crowded into the small space. Twenty-two were children, and nineteen were women. From the appearance and stories of the twenty-two boys who filed out from the lockup to speak with Human Rights Watch researchers, conditions inside were abysmal. All twenty-two had been there for close to or more than one year, and many said they were arrested soon after their return from refugee camps in Tanzania in December 1996 or January 1997. The boys were extremely thin and many had open sores, wounds, insect bites, and scabies covering their bodies.²⁰⁵ Many said they were suffering from malaria. Bernard S. told this story:

I have scabies because we don't have water to wash. The families must bring water. We are not allowed to go out and fetch water, unless we make a special arrangement with the guards to go to the river. There is a person who sells us water, but I have no money. My family is far from here and cannot visit often. Many people in the lockup die from starvation. Some have no family members visiting and the authorities do not give us any food. Medical treatment happens rarely. Only very ill patients who are about to die are taken to the hospital.²⁰⁶

Detainees at Rutonde were allowed outside twice a day to use the two toilets dug behind the lockup. Family visitors were allowed to bring food and water daily, but were not allowed to meet or speak with detainees.

²⁰¹ Art. 37(c).

²⁰² Human Rights Watch interviews, Busogo, Ruhengeri, December 18-19, 2000;

²⁰³ Previously known as communal cachots, there was at least one in each of Rwanda's 152 communes. In March 2001, as part of a decentralization scheme, the 152 communes were transformed into 106 districts. The cachots remain in place.

²⁰⁴ Lige Rwandaise pour la Promotion et la Défense des Droits de L'Homme (LIPRODHOR), *Quatre ans de procès de génocide : Quelle base pour les « Juridictions Gacaca » ?*, Kigali, July 2001, pp. 31-32.

²⁰⁵ Human Rights Watch field notes, Rutonde cachot, Kibungo, February 19, 1998.

²⁰⁶ Human Rights Watch interview, Rutonde cachot, Kibungo, February 19, 1998.

Lockups often have limited ventilation and poor sanitation facilities. Detainees at lockups also typically lack adequate access to health care; only the seriously ill would, in some cases, be removed and sent to a hospital, at their own expense. The one advantage of the lockups is that they are closer to home for those detainees who have families, a good thing since prisoners there are also almost completely dependent on their families for survival.

In 1997 and 1998, when living conditions in the lockups were far worse, detainees in some places also suffered from physical abuse by local authorities and security agents, particularly around the time of arrest. In Gikoro lockup in Kigali Rural, two boys detained there for common law crimes told Human Rights Watch researchers that they had been beaten indiscriminately: “The police come in and threaten us, telling us we’re killers. Most of the people in here are accused of genocide. They make us lie down and hit us on our backs, or do handstands against the walls while they kick us.”²⁰⁷ Several boys in different lockups across the country reported that guards would sometimes take detainees outside to allow their accusers to beat them. “Usually when someone accuses a person they come here and beat you. The guards take you out and the accuser then beats you,” said Michael R., who had been detained in Rutonde lockup since April 1997.²⁰⁸ Fourteen-year-old Richard N., who was detained in Murambi lockup for four months in 1997 before being transferred to central prison, similarly complained that he had been removed from the lockup for interrogation by the police inspector, and was beaten by both the inspector and the survivors who accused him.²⁰⁹ One thirteen-year-old boy, ten at the time of the genocide, complained of having been beaten by a police inspector with metal rods in the presence of those who accused him in the lockup of Mugesera commune.²¹⁰

In theory, lockups are only supposed to be a temporary detention facility. Prosecutors should compile case files for each prisoner and, once this is done, transfer him or her to the central prison, generally located in the provincial capital. Due to overcrowding in prisons and slowness of the justice system, however, detaining of prisoners including children in lockups for long periods became common practice. Some minors who spoke to Human Rights Watch researchers had stayed in their local lockups only a few days or months. Others are still there, years after their arrest. In preparation for gacaca, the government pushed prosecutors to complete case files in 2000-2001 and transfer detainees to central prisons despite the overcrowding in prisons. The southern provinces of Gitarama and Butare, with 9,774 and 5,194 pretrial detainees remaining in their lockups respectively in December 2001, have been slow to comply.²¹¹ A small number of organizations including the International Committee of the Red Cross and the NGOs Concern and Dignité en Détention have attempted to improve the conditions for minors in lockups, but their efforts alone are not sufficient.

Central Prisons

At first, transfer to central prisons was thought to be a step forward, indicating that a detainee’s case was moving forward, and he or she might soon get a day in court. Minors are supposed to be given priority for these transfers, but most are not. While conditions at central prisons may be better than in lockups, they are well below recognized minimum international standards. Central prisons, too, are plagued by severe overcrowding and poor sanitation. When prosecutors made a concerted effort to prepare case files for those still in lockups and transfer them to central prisons in 2001, the resulting transfer of detainees exacerbated overcrowding in many prisons.

Prisoners who can afford to pay for a shared bed typically sleep in unlit and poorly ventilated rooms, in tiered wooden bunks, sometimes four or five levels high. Their few belongings and clothing are strung in bags and on lines from the rafters and beams, crowding the interior overhead spaces. Those who came after interior spaces were already filled beyond capacity—or those with insufficient financial means—must sleep outside on the ground. Whenever the weather is bad, they are exposed to rain and cold. Later arrivals to prisons often lack blankets, plates, or basins, the few articles which were distributed to prisoners years ago. Minors, lacking the financial means, family support, or political

²⁰⁷ Human Rights Watch interview, Gikoro cachot, Kigali Rural, February 13, 1998.

²⁰⁸ Human Rights Watch interview, Rutonde cachot, Kibungo, February 19, 1998.

²⁰⁹ Human Rights Watch interview, Byumba II Prison, February 20, 1998.

²¹⁰ Human Rights Watch interview, Nsinda Prison, Kibungo, February 19, 1998.

²¹¹ Statistics as of December 15, 2001 provided by LIPRODHOR, January 30, 2002.

clout possessed by the adults, are the least likely to have these basic supplies. Silas K., who was fifteen during the genocide, explained:

I don't get visits. I have no parents. My mother died a long time ago, and my father died during the war. I have a little brother who is now ten. He is at home alone in our house. I don't know how he is doing. He has nothing to eat himself, so how can he find food for me and bring it here? I have no blanket and no clothes. I don't have a plate or basin, and eat my food in a palm-oil can that I share with someone else. One of the prisoners gave me these shorts I'm wearing out of kindness.²¹²

Despite the overcrowding, prisoners themselves maintain order and discipline within the prison blocks, relying on a tight hierarchy. Prison guards are few and remain outside the prison block walls. At the top of the prisoners internal social structure is the *kapita general*, Kinyarwanda for general captain, in charge of all prison blocks, followed by the vice captain, the secretary, and four captains in charge of food, health, women, and minors. Each block has its own captain, and beneath him or her there are different chiefs in charge of security and discipline, food distribution, and so on. These inmate authorities are elected by prisoners themselves or are appointed by the prison director or the captain of the block. In prisons with minors' wings, children mirror the same structure, and those in positions of power don baseball caps or berets with insignias denoting their authority and rank. Captains can also be recognized by the sticks they carry. On a visit to the minors' wing at Gikondo central prison, Human Rights Watch researchers observed young security team members walking around with long sticks, whacking boys to keep order and to clear the way.²¹³

Discipline can, at times, be violent. Christopher K., aged twenty-one when Human Rights Watch researchers interviewed him, was the secretary general of the minors' wing at the Gikondo central prison. Conditions for minors there were generally better than in other central prisons. Christopher V. described the system of discipline under his authority in 1998:

The security team does a good job. They are instructed not to hit the boys. We put them in the shower for, say, thirty minutes and make them stay inside. If it's serious misbehavior then the prison director might give the boy two baton hits in front of the other boys. Then he won't misbehave again.²¹⁴

Steven B., fourteen during the genocide, was a simple prisoner at Gikondo, not among the leadership. He described conditions as follows:

The food is not enough. The security team gets more food than the rest. The security team also hit us with sticks. And it's been a long time since we've had water in the tap. They give us soap once a month, and we can wash our clothes when there's water. They don't give us clothes these days.

The security team hits us a lot. I was once beaten with a gun butt by the [prison guard] because they said I was Interahamwe. They said they would shoot me if they saw me on the outside. There's no way to complain. I tried to, but the security chief just told me not to go outside.²¹⁵

Beatings were reportedly most common after the time of arrest and initial interrogation. After the post-genocide period of massive arrests, reported beatings have been primarily described as "disciplinary," less frequent, and less severe. Laurent S., sixteen during the genocide, was arrested in Ntyazo commune in Butare in October 1994. Human Rights Watch researchers interviewed him in the minors' wing of the Butare central prison in March 1996:

²¹² Human Rights Watch interview, Kibungo Prison, February 19, 1998.

²¹³ Human Rights Watch field notes, February 14, 1998.

²¹⁴ Human Rights Watch interview, Kigali, February 14, 1998.

²¹⁵ Human Rights Watch interview, Kigali, February 14, 1998.

We were arrested by the population. There were four of them. There were twenty of us and the ones who refused to accept they had killed were hit and are dead. Only three of us who were taken survived.... We spent a week in the communal lockup with lots of other people, men and women and boys. It was very, very bad. When we went to the toilet, we were hit. It was *very* overcrowded, when we had food it was very bad and we were hit all the time by soldiers....

After ... we were taken to the big prison. There were dead people there. The military hit us all the time. Many people had diarrhea and I had diarrhea.... We had to sit outside on the ground and there wasn't enough room and they used to hit us like they hit cows. Then I was brought here [to the minors' block]. It's better than the big prison ... We are not badly treated here.... We do get hit, even now ... but not seriously.²¹⁶

Four out of five children Human Rights Watch researchers interviewed there that month reported beatings. Prison officials explained that boys had been disciplined for trying to climb up the door to their room, which had recently been closed off to limit the noise they made while they played.²¹⁷ "I was kicked by one of the soldiers last Sunday," another boy, thirteen during the genocide, said. "I was playing cards and one of the boys climbed up [to look outside from a gap between the wall and the roof] and the military wanted to get him. I went to the doctor and got some medicine."²¹⁸

Homosexual relations are reportedly common in prisons among adults and minors. One young man, twelve during the genocide, told Human Rights Watch researchers that then Minister of Internal Security Sheik Abdou Karim warned prisoners in Gikondo that anyone caught practicing homosexuality would be punished with 200 strokes of a cane. He said that instances of homosexual rape diminished after that.²¹⁹ In his report on the situation of human rights in Rwanda for 2000, U.N. Special Representative Michel Moussalli referred to a similar incident, perhaps the same one, when a minister ordered anyone guilty of homosexual acts caned. Moussalli added that the risk of HIV/AIDS infection is increased when minors are not separated from adults.²²⁰ Foreign assistance workers, including some who specialized in prison issues and another who specialized in AIDS programming, said that they do not know of any programs to distribute condoms in prisons or jails or to educate detainees about HIV/AIDS prevention.²²¹

The Rwandan NGO ASOFERWA, has provided educational assistance for minors in detention, primarily organizing adult prisoners to teach them. Prisoners organize and teach primary and secondary school classes at Nsinda prison in Kibungo.²²² However, education has not been consistently available in all prisons. When Human Rights Watch researchers visited Nyanza prison in 1998, minors said there had been no classes for over a year.²²³ A girl who had been detained at Miyove explained that she was too busy keeping livestock and fetching water for prisoners to study.²²⁴ A boy told us the teachers at Gitarama prison refused to allow him to participate in their classes because he was supposed to be transferred to Gitagata any day. He told Human Rights Watch that two years passed before he was transferred.²²⁵

²¹⁶ Human Rights Watch interview, Butare, March 15, 1996.

²¹⁷ Human Rights Watch interviews, Butare, March 6 and 15, 1996.

²¹⁸ Human Rights Watch interview, Butare, March 6, 1996.

²¹⁹ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000.

²²⁰ "Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Report on the Situation of Human Rights in Rwanda Submitted by the Special Representative, Michel Moussalli, Pursuant to Resolution 1999/20," U.N. Doc. E/CN.4/2000/41, February 25, 2000, para. 116.

²²¹ Human Rights Watch interviews, Kigali, February 13 and 23, 2002.

²²² Human Rights Watch interview, Kigali, February 13, 2002.

²²³ Human Rights Watch interviews, Nyanza, Butare, February 15, 1998.

²²⁴ Human Rights Watch interview, Busogo, Ruhengeri, December 18, 2000. The girl was referring to work programs organized for prisoners.

²²⁵ Human Rights Watch interview, Busogo, Ruhengeri, December 19, 2000.

Prison authorities often deny minors the privilege of going outside to work, ostensibly because their small size and agility make them greater flight risks. In addition, representatives of Penal Reform International who help organize work projects for prisoners said that those who work outside must first purchase uniforms, which minors can rarely afford to do.²²⁶

A chief complaint among prisoners of all ages, along with the lack of justice, has consistently been lack of food. “It is up to the prisoners to make their food last through the day,” said the deputy director at Butare I central prison in 1998. A typical ration was a small cupful of maize and beans per day.²²⁷ Adult prisoners, themselves undernourished, are concerned with their own survival, and children often eat last. Théogène N. was seventeen when he told Human Rights Watch researchers that adults would sometimes steal the children’s food at Nyanza central prison.

There is sometimes fighting for food during the food distribution, and sometimes we save our food to eat in the morning and the adults might steal it. We report it to the captain and sometimes the thief might be punished.²²⁸

Visitors bring extra food, but they were allowed to come only periodically. The captain of minors at Butare I described visits as follows:

Visits last about two minutes. There are three [parallel] lines drawn outside on the ground. One for the prisoners, one for the visitors, and one in the middle where the visitors can place the food they bring. The visitors step forward and place the food on the line and then step back. Then we step forward and take the food and step back. We are not allowed to touch. You have to shout in a very loud voice, and it is hard to hear. Prisoners with responsibility like me [the captain] can get three minutes with a visitor side by side—we can even touch—but this is just once every six months.²²⁹

Many minors—orphans, children who were separated or lost contact with their parents, and those whose families live too far or lack means of transportation—may not receive any visitors or extra supplies. Central prisons can be tens of miles or more each way from a family’s home, and many prisoners’ families cannot afford transportation. This was a problem for Butare orphan Pierre T., twelve during the genocide, from the time he was first detained at a local police station after his arrest and through his time in Nyanza central prison, tens of miles away.

No one visits me. I don’t have parents, they are both dead. My mother died in July 1994. My father died in August 1995. I was arrested a week after the death of my father.... The military brought us food at 6 p.m. [in the brigade] and we also had food brought by visitors. I didn’t have any visitors. No one shared with me.²³⁰

At times, prisoners have gone days at a time without any food barring the assistance of family. The situation was particularly dire during a drought affecting much of Rwanda in 2000. During the drought, prison officials allowed family members to bring food every day instead of once a week, but many were unable to do so because they did not have enough to feed those at home. In cases of extreme need, religious workers, the International Committee of the Red Cross, and international NGOs sometimes intervened to provide food. “You hear the news on the radio,” said one child. “There is famine in the country. It is worse in prison. It is common to spend three days without eating. Imagine for a child!”²³¹

²²⁶ Human Rights Watch interview, Kigali, November 14, 2000.

²²⁷ Human Rights Watch interview, Butare, February 15, 1998.

²²⁸ Human Rights Watch interview, Nyanza, Butare, February 15, 1998.

²²⁹ Human Rights Watch interview Butare I Prison, February 15, 1998.

²³⁰ Human Rights Watch interview, Nyanza, Butare, March 24, 1996.

²³¹ Human Rights Watch interview, Busogo, Ruhengeri, December 19, 2000.

VI. CHILDREN WITHOUT PARENTS: VICTIMS OF ABUSE AND EXPLOITATION

Perhaps the most devastating consequence of the genocide and war in Rwanda is the hundreds of thousands of children who have been orphaned or otherwise left without parental care since 1994. During the genocide and afterwards in refugee or displaced person camps, these children were left to cope with atrocities taking place around them and to fight for their own survival. Today, they struggle to rebuild their lives with little help in a society that has been completely devastated. With many living in poverty, they confront the daily challenges of feeding, sheltering, and clothing themselves; trying to attend school; or trying to earn a living. In the meantime, thousands of vulnerable children are exploited for their labor and property and denied the right to education.

In 1992, the UNICEF Situation Analysis for Rwanda found that it was no longer possible to expect extended families to provide the traditional safety net for orphaned children.²³² Since then, the crisis of children without parents has surpassed the worst predictions. There are no longer enough adults to act as parents. A teacher in Kibungo estimated that, out of sixty university-educated people from his home commune in 1994, only ten are still working. "The rest are dead, in prison, or never came back from the refugee camps."²³³

While one cannot help feeling pity for the difficult economic and social situation of many children on Rwanda's hills, it is easy for many to accept that children's rights are simply not a priority given all the other seemingly insurmountable problems Rwandans face. Complacency with the status quo, increasingly prevalent, is preventing Rwanda from taking action to protect their rights.

Children on Their Own during the Emergency: 1994 - 1997

The International Committee of the Red Cross registered more than 120,000 unaccompanied children in the aftermath of the genocide through 1996, but some observers, including Rwandan government sources, think as many as 400,000 children were unaccompanied at one point or another.²³⁴ Some had been separated or orphaned during the genocide, others during flight from Rwanda. As armed conflict and displacement continued over the next three years, increasing numbers of children were separated from their families. A surge of children, many of whom were wounded, came into one center in Butare after RPA troops massacred thousands of internally displaced persons at a camp in Kibeho in 1995.²³⁵ Thousands more were separated when returning from refugee camps to Rwanda: during a forced repatriation of Rwandan refugees from Bukavu in August 1995 and December 1996, massive repatriations from Burundi in July 1996, forcible dispersal of camps at Uvira, Bukavu, and Goma in October - November 1996, and the forcible closure of refugee camps in Tanzania in December 1996.²³⁶ The International Committee of the Red Cross registered more than 28,000 unaccompanied children during the mass repatriations in November 1996 alone.²³⁷ Relief workers also found an unprecedented problem of so-called unaccompanied mothers—unaccompanied girls who gave birth in refugee camps, in some cases after having been raped.²³⁸

As early as August 1994, the new Rwandan government and humanitarian agencies recognized that the unaccompanied children would be better off with families than in centers or orphanages. Official policy for dealing

²³² UNICEF, *Recovering Childhood*, 1995, p. 14.

²³³ Human Rights Watch interview, Kibungo, May 10, 2001.

²³⁴ United Nations Agencies in Rwanda, Common Country Assessment 1999-2000, Paper 11, Child Protection, Page 6; Women's Commission for Refugee Women and Children, *Rwanda's Women and Children: The Long Road to Reconciliation*, New York, September 1997.

²³⁵ Human Rights Watch interview, Butare, March 5, 1996.

²³⁶ U.N. Integrated Regional Information Networks (IRIN), Great Lakes: Special Feature - Unaccompanied Children, July 30, 1997, para. 3.

²³⁷ Of these, 87 percent were reunified with relatives by the end of 1998. International Committee of the Red Cross, *Annual Report 1998: Rwanda*.

²³⁸ Unaccompanied Children, IRIN, para. 14.

with the children, consistent with the Convention on the Rights of the Child, emphasized tracing, reunification, and placement with foster families.²³⁹ This was formalized in 1995 when the government established a policy of “one child, one family,” aiming to return as many children as possible to their families and to place the rest in foster care.

Nevertheless, tens of thousands of children went to orphanages or centers for unaccompanied children—sometimes because they had no place else to go. In other cases desperate parents even sent their children to centers believing they would be more likely to receive needed food, medical care, and education than at home. A Butare social worker told Human Rights Watch researchers of a fellow social worker who had sent her own two children to a center “since there was no way they could get such care from her family.”²⁴⁰

Conditions in the children’s centers varied widely. Some centers were overcrowded, housing up to twice their capacity, poorly regulated, and lacking in trained staff. One aid worker said, for example, that children could be found who were left naked in centers so that employees would not have to wash their clothes.²⁴¹ Conflicts arose between Tutsi children who had been at one Butare center since 1994 and Hutu children who arrived later.²⁴² In centers, experts said that the children sometimes felt completely separate from society and had difficulty fitting back in upon reintegration with families.²⁴³ At the same time, some aid workers said they feared making centers too comfortable as children living in “nicer” centers were often more reluctant to go home when their families were located. And some centers reportedly delayed reunifying children with their families for fear that their funding would cease.²⁴⁴

All told, aid agencies were able to place 62,569 out of 122,664 registered unaccompanied children in families.²⁴⁵ Tracing children’s families proved extremely difficult, particularly for the severely traumatized or very young children who could not remember their names or where they were from. Insecurity also hampered tracing efforts.²⁴⁶ Two young girls returned to Rwanda on their own after their mother was killed in Congo and wandered aimlessly around southwestern Rwanda, eventually to wind up on the streets in Butare town. There, in 2000, they told a social worker they thought they might be from Gikongoro province. The social worker told Human Rights Watch she wanted to begin tracing efforts but lacked the means. In any case, she said, chances were slim for a successful reunification with so little information after so much time had passed.²⁴⁷ Social workers and aid workers underscored that even children reunified with their own parents often faced enormous difficulties on the hills, largely due to poverty.

Countless thousands of children who never even entered any formal placement have been absorbed into families not their own, in what is referred to as spontaneous fostering. The case of Jacques G., as related in 1996 by a man who helped him, was typical.

On July 5, 1994, during the war, at the time of the chaos, on a hill in the commune of Gishamvu, around about 8 p.m., a woman came very quietly and deposited a young boy of about six years old next to us. She took advantage of the calm that reigned, scared of being discovered by the RPA soldier who, in fact, could have killed us. The child was covered in a very old jacket. No one paid any attention to him, so it was only the next day that we realized the child had been thrown out!

²³⁹ See Regulations for Orphans and Separated Children’s Centres, Government of Rwanda, Kigali, 1994. See Articles 20 and 22(2), Convention on the Rights of the Child.

²⁴⁰ Human Rights Watch interview, Butare, March 23, 1996.

²⁴¹ Human Rights Watch interview, Kigali, March 21, 1996.

²⁴² Human Rights Watch interview with a social worker at the center, Butare, March 23, 1996.

²⁴³ Unaccompanied Children, IRIN, para. 17; Women’s Commission, *Rwanda’s Women and Children*, pp. 23-25.

²⁴⁴ Human Rights Watch interviews with staff of international child welfare organizations, Gikongoro, March 5, 1996 and Butare, March 5 and 14, 1996.

²⁴⁵ Rwanda Country Programmes, Report of the 6th Inter-Agency Regional Meeting on Separated Children in the Great Lakes Region, 18-19 August 1999, Kigali, Rwanda.

²⁴⁶ International Committee of the Red Cross, *War and family links: The ICRC’s Rwandan Unaccompanied Children programme (1994-2000)*, <http://www.icrc.org> (accessed May 1, 2002).

²⁴⁷ Human Rights Watch interview, Butare, October 20, 2000.

It was the morning of July 6 when we decided to get him back to give him something to drink and eat with our own [children]. When we wanted to know where his mother was, the child said he didn't know. As for his identity, he didn't know anything. Apparently, it had been a long time since he had eaten. We then took him around with us until, two weeks later, one of the families agreed to adopt him.... The head of the family nicknamed Balthazar, aged over fifty-five, did not have any more little children in his house.... This child was nicknamed "mayibobo," boy or child of the street.²⁴⁸

Never formally adopted, the child became the responsibility of Balthazar and later, after Balthazar was arrested, of Balthazar's wife, for whom the boy worked. The family did not receive assistance from the government or from NGOs working with unaccompanied children.

Adults came forward to claim children, sometimes out of pity, sometimes out of self-interest. Some families were eager to receive material assistance for taking a child in or simply to have an extra pair of hands in the household. One tracing coordinator remarked, "After Kibeho, families were actually looking for children to foster."²⁴⁹ Another aid worker who worked with young genocide survivors who had fled to Burundi commented, "Families took children without any formalities. It was like a supermarket."²⁵⁰

Children absorbed into families—with extended family members, neighbors, or total strangers—can be invisible, assumed to be natural children or domestic workers.²⁵¹ Agencies involved in family reunification acknowledged that they lacked the resources to follow up with the children they had placed—a nearly impossible task given the sheer number of children involved, spread out around the refugee camps and inside Rwanda. Save the Children Federation - USA attempted to follow up with girls they had formally reunified with "uncles," who were not in fact close relatives, in twenty sectors where the NGO worked, an effort they acknowledged was strictly limited in time and geographic scope.²⁵² Few initiatives exist to monitor the situation of children taken in without formal intervention of an agency. As discussed in detail below, many continue to be subject to abuse and exploitation. Some preferred the independence of life on city streets, despite the risks they face there.

In addition, thousands of children were evacuated to third countries during the genocide. Ironically, although the authorities of the genocidal government directed and encouraged the slaughter of children, they also permitted thousands of children to be evacuated to safety on several occasions, often in an effort to impress the international community. Officials at the interim Ministry of Defense, for example, permitted the Swiss humanitarian organization Terre des Hommes to evacuate 700 orphans—many of them Tutsi.²⁵³ Those who organized the evacuations devoted their energies to the immediate task of saving the lives of the children and, not surprisingly, rarely provided for their eventual return to Rwanda. When it was later possible for the children to go back to Rwanda, many of them and many host families resisted any such move. Some of those who did return had difficulty readjusting to life in Rwanda.²⁵⁴ The Rwandan government continues to demand the return of children who were evacuated to Europe, some of whom have been adopted by European families and have lived for years in Europe. High-level officials, including President Kagame,

²⁴⁸ Human Rights Watch interview, Butare, March 7, 1996.

²⁴⁹ Human Rights Watch interview, Gikongoro, March 5, 1996.

²⁵⁰ Lindsay Hilsum, "Children flee to Burundi camps," *Guardian* (London), July 5, 1994.

²⁵¹ UNHCR, *Refugee Children: Guidelines for Protection and Care*, Geneva, p. 54.

²⁵² Human Rights Watch interview, Kigali, March 21, 1996.

²⁵³ Human Rights Watch interview, by telephone, Lausanne, April 28, 1998; A. Briquet, Délégué, Terre des hommes, to M. Le Président et M. Le Premier Ministre of Rwanda, May 27, 1994, enclosing Protocole d'Accord (Butare prefecture); Sylvain Nsabimana, "The Truth About the Massacres in Butare," undated manuscript (provided by Sylvain Nsabimana).

²⁵⁴ Human Rights Watch interview with former aid worker who dealt with children returned from abroad; Kigali, February 20, 2002; Unaccompanied Children, IRIN, para. 13.

have insisted particularly on the return of forty-one children who were adopted in Italy in 2000 without the consent of family members or of the Rwandan government.²⁵⁵

At least 30,000 Rwandan refugee children were absorbed into local families in conflict-ridden eastern Congo.²⁵⁶ Save the Children - UK identified approximately 1,500 such children in 2001, most of whom fled the insecurity in northwestern Rwanda in 1997 and 1998. Many of these children have been exploited by their host families, the girls are extremely vulnerable to sexual abuse, and all are victims of ongoing insecurity in eastern Congo. More than 60 percent of them said they would prefer to be repatriated to Rwanda.²⁵⁷

Still Alone: Children Today

Who They Are

Some 400,000—more than 10 percent of Rwanda's children—are estimated to be orphans today.²⁵⁸ Most were orphaned during the genocide or the war, but growing numbers were orphaned by HIV/AIDS, itself sometimes the result of rapes committed during the genocide. Some of these children live with foster families, others have formed child-headed households, and many eventually migrate towards city streets in an attempt to fend for themselves. Regardless of what led them to their present situation, they all have one thing in common: a lack of protection.²⁵⁹

Genocide survivors who were orphaned in 1994 are the most visible of these groups. They are among the most vulnerable children in the world: many witnessed unspeakable atrocities including the murder of family members and some narrowly escaped death themselves, leaving them deeply traumatized. Many of those who survived now live in misery, often lacking the means for education and basic health care.²⁶⁰ Prominent survivors have denounced the government for allowing these children to live in such misery, particularly since it has represented itself as a government of victims in order to attract substantial foreign assistance.²⁶¹

What sets these children and young people apart is their status as victims of genocide; they survived a systematic government campaign to eliminate them as an ethnic group. Aside from that, they are not alone in their predicament. Tens of thousands of other children also lost one or both parents in massacres or armed conflict and many more were separated from their parents during flight, as discussed above. While most have been integrated into family structures, not all are with their own nuclear families. All are extremely vulnerable to exploitation for their labor and property and denial of their right to education, as will be documented below.

The AIDS epidemic—greatly accelerated by sexual violence during the genocide and in the refugee camps, as well as by sexual exploitation of female-headed households around the country—is another leading cause of parents' deaths.²⁶² In 2000, UNAIDS estimated that 270,000 children in Rwanda had lost their mother or both parents to

²⁵⁵ "The Right over Rwanda's Lost Children," *Newsweek International*, November 13, 2000; "Rwanda Wants Children Orphaned in 1994 Genocide Back Home," Associated Press, August 15, 2000.

²⁵⁶ Ministry of Local Government, UNICEF, and Save the Children Alliance, *Umwana wanjye ni uwawe ni uwacu, My child, your child, their child: The Rwandan experience of foster care for separated children*, Kigali, 2001, p. 14.

²⁵⁷ Human Rights Watch interview with Steve Morgan, country representative, Save the Children Fund - UK, Kigali, October 3, 2001.

²⁵⁸ United Nations Agencies in Rwanda, Common Country Assessment 1999-2000, Paper 11, Child Protection, Page 6. The Rwandan government and U.N. agencies frequently cite 400,000, though it is difficult to assess the accuracy of this figure. UNICEF defines the term orphan as a child under age fifteen who has lost a mother or both parents. More than 65,000 of the some 120,000 children registered as unaccompanied in refugee camps after the genocide were eventually reunified with families, but only some of these are with their biological parents. Experts estimate that 120,000 to 200,000 children were spontaneously fostered, and that as many as 300,000 children live in child-headed households, as discussed below, many of whom have since reached the age of majority.

²⁵⁹ For a detailed analysis, see Ministry of Local Government and UNICEF, *Struggling to Survive: Orphans and community dependent children in Rwanda*, Kigali, 2001.

²⁶⁰ Martien Schotsmans, *A l'écoute des rescapés*, Rwanda, December 2000, Pp. 26-7, 61-64.

²⁶¹ Human Rights Watch, "The Search for Security and Human Rights Abuses," p. 4.

²⁶² A reported 66.7 percent of a group of 491 women interviewed by Avega Agahozo, the primary association of women widowed during the genocide, said they suffer from HIV/AIDS. The study attributes this alarming statistic to rape during the genocide. Avega Human Rights Watch

HIV/AIDS before they turned fifteen.²⁶³ Their ranks will continue to swell in the coming years. An estimated 400,000 Rwandans are infected with the virus—including approximately 30 percent of pregnant women in Kigali and nearly 10 percent of pregnant women in rural areas.²⁶⁴ Children whose parents died of HIV/AIDS often suffer a stigma of being “contaminated” by the virus regardless of whether they are infected themselves. As a result, they may be ostracized from the community and less likely to be taken in by relatives or foster parents. They also suffer not only the loss of their parents, but also exploitation for their property and labor and denial of the right to education.²⁶⁵

In addition, untold numbers whose parents are accused of genocide suffer in silence. Not only are they lacking the support and care of a parent, most often fathers, but also the incarcerated parents are dependent on them for survival. Their mothers, if alive, struggle to maintain the household and care for the children, cultivate the fields and sell crops at market, in addition to making frequent journeys to prison to bring food. These families typically rely on their children’s labor for survival, and many do not even dream of finding means to send them to school.

In many communities, these children suffer a stigma of association with a family member reputed to be guilty of genocide. Most of their detained parents have never been tried for their alleged crimes.²⁶⁶ An elderly woman explained how adults, referring to children on their own, had said, “But you can see it in their eyes that their parents were killers,” and, “Those children will grow up to be killers.”²⁶⁷ Another woman who lives in Kigali Rural explained that genocide survivors in her district harass those known to have fathers in prison, chanting “You are going to kill us, just like your father did.”²⁶⁸ A social worker in Butare attempted to arrange for street children to visit their fathers in prison. Authorities rebuffed his efforts, asking why he, a Tutsi, wanted to help Interahamwe.²⁶⁹ Another social worker in Butare told a Human Rights Watch researcher that she has worked with children who refused to visit their parents in prison because of the related stigma. “You shouldn’t punish the child for acts of the father,” she sighed. “But society has not been able to make this distinction in practice.”²⁷⁰

A Kigali social worker said that prisoners’ children often go to great lengths to disassociate themselves from their jailed parents, to become invisible. She gave a typical example based on her experience. Two boys staying in the Kigali center where she worked switched identities: each kept his own name but assumed the other’s address. One became very angry when the social worker told him that she had managed to trace his family. He threw a temper tantrum in her office and said he refused to go home. He did not want to return to his home that bore the stigma of those accused of genocide.²⁷¹

Government policy does not deem prisoners’ children (with the exception of very young children incarcerated with their nursing mothers) to be “children in exceptionally difficult circumstances.”²⁷² Consequently, they are not necessarily entitled to benefits or interventions that the government provides for other vulnerable children. There has been no systematic effort to identify these children or reach out to them. Assistance programs typically aim to help

Agahozo, *Survey on Violence Against Women in Rwanda*, Kigali, December 1999, p. 24. See also, Human Rights Watch/Africa, *Shattered Lives*.

²⁶³ UNAIDS / World Health Organization, Rwanda: Epidemiological Fact Sheets on HIV/AIDS and sexually transmitted infections, 2000 Update (revised), December 2000, p 3.

²⁶⁴ Ibid.

²⁶⁵ See Ministry of Local Government and UNICEF, *Struggling to Survive*, Chapter 6: “The HIV/AIDS Pandemic: Implications for the situation of orphans in Rwanda,” pp. 74-93.

²⁶⁶ As of mid-2001, about 5,000 of the more than 100,000 prisoners accused of genocide had been tried. Approximately 20 percent were acquitted. LIPRODHOR, *Quatre ans de procès de génocide*, Kigali, 2001.

²⁶⁷ Human Rights Watch interview, Butare, March 10, 1995.

²⁶⁸ Human Rights Watch interview, Kigali, November 6, 2000.

²⁶⁹ Human Rights Watch interview, Butare, August 25, 2000.

²⁷⁰ Human Rights Watch interview, Butare, October 19, 2000.

²⁷¹ Human Rights Watch interview, Kigali, July 28, 2000.

²⁷² Official categories include orphans, children in child-headed households, street children, and children in prison. Human Rights Watch interview with Straton Nsanzabaganwa, Director of Social Planning and Protection of Vulnerable Groups in the Ministry of Local Administration and Social Affairs, Kigali, October 3, 2001.

genocide survivors or vulnerable children generally, but not specifically children of prisoners. Charles K., whose mother struggled to keep him in school, complained that he was left out when his Kigali school distributed aid destined for vulnerable children. He raised his hand when his teacher asked all children without fathers to identify themselves, but the teacher told him to put it back down. His mother told Human Rights Watch that she was surprised anyone at school even knew her husband was in prison, since she had advised the boy not to tell anyone. “He feels the discrimination,” she sighed.²⁷³

Who Cares for Them

Due to aggressive implementation of the “one child, one family” policy, relatively few orphans or separated children remain in centers. There are now twenty-six centers for unaccompanied children in Rwanda, housing fewer than five thousand children—fewer than before the genocide.²⁷⁴ Those separated in 1994 who are still in the centers are generally considered the most difficult to integrate into families. One social worker who works at a residential center for approximately one hundred unaccompanied children told Human Rights Watch that those adolescents who had not been successfully reunified with families since 1994 had become extremely independent and difficult to discipline, diminishing prospects that they could be integrated into families in the future.²⁷⁵ However, she and others stressed that a disproportionate number of children in centers for the unaccompanied are prisoners’ children and those whose parents died of AIDS, the least wanted by society. A majority of those newly admitted to centers were orphaned by AIDS.

Pursuant to the policy of one child, one family, government officials discourage international nongovernmental organizations from providing assistance for centers for unaccompanied children. “It is not human for so many children to be in centers,” explained the representative of the Ministry of Local Government in Ruhengeri.²⁷⁶ One European aid worker questioned the wisdom of this since most of those remaining in centers have nowhere else to go. He told a Human Rights Watch researcher that he has sensed what he thought to be a deliberate government effort to divert aid to those children, often Tutsi, it considers most deserving—and away from the two marginalized groups making up the population of centers for unaccompanied children today.²⁷⁷

The majority of children who were orphaned or unaccompanied during the emergency are now living in family situations as opposed to in centers for unaccompanied children. UNICEF reported in 2001 that some 1,200 children were placed in foster care through organized programs, while more than 100,000 had been spontaneously fostered inside Rwanda by extended family members, family friends or neighbors, or strangers.²⁷⁸ Most of these host families have welcomed needy children, often unrelated, into their homes with the best interests of the child in mind. Although most children are in fact better off with families, many host families, themselves in economic difficulty, also find it advantageous to take a child in. Ironically, some children find family members more exploitative than strangers who take them in out of pity.

Although many of these children have extended family members nearby, they feel isolated, exploited and ignored. Rwandans frequently state that before the war, it was in their culture to care for vulnerable children. But children [now] tell stories of uncles stealing their land, aunts who turn a cold shoulder, and cousins who ask for payment in return for help.²⁷⁹

²⁷³ Human Rights Watch interview, Kigali, December 11, 2000.

²⁷⁴ Human Rights Watch interview with Straton Nsanzabaganwa, Kigali, October 3, 2001. There were twenty-seven centers at the time of the interview, but a center in Kibuye closed on December 26, 2001, placing the thirty-eight children living there with host families. Radio Rwanda News Broadcast, December 26, 2001.

²⁷⁵ Human Rights Watch interview, Kigali, July 28, 2000.

²⁷⁶ Human Rights Watch interview with Eduard Munyakazi, representative of the Ministry of Local Government in Ruhengeri, November 21, 2000.

²⁷⁷ Human Rights Watch interviews, Kigali, May 4, 2001 and November 7, 2000.

²⁷⁸ For a detailed analysis, see Ministry of Local Government, UNICEF, and Save the Children Alliance, *My child, your child, their child*.

²⁷⁹ Women’s Commission, *Rwanda’s Women and Children*, p. 31.

In some cases, impoverished parents have accepted foster children on the expectation that they will benefit materially for doing so, such as assistance from nongovernmental organizations. The following sections document how some foster children have been victims of abuse and exploitation at the hands of their caregivers. Some consider the foster child as interchangeable with a free, live-in domestic servant. Due to limited resources, the foster children are often last in line to eat, get medical care, or be sent to school. And many foster families have exploited children for their property. The Rwanda News Agency reported in 2001 that some foster families are exhibiting “unbearable depths of exploitation, discrimination, torture and tormenting acts” against children in their care.²⁸⁰ Of those reunified, many later moved to live with other guardians or in households headed by children in an effort to escape the abuse and exploitation they suffered at the hands of their caregivers. In the absence of government intervention to prevent these forms of exploitation, many foster children are growing up without education, deprived of their property, and with a sense that they are second-class citizens, as described in detail below.

This is why it is so important to monitor children’s protection even after they have been placed with families. Béatrice M., born in Burundi where her family lived in exile, came to Rwanda in 1995 at the age of fifteen. Along with her siblings, she went to stay with a paternal uncle in Kibungo. The following year, a maternal uncle invited Béatrice M. to live with him in Kigali Rural and offered to pay her secondary school tuition. She quickly came to consider him her husband though, as she said, “it was more of a concubinage.” She bore him two children and dropped out of school to care for them. After three years, in December 1999, he threw her and her children out of the house to marry another woman. Béatrice M. went to court to force him to accept paternity of the children and pay child support.²⁸¹

In addition, foster children are not consistently registered on their caregivers’ identification cards or in their own parents’ names, and some are not registered at all. Foster parents do not always tell the child that he or she comes from another family. In some cases, this helps make the child feel part of the host family. But it can also make it difficult for the child to prove his or her rights to family property.²⁸²

In the face of exploitation in foster families, large numbers of siblings or unrelated children have preferred to stay together and fend for themselves. UNICEF estimated that some 65,000 families, more than 300,000 children, lived in child-headed households in 1998.²⁸³ U.S. government figures indicate that as many as 85,000 households are headed by children.²⁸⁴ A 2001 study conducted by the Agency for Cooperation and Research in Development (ACORD) estimated that even more, as many as 13 percent of all households or 227,500 families nationwide, are headed by children.²⁸⁵ The genocide, later massacres, imprisonment, and AIDS all contribute to the scale of this problem. Those orphaned by AIDS, marginalized by their extended families, are more likely than other orphans to live without adults.²⁸⁶

Children in child-headed households live a precarious existence. Ninety-five percent have no access to education or healthcare and most live under plastic sheeting or in substandard housing.²⁸⁷ More than 60 percent live solely off

²⁸⁰ “Rwanda: Adopted orphans ‘exploited and tormented,’” U.N. Integrated Regional Information Networks (IRIN), April 2, 2001.

²⁸¹ Human Rights Watch interview with Béatrice M. and a jurist representing her in the paternity suit, Ruhengeri, December 8, 2000. Although already over eighteen, Béatrice M. had to first request an “emancipation” from the Ministry of Justice to act as her own guardian, as the legal age for civic responsibility is twenty-one. Otherwise, the very uncle she was suing might have been appointed her guardian.

²⁸² Ministry of Local Government, UNICEF, and Save the Children Alliance, *My child, your child, their child*, p. 63. Typically, Rwandan children do not use the surnames of their parents, so whose name the child will take is not an issue.

²⁸³ World Vision / UNICEF, *Qualitative Needs Assessment of Child-Headed Households in Rwanda*, Kigali, 1998, p. 3. Even once the heads of household reach the age of majority, they still consider themselves children—unable to marry or move on with their own lives while they maintain responsibility for younger siblings. Though this 1998 survey is commonly cited, some analysts have called the figure of 300,000 into question, and there is a need for new research and statistical data.

²⁸⁴ U.S. Department of State, “Rwanda,” *Country Reports on Human Rights Practices 2001*, March 2002, Section 5.

²⁸⁵ Agency for Cooperation and Research in Development, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*, March 2001. 2411 child heads of families in twenty-four communes participated in the study. The report does not indicate how researchers defined childhood.

²⁸⁶ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 37.

²⁸⁷ World Vision / UNICEF, *Qualitative Needs Assessment of Child-Headed Households in Rwanda*.

agriculture, three quarters of whom own less than one hectare of land and one quarter of whom are landless. Average revenue per family per month rarely exceeds 2,500 Rwandan francs (U.S. \$5) per month.²⁸⁸ They are at the mercy of neighbors, relatives, and local officials when they need assistance or protection, yet may be marginalized and ignored, in part due to conflicts over management of assets left by their own parents.²⁸⁹ UNICEF has identified a “double-edged nature of child-headed households’ desire for self-sufficiency.... Arguably, children’s contribution to the community through their labor may in some cases be greater than the community contribution to them.”²⁹⁰

Within child-headed households, older children may essentially give up their own childhood to act as parents for the younger ones. Yet the younger ones still lack parental care and protection. “We often get sick. We stay in the home until we are better—treatment must be paid for and we have no money,” explained a thirteen-year-old girl from Byumba, living in a makeshift shelter made of plastic sheeting with four younger children. “It is too big a burden for me, though, and I am tired. I feel sick sometimes, with a terrible headache that makes me dizzy. Maybe these children I am looking after might become intelligent in school, but I don’t think of myself becoming anything. In fact, I don’t like to think about the future.”²⁹¹

Households headed by girls—as many as three-quarters of those without adults—are most at risk. A Kigali-based social worker told Human Rights Watch that older sisters are frequently coerced into trading sex for their younger brothers’ school fees.²⁹² One study in 1997 found that 80 percent of girl heads of households had been sexually abused or fended off sexual abuse. A 2001 study found that sex played such a significant role in children’s self-support mechanisms that it is an “integrated and almost tolerated part of the rural society.”²⁹³ Sexual exploitation of these girls is rarely prosecuted. “They are condemned to silence because no one would defend them—on the contrary, they would endure further ostracism from the community.”²⁹⁴ If a girl head of household becomes pregnant, it is unlikely that the father will agree to take care of her younger siblings. Consequently, she is faced with an impossible choice upon giving birth: leave the children she is looking after and try to marry the baby’s father, take care of the newborn along with her other brothers and sisters, or abandon the child after birth.²⁹⁵

National and provincial authorities often refer to the problem of vulnerable child-headed households as too spread out, too difficult to deal with, and “one more burden that society cannot handle.”²⁹⁶ Some of these children have gotten together and formed an association to protect their interests, complaining that local authorities fail to include them in assistance programs such as housing or food distributions.²⁹⁷ International NGOs including World Vision and the International Rescue Committee have attempted to reach child-headed households in their assistance and development programs. But their efforts are not sufficient.

The Rwandan government has done little to effectively provide assistance or protection for these children in practice:

²⁸⁸ Agency for Cooperation and Research in Development, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*.

²⁸⁹ Ibid.

²⁹⁰ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 49.

²⁹¹ World Vision / UNICEF, *Qualitative Needs Assessment of Child-Headed Households in Rwanda*, p. 18.

²⁹² Human Rights Watch interview, Kigali, July 28, 2000.

²⁹³ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 82. See also Women’s Commission, *Rwanda’s Women and Children*, p. 31; and World Vision / UNICEF, *Qualitative Needs Assessment of Child-Headed Households in Rwanda*, p. 5-6.

²⁹⁴ Agency for Cooperation and Research in Development, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*, p. 3.

²⁹⁵ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 35.

²⁹⁶ World Vision / UNICEF, *Qualitative Needs Assessment of Child-Headed Households in Rwanda*, p. 20; Human Rights Watch interview with Ancille Kagabo, sous-prefect of Butare, Butare, April 25, 2001.

²⁹⁷ Schotsmans, *A l’écoute des rescapés*.

The provision of support and services to vulnerable children is often limited to a macro-level where debate on children's rights and protection issues is equated with developing child centered policies based on international agreements such as the Convention on the Rights of the Child. However, policy driven initiatives are unlikely to succeed in provision of adequate care for children without the support of the community at the grassroots level.²⁹⁸

At local levels, communities have not proved up to the task. On one level, the extreme poverty in which many Rwandan families live precludes adults from expending resources other than on their own families' survival. On another, a climate of distrust and suspicion in some communities—made up, according to one group of foster parents interviewed by UNICEF, of “genocide survivors, the relatives of genocide victims, and the relatives of people in prison accused of genocidal acts”—has eroded solidarity among neighbors. Another respondent said that, if an adult goes out of her way to help a marginalized child, her neighbors might begin to ask why.²⁹⁹

Local government officials have failed to set an example or to take measures to ensure that private citizens respect these children's rights. One Kigali Rural women blamed widespread complacency with abuses of children's rights on the fact that officials rarely discussed the concerns of vulnerable children in public meetings. She said that members of her community had taken their silence as a cue that the officials had come to accept the children's plight, so they followed suit.³⁰⁰

Domestic Labor Exploitation

The most common—and the most hidden—form of child exploitation is domestic labor. Many Rwandans, including members of the educated urban elite, employ child domestic workers. Some employers treat them badly without giving it much thought. The children can be on call up to twenty-four hours a day for little if any compensation. Their employers can forbid them from attending school, beat them for the slightest error, and treat them as less than human. The chief complaint of most child domestic servants interviewed by Human Rights Watch researchers is that they are not paid for their labor. Louise N. explained:

I looked for work as a domestic. I worked for three months and they didn't pay me, so I left and went to the street. They never gave me meat or french fries, even though I cooked these things for the rest of the family. I only ate sweet potatoes. Their children slept on a mattress, but I slept on the ground.³⁰¹

Girls are extremely vulnerable to physical and sexual abuse by their employers or visitors to the house where they work. Yet few bother to complain, as many are ignorant of their rights and do not see any alternative. The views of children living in centers for unaccompanied children or in child-headed households interviewed for a UNICEF study are telling. Most said they did not believe that sexual abuse bothers a domestic servant because, as one said, “she has other responsibilities and is not preoccupied by it.”³⁰²

As discussed above, foster families often agree to take children in on the expectation that they are getting a live-in domestic worker. Alphonse K. came to Kigali during the genocide when he was ten years old. Initially, he stayed at a center for unaccompanied children at Kigali's St. Paul church. An RPA soldier took Alphonse K. from the church to stay with his family and work as a domestic servant. “Maybe he took pity on me.” Why had the soldier had taken him in? “I was in good health, and many of the other children at St. Paul had been injured.”³⁰³

²⁹⁸ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 51.

²⁹⁹ Ibid, p. 67.

³⁰⁰ Human Rights Watch interview, Kigali, November 6, 2000.

³⁰¹ Human Rights Watch interview, Butamwa, August 4, 2000.

³⁰² Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 46.

³⁰³ Human Rights Watch interview, Kigali, November 15, 2000.

Children themselves even negotiate such arrangements, approaching an adult and proposing to provide domestic labor in exchange for a place to sleep and perhaps some food or maybe even a small salary. Fifteen-year-old Jean Damascène B., for example, told Human Rights Watch he migrated to the streets of Kigali after his parents were killed by RPA soldiers during the insurgency in the northwest. After several months on the streets, he encountered a friend of his parents, whom he convinced to take him in in exchange for his domestic labor. But he was still obliged to perform odd jobs on the streets in order to buy food to eat.³⁰⁴

There are no remedies available for children exploited as domestic servants when their rights are violated, in contravention of Rwanda's obligations under the Convention on the Rights of the Child and relevant international labor conventions.³⁰⁵ Enforcement of existing legislation protecting children from sexual abuse and other forms of exploitation is lacking where child domestics are concerned. Despite occasional central government pronouncements to this effect, few concrete initiatives exist to protect children from these harmful practices.

Child domestic labor can lead to grave abuses of children's rights in many countries all over the world. But the problem is much worse in Rwanda due to the unprecedented number of children lacking parental care and their extreme desperation. Children, their employers, and government officials may truly believe that the children are better off as domestic servants, lucky at least to have a place to sleep. For many, there is, in fact, no alternative.

Denial of the Right to Education

UNICEF estimated that 67 percent of primary school-age boys and 68 percent of girls were enrolled in school in 2001.³⁰⁶ However, these figures might give a deceptively favorable image of the situation. The quality of primary education is often poor, as some 54 percent of teachers lack basic qualifications.³⁰⁷ Some of those enrolled were likely to be expelled for failure to pay school fees, generally less than U.S. \$5 per year in rural areas. Others, including disproportionate numbers of girls, will fail their courses due to excessive demands on their time outside of school. The primary school completion rate for 1997-1998 was only 23 percent.³⁰⁸ Only some 6 percent of Rwandan children enroll in secondary school.³⁰⁹

Societal Exploitation

Rural families, depending on children for their labor, can rarely afford to send all of their children to school, and foster children are generally last in line. The case of Bosco R., a fifteen-year-old orphan from Gitarama, was typical. His maternal uncle agreed to take him in after his father died, but clearly expected him to earn his keep. The uncle also took possession of Bosco R.'s field. Bosco R. said he wanted desperately to study, but his uncle refused to allow this, saying that schooling would benefit only Bosco R. and would bring nothing for him. Bosco R. told a Human Rights Watch researcher that his uncle made him work in the fields because, he told Bosco, "your schooling does not matter to me." So Bosco R. said he preferred to go to Kigali and try to fend for himself on the streets.³¹⁰

Children interviewed for a UNICEF study said that, of all categories of children in difficult circumstances, child-headed households encounter the most difficulties in exercising the right to education. Further analysis of their

³⁰⁴ Human Rights Watch interview, Kigali, July 21, 2000.

³⁰⁵ Convention on the Rights of the Child, art. 23; International Labor Organization (ILO) Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 1999. (Ratified by Rwanda, May 23, 2000.) See discussion of international legal standards below.

³⁰⁶ UNICEF, Country Statistics: Rwanda, http://www.unicef.org/statis/Country_1Page145.html (accessed May 2, 2002). Under Rwandan law, primary education is compulsory. However, the law does not specify up to what age children must be in school. Due to the disruption of war, displacement, and economic difficulties, it may often take children up to ten years to complete six years of primary schooling.

³⁰⁷ United Nations, *Rwanda: United Nations Development Assistance Framework 2002-2006*, Kigali October 2001, p. 13.

³⁰⁸ Ibid.

³⁰⁹ Technical Committee and Ministry of Local Government, "Draft National Policy for Orphans and Other Vulnerable Children in Rwanda," November 12, 2002, p. 2.

³¹⁰ Human Rights Watch interview, Butamwa, Kigali Rural, August 30, 2000.

responses showed, however, that that they did not consider denial of education to be a problem for those with a father in prison and a mother with AIDS. These children, they said, were “beyond education” with too many problems and simply nothing to hope for.³¹¹ As mentioned above, child heads of household find it extremely difficult to find money for younger siblings’ school fees, and older siblings rarely even entertain the thought of studying themselves. The director of a primary school in Nyakizu, Butare said that none of his current students was cared for by older siblings who themselves were still in school.³¹² The ACORD study echoed that those in child headed households “have few ambitions.... Crushed by poverty, [they] feel inferior to their contemporaries who live with their families, especially those who are at school.”³¹³

Rosette M. struggles to care for her younger brothers and sisters in a small makeshift shelter in Kinigi, Ruhengeri. Their parents were killed during the insurgency. Seven paternal uncles live in the same village, one of whom is a local official, but they provide little assistance for her. She said they have trouble supporting their own families, so she does not expect them to help her. Rosette M., aged fifteen years old, told Human Rights Watch researchers that she tried to scrape money together for some of her younger siblings to study, but that she did not expect to study herself. When asked why she did not receive government assistance as an orphan, she replied that she thought that only genocide orphans were entitled to this. Local authorities on whom she depended for protection did not inform her that a government fund existed to subsidize her or her siblings’ schooling.³¹⁴

Money is a major obstacle to fulfillment of the right to education, which is why the Convention on the Rights of the Child calls for all states to provide free primary education for all children.³¹⁵ Primary school in rural areas of Rwanda costs approximately 500 Rwandan francs, just over U.S. \$1, per trimester, or 1,500 Rwandan francs per year. Some schools charge less, 300 Rwandan francs, or waive tuition for orphans. Children at both public and private schools must also purchase uniforms, notebooks, and pens, and families may be asked to contribute for other miscellaneous costs such as repairs to the schoolhouse or for teachers’ expenses. Many families who rely on subsistence agriculture to survive find it extremely difficult to afford these expenses. “We get used to holding on,” said Aloysie R., an eleven-year-old student in Butare. She explained that her family sometimes skipped supper at night in order to afford her school tuition of 900 Rwandan francs per year.³¹⁶

After completing the sixth year of primary school, students take a national exam. Those who pass may enroll in secondary school if they can afford the tuition. Those with the highest marks on the exam are admitted to public schools, where tuition is approximately 30,000 Rwandan francs per year. The rest scramble to find places in less competitive private schools, where tuition can be 90,000 Rwandan francs or more. Children typically attend secondary schools at some distance from their homes and live in dormitories, for which they need to pay room and board as well as provide a mattress and other supplies. They must also buy bus tickets to travel to school and home. All told, an average student in a private secondary school may spend upwards of U.S. \$300 per year—far beyond the reach of families that struggle even to pay primary school tuition.

Arbitrary Denial of Government Assistance

Straton Nsanzabaganwa, director of social planning and protection of vulnerable groups in the Ministry of Local Administration and Social Affairs explained that the Rwandan government provides assistance for orphans and other indigent secondary school students through two main vehicles. No formal assistance is available for primary school tuition. A fund administered by the Ministry of Local Government and Social Affairs provides partial educational assistance for orphans and other indigent children to attend secondary school. Pursuant to a government policy of decentralization, the Ministry of Local Government aims to delegate administration of this fund to authorities at the

³¹¹ Ministry of Local Government and UNICEF, *Struggling to Survive*, pp. 44-45.

³¹² Human Rights Watch interview, Nyakizu, Butare, October 20, 2000.

³¹³ Agency for Cooperation and Research in Development, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*, p. 4.

³¹⁴ Human Rights Watch interview, Kinigi, Ruhengeri, November 19, 1999.

³¹⁵ Art. 28.

³¹⁶ Human Rights Watch interview, Nyakizu, Butare, October 20, 2000.

province level in 2002 and then to Rwanda's 106 districts in 2003. In addition, the Fond pour l'assistance des rescapés du génocide (FARG, Fund for Assistance of Genocide Survivors) is a quasi-governmental agency that provides assistance for the basic needs of genocide survivors, including full school fees.³¹⁷ In addition to financing from the government, the survivors' fund also receives money from international donors. This fund is not related to compensation relatives of those slaughtered during the genocide may receive as civil parties in criminal trials. In 2000-01, the Ministry of Local Government spent 802 million Rwandan francs, just under U.S. \$2 million, on school fees through the government fund. The survivors' fund, on the other hand, Nsanzabaganwa said, had "billions" of Rwandan francs for a smaller pool of children. Nevertheless, demand for both funds exceeds the supply.

Another problem is that the government fund pays only a fraction of a child's secondary school fees. The government fund will pay a maximum of 20,000 Rwandan francs per year for public schools and 30,000 per year for private schools. The ceiling for each secondary student supported by the survivors' fund is three times higher, up to 90,000 Rwandan francs per year. He explained that the government made a political decision to fund genocide survivors at a higher level.³¹⁸

Although Hutu may qualify as survivors (defined as those who were sought after during the genocide, who lost a family member, or whose property was destroyed), the survivors' fund supports mainly Tutsi. Many Hutu, particularly in the northwest, perceive this as discriminatory.³¹⁹ Even genocide survivors have complained that this policy is unfair and reminds them of discrimination against Tutsi before the genocide. In June 2000, a seventeen-year-old girl named Josephine O., whose father was assassinated during the genocide, became so depressed she couldn't study. Josephine O. told her mother that she felt ashamed that the survivors' fund paid for her even though her family had means, while another girl her age whose parents were killed during the insurgency in Ruhengeri had to work and could not afford to study. She threatened to drop out, but later agreed to complete her degree on the condition that her mother pay for the other to study.³²⁰

In practice, both funds fall short of the needs they seek to fulfill. Due to budget shortfalls, the Ministry of Local Government has been perpetually late in dispersing funds to schools and, in the end, has paid as little as one third of what it has agreed to. In November 2000, the government fund had paid for only a handful of the children named on pages and pages of the handwritten lists of indigent children in Ruhengeri that a Human Rights Watch researcher saw.³²¹ During the 2000-2001 school year, financial difficulties with the survivors' fund also led to late and partial payments to schools. Private schools, which must pay their teachers without government subsidies, are the hardest hit by these shortfalls and struggle to keep their doors open, but all suffer. When boarding schools lack cash, they cannot provide children with food and clean water. At a private school in Rusumo, for example, out of 230 total students last year, 109 were supposed to be supported by the government fund and 101 by the survivors' fund, leaving only twenty who paid their own tuition. Both funds were at least a year behind in their disbursements when Human Rights Watch researchers visited the school in October 2000.³²² Half of the 732 students at one school in Ruhengeri were supposed to be supported by one of the funds. The survivors' fund was nearly a year behind in payments and the government fund owed two years of arrears when Human Rights Watch visited the school in December 2000.³²³

At various points, schools have sent children on both lists home because the funds failed to disperse payment for their tuition. The Ministry of Education issued orders forbidding schools from sending students on the lists home if the

³¹⁷ The government allocates funds from the national budget, through the Ministry of Local Government, to the genocide survivors' fund, and the Ministry of Local Government oversees administration of the fund. Human Rights Watch interview with Straton Nsanzabaganwa, Kigali, October 3, 2001.

³¹⁸ Human Rights Watch interview, Kigali, October 3, 2001.

³¹⁹ Human Rights Watch interviews, Kigali, December 10, July 29, and September 28, 2000. Tutsi repatriates who returned to Rwanda after the 1994 genocide are not eligible to receive assistance from the survivors fund.

³²⁰ Human Rights Watch interview, Kigali, July 28, 2000.

³²¹ Human Rights Watch interview with Eduard Munyakazi, Ruhengeri, November 21, 2000.

³²² Human Rights Watch interview, Rusumo, October 30, 2000.

³²³ Human Rights Watch interview, Ndusu, Ruhengeri, December 7, 2000.

funds have not paid their fees, but school principals say they see no alternative if there is no food for the children to eat.³²⁴ Human Rights Watch researchers saw a notice posted at one school on November 7, 2000 announcing that any child who had not paid tuition could no longer attend classes, even if one of the funds was supposed to pay for him or her. The caregiver of three children sent home that day told the researchers that there was nothing she could do—she was caring for a house full of children and simply did not have any money to pay the school.³²⁵ Sixteen-year-old Paula I. of Nyanza told a Human Rights Watch researcher that she gets angry and frustrated about this issue. She was repeatedly sent home from school because the government fund was late with payments. The teacher allowed Paula I. to attend classes but, whenever the administration checked to see who had paid, she was thrown out. The school allowed her to take exams for the first two trimesters, but withheld her report card pending payment of her tuition. Near the end of the year, the principal sent her and two other students away for non-payment, and she was not able to complete the school year.³²⁶ In other cases, schools with numerous applicants for limited places have refused to enroll children dependent on one of the funds, admitting instead those who can pay their own tuition.³²⁷ Speaking of cases when schools have to send children away because the funds do not pay their fees, a clergyman who supervises schools in Kibungo said, “sometimes, when we have to send a child away, we send them to the ministry or to the [office of the survivors’ fund] as a reminder.”³²⁸

Survivors have expressed outrage that their fund has failed to meet their education needs. A frail widow in Kibungo lamented that her son was compelled to drop out of school two years before graduation because assistance from the fund paid only for tuition but not room and board.³²⁹ A former member of parliament told a Human Rights Watch researcher that a group of survivor youths had been preparing a public demonstration to draw attention to this issue in mid-2001, but that government officials persuaded them to cancel the scheduled event.³³⁰

Another problem is that many children who appear to meet the criteria for assistance from the government fund often find themselves excluded from the benefits they are supposed to receive. Local officials prepare lists of children whom they deem qualified for the fund including orphans (children who have lost one parent) or indigent children.³³¹ Yet Human Rights Watch received dozens of reports of children who had been arbitrarily left off the lists. Patricie U., a seventeen-year-old orphan in Kigali, said that local authorities told her only “genocide orphans” qualified for this assistance. With no way to know that this was an erroneous statement of government policy, she went to work as an unpaid domestic servant instead of continuing her studies. She wore an out of date school uniform when she met with Human Rights Watch. She explained that, since she was not paid for her labor, she couldn’t afford to buy any clothes. The old uniform was a hand-me-down from a friend who attended school and had bought a new one.³³² Claire N., an orphan from Gitarama, wanted to be “a nurse, no, a doctor.” Instead, she went to perform unpaid domestic labor for an unrelated “uncle” who abused her after local authorities turned her down for the government fund as well.³³³

³²⁴ Human Rights Watch interviews, Tare, Kigali Rural, November 7, 2000.

³²⁵ Human Rights Watch interviews, Ndusu, Ruhengeri, December 7, 2000; Tare, Kigali Rural, November 7, 2000; Rusumo, Kibungo, October 30, 2000.

³²⁶ Human Rights Watch interview, Kigali, August 9, 2000.

³²⁷ Human Rights Watch interview, Kigali, August 9, 2000.

³²⁸ Human Rights Watch interview, Rwamagana, Kibungo, May 10, 2001.

³²⁹ Human Rights Watch interview, Muhazi, Kibungo, September 13, 2001. He was over eighteen years of age, though still in his fourth year of secondary school.

³³⁰ Human Rights Watch interview, Boston, November 9, 2001.

³³¹ Human Rights Watch interviews with Straton Nsanabaganwa, Kigali, October 3, 2001 and with Eduard Munyakazi, Ruhengeri, November 21, 2000. The “cell leader,” who governs the lowest administrative level (the cell), prepares a list of all the needy children in her jurisdiction. The “sector councilor” then compiles a list for the several cells making up the sector. Finally, the district mayor (formerly known as burgomaster of the commune) prepares a final list for the entire district.

³³² Human Rights Watch interview, Kigali, August 8, 2000.

³³³ Human Rights Watch interview, Kigali, August 9, 2000.

It can be a cumbersome process for children to be placed on the list. Legal professionals who assist children to obtain education benefits told Human Rights Watch researchers that the process can be so slow that it is often not useful.³³⁴ Jean Paul L., who was responsible for his younger sister's care, did not bother trying:

I thought about getting the document to prove we are orphans. But that would cost me money, too. I would have to go to [the commune in Kigali] where we were born, which would cost 600 Rwandan francs, and to [the commune in Kigali Rural] where we live now. If I don't have 400 Rwandan francs for [my sister's] school fees, how can I get 1,000 Rwandan francs for transport? Plus, it would take me two or three months to get all the documents, and I might have to get it again after a while.... I didn't study. She can't study. Do you see how much that makes us suffer?³³⁵

Sixteen-year-old Frank K., whose father died and whose mother is handicapped, said he had approached authorities in Kigali city to request assistance. They told him to obtain proof of his father's death from local authorities and come back, which he did, only to be told that the list for the government fund was already full.³³⁶

For children to be registered on the government fund lists as orphans or indigent, they must have proof of their parents' death or of their poverty. Local officials generally issue the necessary documents for a nominal fee, generally fifty Rwandan francs but sometimes ask a higher bribe, an ironic demand given that the papers are to establish lack of means.³³⁷ Local authorities have even charged child-headed households to be [placed] on lists of beneficiaries. "The price is negotiable" (*ça se négocie*), remarked one resident of Gisenyi who has seen authorities charge up to 600 Rwandan francs for a certificate. "If you are really poor, you cannot get one."³³⁸ Residents of one commune in Byumba said their neighbors had become angry when the child of a wealthy genocide survivor—who did not need assistance and, in any case, could have been paid for by the survivors' fund—was placed on the government fund list while other orphans and needy children were left off.³³⁹

At times, government officials have simply refused to provide the required documentation. Women's rights advocates in Kigali say that women whose husbands who died in refugee camps in Tanzania or Congo or during the insurgency in particular have encountered difficulties in obtaining death certificates. As a result, these women are less likely to receive government benefits to pay for their children's studies.³⁴⁰ The widow of a former burgomaster in Gisenyi, whose husband was reportedly killed by RPA troops in November 1997, was denied a death certificate by the new burgomaster. Communal authorities detained two other widows in Gisenyi in the local lockups in 1999 and 2000 when they came to request death certificates. One, who left small children at home, was reportedly accused of falsifying the application.³⁴¹

Four widows in Bulinga, Gitarama tried repeatedly and unsuccessfully to get death certificates for husbands who had been summarily executed in 1998 by RPA forces after they had been freed from the local lockup during an attack by armed combatants. The widows even raised the issue in a public meeting with Aloyisea Inyumba, then executive director of the National Unity and Reconciliation Commission in 1999. One told a Human Rights Watch researcher that officials at the commune have privately acknowledged how the men died yet refused to sign the death certificates, apparently in part because they fear that the killers—who reportedly acted under the order of the then-burgomaster—could be prosecuted. Another attempted to obtain a court order forcing the commune to issue the death certificate, but said the tribunal sent her back to the commune empty-handed. After receiving repeated threats, the widows gave up their crusade to obtain assistance from the government fund and the social security benefits to which they were entitled

³³⁴ Human Rights Watch interview, Kigali, December 5, 2000.

³³⁵ Human Rights Watch interview, Kigali, September 30, 2000.

³³⁶ Human Rights Watch interview, Kigali, December 8, 2000.

³³⁷ Human Rights Watch interview, Kigali, August 19, 2000.

³³⁸ Human Rights Watch interview, Kigali, October 16, 2000.

³³⁹ Human Rights Watch interview, Ruhango, Gitarama, October 19, 2000.

³⁴⁰ Human Rights Watch interview, Kigali, December 5, 2000.

³⁴¹ Human Rights Watch interviews, Kigali, August 19, 2000 and Gisenyi, October 16, 2000.

through their husbands' salaries. They decided to use their energy to find other ways to pay their children's school fees.³⁴² Attorneys working in family law say that families would have to wait seven to ten years for the courts to issue death certificates for their missing husbands, much too late, much too long to provide assistance for their children to study.³⁴³

Those who succeed in obtaining the necessary documents from local authorities may still be arbitrarily denied government benefits such as social security or pensions. Women's rights advocates who have represented widows seeking their social security benefits lament that the government Social Security office (Caisse Sociale) shelved their clients' claims indefinitely (*classés sans suite*), effectively refusing to pay their husbands' pensions.³⁴⁴ A Kigali man who cares for several orphans went to the Social Security office to claim their benefits. The agent told him the children were not eligible because their parents died in Congo. He then gave up, realizing it was costing him more in time and money to claim their supposed benefits than it would use his own funds to pay their school fees. He was also afraid to draw attention to himself lest that lead to accusations that he had participated in the genocide.³⁴⁵

The ostensible logic behind this government policy is that it is difficult to prove whether these men are really dead, or whether they are actually fighting with Hutu rebels still in Congo. Women's rights advocates involved in such cases told a Human Rights Watch researcher the government fears that self-proclaimed widows might send the money to their husbands abroad to support an armed rebellion.³⁴⁶ It is true that many women were separated from their husbands during the bombing of the refugee camps and forced repatriation and may not know their fate for certain. One woman from Kibungo, for example, thought her husband, an officer in the ex-FAR, dead. After spending more than two years without any news of him, she received word in 2000 that he was alive and well in Angola.³⁴⁷ As noted above, however, tens of thousands of refugees died of disease in the camps or were killed by Rwandan government forces, and their families want their losses acknowledged.

In some cases, widows have been denied government benefits even though their husbands' deaths can be proven with certainty. An elderly woman who cares for two school-aged grandchildren told a Human Rights Watch researcher how she has battled to claim her husband's benefits since 1997. A retired civil servant, he died of dysentery in a refugee camp in Tanzania in front of numerous witnesses. She succeeded in getting a death certificate, but was turned away at the Social Security office. They told her to get affidavits from ten more people who saw her husband die and helped bury him, which she managed to do more than a year later. "I was really proud," she said. "Now I would be able to get my money and start helping [my family] myself." But the agent was not satisfied. "Anyone can do this," he said. "Your husband is fighting over there with the Interahamwe and Kabila." She continued to go back and to write letters, with no success. "He died an old man.... It is impossible to think he could be fighting in the forest!" she lamented. "I don't know what they want from me."³⁴⁸

Denial of Property Rights

Unknown numbers of children are being denied ownership and inheritance of their families' property by adults who unscrupulously profit from their vulnerability. Without their land, many have no place to go, no means to support themselves, and no connection to their family legacy.

Claudia U. from Kigali survived the genocide by seeking refuge with relatives in Ruhengeri when she was thirteen. Later on, she returned alone to her family's home near the Kigali airport to find a soldier living in her house. Neighbors

³⁴² Human Rights Watch interviews, Kigali, December 28, 2000, Bulinga, February 13, 2001. Hutu residents of Bulinga have begun to demand that the former burgomaster be prosecuted for these killings. Human Rights Watch interviews, Kigali, October 3, 2001 and Bulinga, October 5, 2001.

³⁴³ Human Rights Watch interview, Kigali, December 5, 2000.

³⁴⁴ Human Rights Watch interview, Kigali, December 5, 2000.

³⁴⁵ Human Rights Watch interview, Kigali, July 28, 2000.

³⁴⁶ Human Rights Watch interview, Kigali, December 5, 2000.

³⁴⁷ Human Rights Watch interview, Kigali, September 8, 2000.

³⁴⁸ Human Rights Watch interview, Kigali, December 8, 2000.

advised her not to claim the house back lest the soldier threaten her. So Claudia U. abandoned the house and went to live with a maternal aunt. She found life difficult with her aunt, whom she said had no means to support her, and went to a center for unaccompanied children not far from her family's home.³⁴⁹ Another young genocide survivor from Taba commune, Gitarama told Human Rights Watch researchers that he did not dare return to his parents' home because he believed that Interahamwe were still there and would kill him.³⁵⁰ Frédéric S. was thirty years old when he came to tell a Human Rights Watch researcher about violations of property rights he and his ten and thirteen-year-old siblings suffered. He said he considered himself a "child" head of household in Rwandan culture in spite of his advanced age because he felt unable to marry and start his own family as long as he was responsible for raising his siblings. He struggled to pay their school fees, but said this would not be a problem if he could recover his parents' four houses in Kigali and rent them out. Their mother was in prison on genocide charges and their father was killed by the RPF. "We are afraid," he said. "People have died because of houses. They have also disappeared."³⁵¹

Children on their own are often easy prey. A woman came and evicted Anita M. from her house and land in Gikongoro, citing debts the girl's father owed her. Her lawyer said she was able to resolve the matter after discovering that the woman had forged the signatures and fabricated the unpaid debts, assuming that the child would be easily manipulated. Anita M. was one of the lucky few to have access to legal assistance to help claim her rights.³⁵²

In some cases, children lack adult guardians to advocate on their behalf. In others, it is their very guardians who take advantage of them for personal gain. As mentioned above, families frequently agreed to take in a foster child with the hopes of taking over the child's property. A lawyer who represented numerous women in property disputes lamented that paternal relatives have even gone so far as to chase away a mourning widow in order to be named her children's guardians and take over the property.³⁵³ Human Rights Watch documented several cases in which children lived on the streets while their would-be protectors occupied or rented out their property. A social worker in Butare told Human Rights Watch researchers about two aunts who battled for guardianship of their common niece clearly seeking control of her property. The girl lived on the streets, begging and scavenging for food and repeatedly subjected to sexual abuse.³⁵⁴

Samuel Z. had an extremely melancholy air about him for a fifteen year-old when he spoke to Human Rights Watch. An orphan, he lives with his maternal aunt and her family in Kigombe, Ruhengeri. His aunt's husband considered him a burden and wanted to throw him out of the house, but the aunt refused. She said she had no choice because she had tried to send him to live with his paternal relatives, but they refused to receive him. "I took him there more than five times," she said, "but they refused to take him."³⁵⁵ Samuel Z. goes to town every day to sell bread his aunt has baked, and gives her the profits. He said he had no friends because he had no time to interact with other children—he was busy selling bread during the day, doing domestic work in the evenings, and sleeping at night. He said he thought a lot about his problems but had no one to talk to. His aunt went to court to be appointed his legal guardian and hoped to recover Samuel Z.'s inheritance from his father's family's significant land-holdings. His paternal uncle in turn accused the aunt of claiming the property for selfish reasons. Samuel Z. told Human Rights Watch researchers that he would rather be his own guardian. Even if he succeeded in claiming the property, he would have no choice but to continue living "this bad life," if his aunt were allowed to manage it.³⁵⁶

As noted, some two million refugees, primarily Hutu, fled into exile in the aftermath of the genocide, mainly to what was then Zaire and to Tanzania. At the same time, hundreds of thousands of primarily Tutsi refugees who had spent a generation in exile returned to Rwanda en masse. The new government permitted these "old caseload" returnees

³⁴⁹ Human Rights Watch interview, Kigali, February 25, 1998.

³⁵⁰ Human Rights Watch interview, Kigali, February 25, 1998.

³⁵¹ Human Rights Watch interview, Kigali, August 11, 2000. See Human Rights Watch, "The Search for Security," p. 19.

³⁵² Human Rights Watch interview, Kigali, December 5, 2000.

³⁵³ Human Rights Watch interview, Kigali, September 28, 2000.

³⁵⁴ Human Rights Watch interview, Butare, October 20, 2000.

³⁵⁵ Human Rights Watch interview, Ruhengeri, November 20, 2000.

³⁵⁶ Human Rights Watch interview, Ruhengeri, November 20, 2000.

to occupy houses and land left vacant by those who had been killed or fled the country. In 1997, large numbers of the so-called new caseload refugees who had fled in 1994 returned within a short span of time, relying on government promises that they could reclaim the property they had left. However, government officials often failed to uphold this promise. People who tried to claim their homes back were often accused of genocide, sometimes falsely.³⁵⁷ This applied to children as well as adults. Francois Xavier H., sixteen at the time of the genocide, said he found a woman he did not know in his family's house when he returned from Zaire in 1997. When he tried to claim the house back, the woman accused him of genocide. He was arrested and detained at the local lockup, local authorities confiscated papers he had received from neighbors attesting that he was not implicated in the genocide, and he waited for months without being interrogated.³⁵⁸ Government policy shifted in 2000, and officials began pressuring old caseload returnees to vacate houses they occupied illegally if the original owners persistently demand their return. For most children, the necessary persistence was too much to expect.

Mohamed T., then age twelve, and his older brother returned from Congo on their own in 1997. The boys found another family occupying their Kigali home and complained to local authorities. The authorities told them to be patient and, three years later, Mohamed T. said that he was still waiting. There is a small lean-to on the edge of their family's property where he and his brother—both of whom fend for themselves on the streets of Kigali—would sleep sometimes. If the new occupants of their house discovered them there, though, they would throw them out and threaten them. When that happened, Mohamed T. would go to sleep under a nearby bridge. Mohamed T., now an adolescent who appears hardened by life on the streets, cried while explaining this situation. "Imagine having to sleep under a bridge and not being allowed into your own house," he lamented. "Things weren't so bad when we had parents. It's not fair."³⁵⁹

The two groups of repatriated refugees also clashed over ownership of land dating back to 1959. Rwandan law and policy fail to establish clear rights to these disputed lands. Old caseload returnees in positions of power took advantage of this situation to grab land and, again, children were among the victims.³⁶⁰ A resident of Kamembe town in Cyangugu told Human Rights Watch about a typical case affecting his family in a rural area of the province. Descendants of pre-1959 landowners escorted by two RPA soldiers approached a family member known to be a troubled alcoholic to demand their land back, and he succumbed to their pressure. The land in question was supposed to belong to two orphan girls who study at a boarding school, but they will not inherit anything now, he said. Family members, who learned this after the fact, did not bother to complain to local authorities, because the authorities had been "worse than passive" in other similar disputes. The local councilor is related to the descendants of the previous owners.³⁶¹

At the same time, some old caseload repatriates in Cyangugu who were not given land struggled to survive, and a few reportedly died of hunger in March 2000. A landless elderly man incapable of feeding his family lamented, "What hurts is the orphans with us. We don't know what to do—where can we take the orphans? We must keep them. When we die, they will become street children. They don't even know where their parents lived."³⁶²

Gender discrimination is also prevalent in Rwandan society, particularly with regard to property rights. A landmark law that grants girls the right to inherit land took effect in 1999.³⁶³ The law has been widely hailed by the

³⁵⁷ See Human Rights Watch, *Uprooting the Rural Poor* (New York: Human Rights Watch, 2001), pp. 8-10; Human Rights Watch, "The Search for Security," p.19. The Rwandan government has correctly pointed out that the fact that someone was arrested when he tried to claim his property does not in itself mean accusations are baseless. However, some were clearly arrested on trumped up charges. Republic of Rwanda, Reply to Human Rights Watch Report, "Rwanda: The Search for Security and Human Rights Abuses," Kigali, June 2000, <http://www.gov.rw/government/newsupdate.htm> (June 2000).

³⁵⁸ Human Rights Watch interview, Rutonde cachot, Kibungo, February 19, 1998.

³⁵⁹ Human Rights Watch interview, Kigali, August 8, 2000.

³⁶⁰ Human Rights Watch, *Uprooting the Rural Poor*, pp. 7-8, 46-50.

³⁶¹ Human Rights Watch interview, Kigali, November 16, 2000.

³⁶² Human Rights Watch interview, Kamembe, Cyangugu, May 17, 2000.

³⁶³ Law no. 22/99 of 12/11/1999 to Supplement Book I of the Civil Code and to Institute Part Five Regarding Matrimonial Regimes, Liberalities, and Successions.

international community as a great step forward.³⁶⁴ On the hills, however, equality is a long way off. The law itself, while clearly an improvement, is flawed. Most notably, the law does not protect illegitimate children of either sex—including the many whose parents followed traditional wedding rituals but not civil marriage formalities—unless they go to court and successfully prove paternity.³⁶⁵

And in practice, families and local authorities continue to apply customary norms rather than the new law.³⁶⁶ Paternal grandparents or uncles regularly confiscate the land, evicting the surviving children. Households headed by women—either widows or women whose husbands are in prison—are also frequently forced to become second wives of a brother-in-law or sent back to their parents' home in accordance with traditional practices. Women and children rarely complain, often because they are not familiar with the new law or because they think that claiming their property rights would be detrimental to their interests since they rely on their husband or father's relatives for protection. And those who dare complain to local authorities rarely receive satisfaction. "Local authorities are the first *not* to understand the new law," explained one lawyer who conducted seminars to teach local officials what the law means in practice. "If neither the woman nor the official knows the law, there is obviously no chance of its application."³⁶⁷

Rwandan Law and Practice

An international aid worker who is an expert on children's rights lamented an "utter vacuum" of institutions to protect children's property rights.³⁶⁸ While this is an exaggeration—local authorities and courts do enforce children's property rights in many cases—the system is woefully inadequate. Even fewer protections exist against other forms of abuse and exploitation, notably the denial of the right to education and the rights of child domestic servants.

Legislation

In 2001, the Transitional National Assembly passed a law on child protection that provides for many of the protections set forth in the Convention on the Rights of the Child. The law instructs the Ministry of Local Government and Social Affairs to set standards for organizations and families to protect the welfare of children in their care. It guarantees every child the right to have adoptive parents or an official guardian. It makes primary education free and compulsory, and prohibits hazardous child labor. It also requires parents, guardians, or others responsible for children to respect the rights of the children in their care, "depending on their possibilities," and empowers the Ministry of Local Government to oversee this. It mandates the National Human Rights Commission to follow up to ensure children's rights are upheld.³⁶⁹ In light of the abuses described in this report, implementation of this law remains a distant aspiration.

A step in the right direction, the law is not sufficient to implement the rights guaranteed by the Convention on the Rights of the Child in practice. The law criminalizes extreme forms of violence, neglect, and exploitation of children, including rape, abandonment, and torture. Yet it fails to create remedies for the commonplace violations of the right to education, the right not to be exploited as a domestic servant, and the right to own and inherit property.³⁷⁰ Although the law stipulates that the state will provide legal assistance for children who lack guardians and are involved in court cases, it does not oblige officials to intervene in the majority of cases of exploitation that never make it to court for

³⁶⁴ See, e.g., Special Representative on Children and Armed Conflict Welcomes Rwandan Law Allowing Girls to Inherit Property, Press Release HR/4465, March 20, 2000.

³⁶⁵ Human Rights Watch interviews with women's rights experts, Kigali, September 24 and 28, and December 5, 2000, Kigali. See also Jennie E. Burnett and Rwanda Institute for Sustainable Development, *Culture, Practice, and Law: Women's Access to Land in Rwanda*, Kigali, July 2001.

³⁶⁶ See Burnett and Rwanda Institute for Sustainable Development, *Women's Access to Land in Rwanda*.

³⁶⁷ Human Rights Watch interview, Kigali, September 28, 2000.

³⁶⁸ Human Rights Watch interview, Kigali, July 24, 2000.

³⁶⁹ Law Relating to Rights and Protection of the Child Against Violence (English version).

³⁷⁰ Convention on the Rights of the Child, arts. 19, 28, 32, 34, and 36.

reasons discussed below. In November 2002, the Ministry of Local Government published a draft policy on orphans and vulnerable children and initiated a dialogue with members of civil society to elaborate strategies.³⁷¹

The Rwandan government embarked on a review of the legal framework for foster care in June 1995 (separate from the law discussed above), but, as of end 2002, had yet to complete this.³⁷² In the absence of such a framework, there is little recourse for those seeking to protect a foster child's best interests, inheritance rights, or access to food, education, and health care. Social Services International (SSI), an international NGO that places children in foster care and monitors their situation, has drafted a "host commitment" to which it requires foster families to adhere before placing children with them and monitors their compliance with it. However, this has no legal force and only applies to the less than one thousand children placed and monitored by SSI—a small fraction of all fostered children. When asked what steps the Butare provincial government takes to protect children in foster care, for example, the Sub-Prefect in charge of social affairs attempted to justify the spontaneous nature of fostering by stating simply, "It is African."³⁷³

The Civil Code does provide for court appointment and supervision of guardians. Official guardians are required to manage the child's property in accordance with the interests of the child and to return the property to the child when the guardianship ends, and can be sanctioned for failure to do so.³⁷⁴ However, few follow the legal procedures to be appointed a guardian and, in any case, there are few safeguards to prevent courts from granting guardianship to caretakers who are exploiting children in the first place, such as in the case of Frederic Z. discussed above. A lawyer who has worked on numerous cases involving women and children's rights remarked that conflicts over guardianship are almost always because a child has property.³⁷⁵ There is also a national law governing adoption, but few children are formally adopted.³⁷⁶ The Civil Code does not provide remedies for those denied the right to education or otherwise exploited.

In any case, adequate legal protection is but the first step. As with the 1999 law granting women and girls the right to inherit property, any new laws on the books will be difficult to enforce without extensive information campaigns over time, for those affected and for those responsible for their enforcement.

Practice

Most children whom Human Rights Watch researchers interviewed who were exploited for their labor or property or denied their right to education had accepted their fate without considering the possibility of remedying the situation. The younger and more vulnerable the children, the less able they are to protect their interests. A group of children living on the streets in Butare said that they were waiting until they reached the age of majority in the hopes that they could then go back and claim their property. Most of them were on the streets in part because their property had been occupied by others. There was no point, they explained, in a child taking on the system.³⁷⁷

Jean Paul L. decided not to complain when a paternal aunt appropriated his property and house in Kigali Rural. "The neighbors advised me not to shout," he said. At the time, he was able to support himself and his younger sister

³⁷¹ Technical Committee and Ministry of Local Government, "Draft National Policy for Orphans and Other Vulnerable Children in Rwanda," November 12, 2002.

³⁷² Ibid, p. 12. See also Ministry of Labor and Social Affairs, *Children: The Future of Rwanda*, no. 3, September 30, 1995, p. 14; Human Rights Watch interview with Straton Nsanzabaganwa, Kigali, October 3, 2001.

³⁷³ Human Rights Watch interview with Ancille Kagabo, Butare, April 25, 2001.

³⁷⁴ Loi relative à la personne et la famille en droit civil rwandais, October 27, 1988, arts. 361, 385, 387, and 388. See also Juristes Sans Frontières, « Droits et devoirs pour prendre en charge un enfant non-accompagné, » Montpellier, France, 1995. See also Ministry of Local Government, UNICEF, and Save the Children Alliance, *My child, your child, their child*, pp. 29-39 for an overview of relevant legal and policy guidelines.

³⁷⁵ Human Rights Watch interview, Kigali, September 28, 2000.

³⁷⁶ Juristes Sans Frontières, « Droits et devoirs. »

³⁷⁷ Human Rights Watch interviews, Butare, October 19, 2000.

because he had a job at a Kigali restaurant. After he was recruited, against his will, to serve in the Local Defense Force in late 1999, however, he found it impossible to make ends meet.³⁷⁸

Legal professionals who represent women and children in their property claims say that a victim who is not well liked by her neighbors or by local authorities is much less likely to succeed. In some communities, the minority genocide survivors are more vulnerable, whereas the families of those accused of genocide are the most marginalized in other places. Four children in Kigali, for example, are living with various family friends. Their mother has been in prison on genocide charges for a number of years. Their father was arrested in August 1999 and reportedly beaten to death in detention in Kigali. A man who was caring for one of the children told a Human Rights Watch researcher that supporters of the family attempted to claim the family house back for the children but gave up when they met severe resistance. As these were not their own children, the effort they could expend on the problem was limited. Further, he said, it could potentially be detrimental for their caregivers to draw attention to their association with the family of those presumed guilty of genocide.³⁷⁹

Property disputes involving children rarely make it to court. Adults rarely take property disputes to court either, and many Rwandans do not even know that it would be possible to seek legal recourse.³⁸⁰ A representative of the Ministry of Local Government in Ruhengeri had dealt with only two property cases involving children in the past year, he told Human Rights Watch in late 2000, leading him to the conclusion that orphans did not face serious problems in this domain.³⁸¹ A paralegal in Gisenyi likewise said that she had represented only two children in property disputes and, in fact, both of her clients had been over eighteen by the time they came to her.³⁸² The then Ministry of Gender and Social Affairs also posted several paralegals in provincial capitals. They were later transferred to the Ministry of Gender and Promotion of Women in a government reshuffle, when the gender portfolio was separated from social affairs, so that the paralegals' mandate now extends only to women, not children.³⁸³ Several local women's associations employ paralegals in Kigali and in provincial capitals to assist women and children with their legal problems. But few of those affected, many of whom live far away and cannot afford transportation, know that these services exist.

For children who do not have official guardians to seek recourse in courts, they must first obtain a legal guardian through court proceedings. Alternatively, a savvy victim may request legal "emancipation" to bring an action on his or her own behalf.³⁸⁴

Most children interviewed for one study said they believed that local administrative officials, who typically deal with property and other local disputes, are most likely to intervene when the children's rights are not respected.³⁸⁵ Many complain, however, that officials rarely resolve the disputes in favor of children in practice. Lucille B., a young orphan, said she made repeated visits to her local sector councilor and cell leader for help in getting her property back from her stepmother, but they never acted on her requests. She eventually gave up and moved to the streets.³⁸⁶ Patrick N. of Ngoma, Butare said he thought he had exhausted his local remedies when, finally, the burgomaster agreed to help him get his house back from squatters. While waiting, he heard that the property had been sold, so he went back to the commune only to find that a new burgomaster had been appointed. The new burgomaster told him to go back to the

³⁷⁸ Human Rights Watch interview, Kigali, September 30, 2000. Sources close to him think he was sixteen when recruited as a member of the Local Defense Force, but he thinks he might have been eighteen.

³⁷⁹ Human Rights Watch interview, Kigali, July 26, 2000.

³⁸⁰ See Human Rights Watch, *Uprooting the Rural Poor*, p. 53.

³⁸¹ Human Rights Watch interview with Edward Munyakazi, Ruhengeri, November 21, 2000.

³⁸² Human Rights Watch interview, Gisenyi, December 15, 2000.

³⁸³ Human Rights Watch interview with paralegal of the Minister of Gender and the Promotion of Women, Ruhengeri, November 21, 2000.

³⁸⁴ Loi relative à la personne et la famille en droit civil rwandais, October 27, 1988, arts. 361, 385, 387, and 388. See also Juristes Sans Frontières, « Droits et devoirs. »

³⁸⁵ Ministry of Local Government and UNICEF, *Struggling to Survive*, p. 65.

³⁸⁶ Human Rights Watch interview, Butare, August 24, 2000.

councilor, who refused to help. Overwhelmed, he then gave up and went to the streets in Kigali.³⁸⁷ The councilor of Musaza sector of Rusumo told Human Rights Watch that he could do nothing for a family of children living in a flimsy house made of mud and plastic sheeting. Under the councilor's watch, a governmentally-organized village had been built on part of their family's land, and they must walk thirteen miles round trip in order to reach the small plot they had been allocated in exchange.³⁸⁸

Corruption can also be an impediment to enforcement of children's property rights, and adults are generally more able to pay bribes officials than children are. One lawyer experienced in this domain explained:

Local authorities are not at all cooperative. Some try, but others look at personal interests over the problems of their constituents. So people need to go all over to get anything done. A little blockage at the local level over nothing—the official wants something you don't have, so he leaves you to the devil. This happens especially at low levels. Officials treat people as if their rights are not equal, even if they are in the same position. This is linked to poverty—they are not paid, so they need to make do.³⁸⁹

Vincent K., a young genocide survivor from Gitarama on his own fell victim to this. He approached the sector councilor when neighbors occupied his property. The councilor told him to negotiate with them to share the land. The councilor and population stood by and watched the unbalanced negotiation without intervening. Not surprisingly, Vincent K. lost. He then went to live with the councilor to work as a domestic servant at age seventeen.³⁹⁰

³⁸⁷ Human Rights Watch interview, Kigali, March 11, 1998.

³⁸⁸ Human Rights Watch interview, Rusumo, Kibungo, October 29, 2000.

³⁸⁹ Human Rights Watch interview, Kigali, September 28, 2000.

³⁹⁰ Human Rights Watch interview, Taba, Gitarama, February 11, 1998.

VII. CHILDREN ON THE STREETS

An estimated seven thousand of Rwanda's most vulnerable children have fled the abuses described in the previous chapter to the streets of Kigali and provincial capitals in the hopes that they might make a better life for themselves. Called *mayibobo* in Kinyarwanda, these children have been demonized and marginalized by urban society. They struggle to find enough food to survive and to avoid the wrath of angry law enforcement agents or private citizens who treat them as a nuisance. In the face of gangs of these children who are often dirty and commit petty theft, it is easy for urban dwellers to forget that they are just that—children.

UNICEF and the Kigali Archdiocese both published studies of the situation of street children in Rwanda in recent years. They found that approximately one third of children on the streets said they were so-called double orphans and one third had only one surviving parent. Few street children had had more than three years primary education. Many were separated from their parents during or in the aftermath of the genocide and had lived in centers for unaccompanied minors. Family problems including abuse, alcoholism, or stepparents who chased them out of the house fearing they would claim property destined for their half-siblings were also important factors driving children to the streets. Others simply attempted to escape the extreme poverty in which they lived on the hills, hoping to find work in town.³⁹¹

Human Rights Watch researchers interviewed more than one hundred street children for this report on the streets and in centers conducting programs for them. Most of those interviewed effectively lacked access to property in their home regions: if they had property, it was often occupied by others. Nearly all had been exploited for their labor, and none had completed primary school. The insecurity in which they have grown up has taken its toll on them. It was, sadly, not surprising when a religious worker said that a small boy we had spoken to who looked pre-adolescent was in fact seventeen. His growth had been stunted by malnutrition.³⁹²

Life on the Streets

Though many children said they prefer life on the streets to the hills, their survival is anything but easy. They are malnourished, in poor health, dirty, and have only the torn clothes on their backs. Although the public hospital in Kigali known as CHK, the Centre Hospitalier de Kigali, provides free medical services for street children, many are not aware of this possibility and rarely have access to medical care. The children commonly resort to drug use to cope with the hunger, cold, and difficulties of life in the streets—smoking marijuana, sniffing glue, and inhaling gas fumes. They have virtually no access to education. When asked to explain how they interpret the word *mayibobo*, urban dwellers interviewed for one study emphasized that it refers to children who are filthy, aggressive, criminal, undisciplined, and drug users.³⁹³

A minority of street children actually sleep on the streets, sometimes in doorways, in bins full of charcoal for sale, or even in open air covered with cardboard boxes. Most others find places to spend the night—with night guards, with families who use them as domestic servants for little or no pay, or with adults who give them a place to sleep on the condition that they bring home money or food each day. Louise N., who went to the streets at age thirteen, considered herself lucky when an old woman agreed to let her spend the night at her house in the Kimisagara neighborhood of Kigali. But if Louise N. failed to earn enough money carrying packages in the market, the woman would throw her out at night. Louise N. explained that life is especially difficult for girls who need to find a place to sleep. "It is dangerous to sleep just anywhere," she said.³⁹⁴

³⁹¹ Ministry of Youth, Culture, and Professional Training and UNICEF, *Situation analysis of street children in Rwanda*, Kigali, 1998; Centre Carrefour, Kigali Archdiocese, *Qui Suis-Je ?*, Kigali, 1999.

³⁹² Human Rights Watch interview, Butare, April 25, 2001.

³⁹³ Ministry of Youth, Culture, and Professional Training and UNICEF, *Situation analysis of street children in Rwanda*, p 5, 53-5; Kigali Archdiocese, *Qui Suis-Je ?*, p. 48.

³⁹⁴ Human Rights Watch interview, Butamwa, August 2, 2000.

A 2002 survey by Johns Hopkins University on sexual activity among street children underscored that street children are extremely vulnerable to sexual abuse and sexually transmitted diseases. More than half of the boys interviewed and more than three quarters of the girls, including 35 percent of those under ten, admitted they were sexually active. Sixty-three percent of the boys said they had forced a girl to have sex with them. Ninety-three percent of the girls reported having been raped. One third of the boys and 8 percent of the girls knew how to get a condom, but only a handful reported using condoms all or most of the time over the past year. They averaged between two and three sexual partners during the previous six months. Most knew something about HIV/AIDS, but little about other sexually transmitted diseases. Ninety-eight percent of the girls and 72 percent of the boys said they knew someone living with HIV or who had died of AIDS. Two thirds of those interviewed had never attended school.³⁹⁵

Some 45 percent of children interviewed for the Archdiocese study said they were aged sixteen or older.³⁹⁶ Only 19 percent of them had mandatory identity cards. Others complained that the process was too complicated and long, or they did not want to go to their home communes to apply for the cards.³⁹⁷ Social workers and legal assistants in centers for street children attempt to help the children obtain their identity cards, but have been blocked by a lack of documentation and, at times, uncooperative local authorities.³⁹⁸

The services street children perform are an important part of the informal economy. For example, urban dwellers who otherwise frown on the children regularly pay them to carry their purchases at the market or to guard their cars in downtown neighborhoods. The children also collect garbage and engage in small-scale sales of cigarettes, candy, hard-boiled eggs, peanuts, etc. Employers frequently use the children for hazardous labor for little pay. In Butare, social workers lament that the children are used as to arrange liaisons between local men and prostitutes in exchange for a small commission.³⁹⁹ Their “employment” can be very precarious—if a child falls sick or a policeman confiscates her goods for sale, she has nothing to fall back on. Benjamin U. considered himself lucky when a woman agreed to take him in as an unpaid domestic servant. When he began a training program in mechanics for several hours a day, though, she threw him out and he was left to live on the streets again.⁴⁰⁰

Street children frequently resort to petty theft to aid their survival. Contrary to popular assumptions, however, they rarely engage in more serious offenses. Some of the older street children and young adults have committed more serious crimes, including rape. However, international aid workers working with children in prison confirmed that most of the minors in prison on charges of rape were living with their families and were not street children.⁴⁰¹ In Kigali, children frequently break into cars to steal reflective triangles, which traffic regulations require all cars to possess, and then sell them back to motorists for 1500 Rwandan francs (approximately U.S. \$3). One social worker in Butare has noticed that, most often, she sees children harassed for having stolen avocados or bananas.⁴⁰²

There are nongovernmental centers for street children in the major cities. These centers, distinct from centers for unaccompanied children, provide services including education and/or vocational training, counseling, and food and medical care for participating children. UNICEF and the European Union provide funding for some of the centers’ activities. Many of the centers are affiliated with the Catholic Church. The Kigali Archdiocese, which supports four centers, has worked to coordinate efforts and conduct research and advocacy. It also employs a full-time paralegal to help children in its four centers with legal issues, primarily supporting their property rights. The other centers lack the resources to provide legal assistance for the children they work with.

³⁹⁵ Rwanda: Sexual activity among street children in Kigali, U.N. Integrated Regional Information Networks (IRIN), March 13, 2002.

³⁹⁶ Kigali Archdiocèse, *Qui Suis-Je ?*, pp. 2-3.

³⁹⁷ *Ibid.*, pp. 4-6, 58.

³⁹⁸ Human Rights Watch interview with a paralegal, Kigali, August 31, 2000.

³⁹⁹ Human Rights Watch interviews, Butare, August 24, 2000.

⁴⁰⁰ Human Rights Watch interview, Kigali, July 21, 2000.

⁴⁰¹ Human Rights Watch interviews, Kigali, June 15, 2001 and November 7 and 14, and December 12, 2000.

⁴⁰² Human Rights Watch interview, Butare, April 26, 2001.

The director of the Intiganda center in Butare said that the center aims generally to prepare the children to return to their families on the hills within six months, but this is rarely possible. Often, she said, it can take up to two years for a troubled child to feel ready to return to the hills or for the center to find a suitable host family. In many cases, she added, the family structures the children left lack the capacity to take the children back in.⁴⁰³ When Jean Pierre M.'s father died, his paternal uncle sent his mother away. The uncle ostensibly allowed the boy to stay in the family home, but took over his family's agricultural land. Jean Pierre M. was only twelve, and could not live alone in a house without any means to support himself, so he went to the streets. Social workers told Human Rights Watch that they later attempted to reunite the boy with his mother. After a brief period, his new stepfather threw him out of the house, threatening harm to his mother unless the boy left. So Jean Pierre M. returned to a center for street children. A social worker who went to visit the boy's mother after the boy returned to the center said she had corroborated this version of events.⁴⁰⁴ A Butare social worker visited Joseph K.'s family in the province to prepare for him to move home. She gave up her quest and accepted that he had nowhere to go when she saw that his mother and siblings lived in a very small shelter—and that there was literally no room for the boy to fit into the family's home.⁴⁰⁵

At times, the government has been hostile to the centers for street children. One advocate for street children said officials have accused the centers of indirectly attracting more children to the streets by providing services for them.⁴⁰⁶ The director of one center told a Human Rights Watch researcher that authorities had chastised her for caring for children for too long as well. "If you keep them so long, it encourages other children to come to town, come to the street," a municipal official told her. "That makes the problem worse."⁴⁰⁷ Ironically, when Kigali authorities came under increasing pressure after the start of massive roundups in June 2001, discussed below, the vice mayor told Human Rights Watch that the city had called on the centers to do more and care for even more children. The city did not, however, provide a corresponding increase in resources for the centers to deal with the large increase in residents. And he emphasized that the city did not endorse the work of day centers that provide educational programs but where children were not resident.⁴⁰⁸

Police Violence

Police officers and members of the Local Defense Force generally appear to maintain an adversarial relationship with the street children. Francis R., nineteen when he spoke to Human Rights Watch, had been on the streets since the war. When asked about his relations with law enforcement agents he replied, "I tell you, we are considered street trash. Everyone sees that. So the [officers] don't speak to us."⁴⁰⁹ And the children, in turn, see law enforcement officers as predators likely to beat them, confiscate their goods, or forcibly take them away. It was sadly not surprising for passersby in 2000 to witness a member of the Local Defense Force, apparently unprovoked, pick up a child and repeatedly knee him. One of the witnesses told Human Rights Watch he saw the member of the Local Defense Force then throw the child on the ground and walk away while the boy cried in pain.⁴¹⁰

Angry citizens, too, have at times felt empowered to take the law into their own hands, apprehending and beating children they suspect of stealing. In Butare a merchant beat a boy to death in late December 2000. He suspected the boy of having stolen. The murderer was reportedly arrested.⁴¹¹ An RPA soldier shot a street child to death in a crowded Gisenyi market in June 2000 after the teen had allegedly knocked over a table of tomatoes belonging to the soldier's wife. Witnesses said that other street children, angry over the murder, began throwing stones. Local police then arrested seventeen children in order to restore order and detained them overnight in the Gisenyi police station. When a

⁴⁰³ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁰⁴ Human Rights Watch interview, Butamwa, November 13, 2000.

⁴⁰⁵ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁰⁶ Human Rights Watch interview, Kigali, July 19, 2000.

⁴⁰⁷ Human Rights Watch interview, Butare, April 25, 2001.

⁴⁰⁸ Human Rights Watch interview with Antoine Semukanya, vice mayor, Kigali, June 28, 2001.

⁴⁰⁹ Human Rights Watch interview, Kigali, November 16, 2000.

⁴¹⁰ Human Rights Watch interview, Kigali, November 14, 2000.

⁴¹¹ Human Rights Watch interview with a social worker, Butare, April 25, 2001.

Human Rights Watch researcher went to the Gisenyi police station the next morning, the commander on duty said that the soldier had been arrested and that the seventeen children would be freed later that day.⁴¹²

Sixteen-year-old James D. from Kibungo complained to Human Rights Watch researchers that he felt terrorized by members of the Local Defense Force and older street children alike who frequently beat him. But he said he had no one to turn to, nowhere to go to complain.⁴¹³ One foreign aid worker said that efforts were underway to provide training for the national police to try to improve their capacity to protect children's rights. But he was dismayed that the police had consistently refused to provide the international community with any information, making it difficult to monitor children's rights.⁴¹⁴ Ways must be sought to address the hostility that exists between street children and law enforcement agents—police should treat the children as children, and the children should be taught—and shown by police practice—that the police are there to protect all citizens, including them.

Cleaning the Streets

The Rwandan government began the latest in a series of forcible roundups of street children in June 2002. As of November, members of the Local Defense Force, on the order of the Ministry of Local Government, continued to round children up using violence and against the children's will. Most of the children have been brought to Gitagata, where aid workers have expressed alarm over their conditions. In August, Gitagata was housing twice its capacity of 500 children. Urgent protection needs at Gitagata include an acute shortage of clean water, failure to register or document the children, prevalence of physical and sexual violence, presence of security forces in the camp, and lack of structured programming for the children. When a Human Rights Watch researcher visited Gitagata in September, a couple had come from Kigali to look for their son who disappeared from the market six weeks earlier; the camp administrator refused to release the boy without a letter from their sector counselor in Kigali. Large numbers of children have attempted to escape, including one who was shot by a member of the Local Defense Force and others who have been detained at the nearby Nyamata jail. Some returned to Kigali only to be rounded up again and sent back to Gitagata. As of November, the government had yet to articulate an overall plan for a solution to the problem.⁴¹⁵

The last time the government had attempted to "clean" city streets was one year earlier. On June 19, 2001, the mayor of Kigali started to implement a plan to systematically round Kigali's street children up, in an attempt to rid the streets of street children, ostensibly once and for all. Over the following weeks, local authorities arrested some 1,300 street children.⁴¹⁶ In the face of mounting criticism from the international community in Kigali, the city transferred most of the children to nongovernmental rehabilitation centers after detaining them for days or weeks in city jails. Many escaped and returned to the streets as soon as they thought the streets were safe.

The vice mayor charged with youth affairs explained to Human Rights Watch that the Executive Committee of Kigali City met in May 2001 and decided to deal with the problem of street children by any means necessary. He said city authorities believed they had acquired the sole and unlimited authority to do so under the recent program of decentralization. The vice mayor said Kigali would be pleased if the prefects and national government chose to collaborate in this effort, but would continue whether they liked it or not.⁴¹⁷

The Transitional National Assembly had summoned the Minister of Local Government, Desiré Nyandwi, to explain what the government would do to resolve the problem of street children on two occasions in June 2001; shortly before

⁴¹² Human Rights Watch interviews with the commander and with witnesses to the incident, Gisenyi, June 7 and with witnesses to the incident, August 15, 2000.

⁴¹³ Human Rights Watch interview, Kigali, July 21, 2000.

⁴¹⁴ Human Rights Watch interview, Kigali, July 3, 2001.

⁴¹⁵ Human Rights Watch interviews, Kigali, August 17 and 30 and September 14, 2002 and Gitagata, September 5, 2002.

⁴¹⁶ U.S. Department of State, "Rwanda," *Country Reports on Human Rights Practices 2001*, March 2002, Section 5.

⁴¹⁷ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001. For a discussion of the decentralization policy, see International Crisis Group, "'Consensual Democracy' in Post-Genocide Rwanda: Evaluating the March 2001 Elections," *International Crisis Group Africa Report*, no. 34, October 9, 2001.

Kigali City authorities began systematic roundups of street children.⁴¹⁸ But his deputy, Secretary of State Dr. Odette Nyirahirimo, told Human Rights Watch that neither the central government nor prefects of the other provinces were informed of the Kigali initiative or played any role in it.⁴¹⁹ She did not say whether the Ministry of Local Government had been involved in roundups of street children in Butare and Kibuye that took place during the same month.⁴²⁰

Over the course of several weeks, members of the Local Defense Force in Kigali, acting on instructions from the Kigali Mayor, systematically rounded up children by force and took them to local police stations and other Kigali jails. Not surprisingly, children resisted the roundups, which in turn resulted in the use of physical force, including beatings by their captors. Some of the roundups were conducted in broad daylight, in full view of Kigali residents. Several witnesses said they saw children riding in pickup trucks, with members of the Local Defense Force holding them at gunpoint.⁴²¹ Other children were made to walk to detention centers when rounded up. A thirteen-year-old boy told Human Rights Watch that members of the Local Defense Force woke him up in the abandoned car where he normally slept in Nyamirambo. Then they tied him together with an estimated fifty-five other children using T-shirts or cloth to bind their arms to one another and walked across town in a long line to the Muhima police station. He said that members of the Local Defense Force, some of whom were armed, escorted the children to Muhima, hitting them and threatening them lest they dare try to escape.⁴²²

One night at midnight, about a week after the roundups started, members of the Local Defense Force found two sleeping children who had escaped the initial roundups. The boys told a Human Rights Watch researcher that the law enforcement officers threw them into a truck filled with rotten food and maggots up to their ankles and transported them to a district office, where they spent the night in the lockup. At the district office, members of the Local Defense Force beat them. The next day they were transported to the Muhima station.⁴²³

As of June 26, the Secretary of State of the Ministry of Local Government and Social Affairs said that a total of 700 children had been rounded up thus far. She was not, however, aware that a roundup had taken place in Nyamirambo early that morning.⁴²⁴ At 1 a.m. that morning, Antoine K. watched an estimated fifty members of the Local Defense Force wake up children sleeping on the streets and force them into trucks while he hid in a doorway. The roundup was not terribly violent, he told a social worker, as only those who tried to escape were beaten. Two hours later, he saw those who were captured taken away in a large truck; he estimated there were three hundred of them.⁴²⁵ The social worker, who related the story, explained that the street children often speak of fears of being sent to Iwawa. Human Rights Watch researchers were not able to confirm reports that children were taken there in 1998.⁴²⁶ The social worker added that Antoine K., born a refugee in Uganda, had been a kadogo—a child soldier—with the RPF.⁴²⁷

In some cases, the Local Defense Force rounded up all the children who looked to them like street children, including some children living with their families. One young boy from Gikondo neighborhood in Kigali said he went to the market at 8 a.m. to buy groceries for his mother and, the next thing he knew, a member of the Local Defense

⁴¹⁸ Radio Rwanda news broadcasts, June 6 and 14, 2001.

⁴¹⁹ Human Rights Watch interview, telephone, Kigali, June 26, 2001.

⁴²⁰ Radio Rwanda, morning news broadcast, June 2, 2001; Human Rights Watch interviews, Butare, July 26, 2001.

⁴²¹ Human Rights Watch interviews, Kigali, June 20 and 28, 2001.

⁴²² Human Rights Watch interview, Butamwa, June 28, 2001.

⁴²³ Human Rights Watch interview, Butamwa, June 28, 2001.

⁴²⁴ Human Rights Watch interview with Odette Nyirahirimo, telephone, Kigali, June 26, 2001.

⁴²⁵ Human Rights Watch interview with a social worker, Kigali, June 26, 2001. The child's estimates of the number Local Defense Forces and children involved might be higher than the actual figures.

⁴²⁶ Human Rights Watch has received isolated unconfirmed reports of military recruitment of street children since 1997. One Butare boy said that a soldier had attempted to convince him and other street boys to join the military, but did not force them when they declined. Human Rights Watch interview, Butare, October 19, 2000. Since 2000, most such reports were connected to round-ups.

⁴²⁷ Human Rights Watch interview, Kigali, June 26, 2001.

Force grabbed him and took him to a lockup and, a few days later, to a rehabilitation center. At the rehabilitation center, he said he missed his parents and was worried that they had no idea where he could be.⁴²⁸

During the June roundups in Kigali, most of the children were initially taken to the police station at Muhima. There, several hundred were held at a time for periods ranging from one day to a week. The vice mayor said that the children were not accused of any crime.⁴²⁹ A Human Rights Watch researcher interviewed social workers and three children randomly selected from a group of 111 children who had arrived at a rehabilitation center two days before, and all reported ill-treatment at Muhima. They said police only provided food once every two to three days. Police also apparently tormented the children by beating them when they went to approach the source of water to take a drink. Some slept on the floor of the overcrowded lockup, while others reportedly spent the night outdoors. One thirteen-year-old boy said that police beat him with a rifle butt, injuring his ankle. He said it was swollen for three days, but had started to heal.⁴³⁰ Another, aged twelve, told Human Rights Watch that police used sticks to beat the children on the back of their thighs. "They mostly beat those who tried to escape," he said. "But they refused us water [at the police station]. We didn't drink for a while. When we went to get water to drink, they beat us."⁴³¹ Yet another, also twelve years old, said that police threw stones at the children at the police station, hitting one boy on the head and another in the eye.⁴³² Human Rights Watch did not receive any reports of children who incurred serious injuries in police custody.

National Police denied that the children were beaten while in police custody. When confronted with cases in which children had been beaten during roundups and at Muhima, Damas Gatere, in charge of human rights and community policing for the National Police, told Human Rights Watch that the police are not responsible for acts committed by members of the Local Defense Force.⁴³³ The vice mayor said that Kigali City, which supervises the Local Defense Force and ordered the roundups, did not discipline any members of the force for beating children.⁴³⁴

Those interested in the welfare of the children were not able to monitor children's rights effectively during the roundups. Representatives of UNICEF and local and international nongovernmental organizations all told Human Rights Watch researchers that police at the Muhima station denied them permission to visit the children in detention, telling them that the National Police was merely holding the children for the city. Only Kigali municipal authorities could authorize visits to the detainees, they explained.⁴³⁵ By the time a Human Rights Watch researcher obtained a meeting with the vice mayor, most of the children had already been moved from Muhima to rehabilitation centers. He denied having refused observers permission to have access to the children in detention.⁴³⁶ However, street children were still reportedly detained at Muhima in late 2001, though roundups were then less aggressive and less frequent, and UNICEF staff said they had not yet been allowed to access the police station.⁴³⁷

Further, Human Rights Watch was not able to obtain information about which children were rounded up and where they were taken. Children said they had not registered their names with the police. Not all of the children were taken to Muhima, but some were said they had been taken to district or sector offices. Staff of NGOs and UNICEF said they were not certain how many children were handled in this way, or where or when all were moved.⁴³⁸

⁴²⁸ Human Rights Watch interview, Butamwa, June 28, 2001. The children frequently confuse police, members of the Local Defense Force, and soldiers, all of whom they consider security agents. It is not clear whether they were beaten by members of the Local Defense Force and/or national police at Muhima.

⁴²⁹ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001.

⁴³⁰ Human Rights Watch interview, Butamwa, June 28, 2001.

⁴³¹ Human Rights Watch interview, Butamwa, June 28, 2001.

⁴³² Human Rights Watch interview, Butamwa, June 28, 2001.

⁴³³ Human Rights Watch interview, telephone, Kigali, June 28, 2001.

⁴³⁴ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001.

⁴³⁵ Human Rights Watch interviews, Kigali, June 24, 25, and 26, 2001.

⁴³⁶ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001.

⁴³⁷ Human Rights Watch interview, telephone, Kigali, November 14, 2001.

⁴³⁸ Human Rights Watch interviews, Kigali, June 20, 26, 28, and 31 and July 6, 2001.

Kigali authorities said they transported all street children who said they came from outside Kigali to their home provinces, claiming responsibility only for the children from the capital. They did not consult with provincial prefects before doing so, and the provinces were ill prepared to deal with the children.⁴³⁹ A Human Rights Watch researcher visited children who had been sent to Gitarama. A church-run center already housing local street children had been obliged to take them in, but employees complained that they had not received any prior warning or additional resources.⁴⁴⁰ A researcher who visited Butare was not able to determine where the children from Butare province had been sent. Employees of centers dealing with street children there said that they had not seen any children who had been rounded up in Kigali.⁴⁴¹

In such a climate of confusion, some child protection workers lamented that there were no safeguards to prevent opportunists from taking small numbers of children to use for their own benefit. One international aid worker said that a group of children aged sixteen and older, those who lacked mandatory identity cards, were put in a truck and taken to the Kicukiro neighborhood of Kigali, and then to an undisclosed location. His attempts to trace their whereabouts were futile.⁴⁴² Hutu rebels had attacked the northwest of Rwanda just weeks prior to the start of the roundups, and the war in Congo had recently intensified. This led to fears that some older children rounded up on the streets might be recruited for the military. Staff of two international NGOs told Human Rights Watch researchers they had received credible reports that street children were in fact recruited for the military in the wake of the roundups in isolated cases.⁴⁴³

The vice mayor told Human Rights Watch that the goal of the roundups was not to violate the children's rights but rather to protect children by removing them from the dangers of life on the streets.⁴⁴⁴ After brief periods in detention, authorities did, in fact, send children who were native of Kigali to existing centers that provide programs for street children, most to Project Rafiki in Butamwa district. When a Human Rights Watch researcher visited them at Butamwa, the children had food to eat, new clothes, and a place to sleep. The children all appeared visibly sad and distracted.⁴⁴⁵ Two weeks later, though, once the international spotlight had faded, social workers complained that Project Rafiki ran out of funds and was barely able to buy enough food for the children.

UNICEF was reluctant to support the government's efforts to care for children who had been rounded up forcibly on the grounds that such roundups violated the prohibition against arbitrary detention under the Convention on the Rights of the Child.⁴⁴⁶ While acknowledging that children are generally better off in centers than on the street, UNICEF did not want to reward the city for the means it had used. Instead, along with local and international NGOs, UNICEF attempted to hold a dialogue with the Ministry of Local Government and city authorities to develop a plan to help children leave the streets without violating their rights. At a meeting in Kigali on July 26, all participants—including representatives of Kigali City, the Ministry of Local Government, provincial governments, UNICEF, and NGOs—agreed to a plan of action and an end to forcible roundups. One of the drafters of the plan of action said the participants were dismayed when city authorities continued to round children up in the days following the meeting.⁴⁴⁷

Yet UNICEF failed to denounce the roundups or police ill-treatment of the children. Several sources close to UNICEF told Human Rights Watch researchers that the agency was extremely reluctant to pressure the government to cease forcible roundups for fear of antagonizing government officials. The vice mayor and representatives of the Ministry of Local Government intimidated UNICEF staff, accusing the organization of infringing on Rwanda's

⁴³⁹ Human Rights Watch interview with Dr. Odette Nyirahirimo, Secretary of State of the Ministry of Local Government and Social Affairs, by telephone, June 26, 2001.

⁴⁴⁰ Human Rights Watch interviews, Gitarama, July 25, 2001.

⁴⁴¹ Human Rights Watch interviews, Butare, July 25, 2001.

⁴⁴² Human Rights Watch interviews, Kigali, July 1 and 6, 2001. As noted above, many street children fail to obtain identity cards.

⁴⁴³ Human Rights Watch interviews, Kigali, July 7 and October 3, 2001.

⁴⁴⁴ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001.

⁴⁴⁵ Human Rights Watch field notes, June 28, 2001.

⁴⁴⁶ Art. 37(b).

⁴⁴⁷ Human Rights Watch interview, Kigali, July 31, 2001.

sovereignty, after failing to intervene to stop the 1994 genocide.⁴⁴⁸ The government had similarly threatened to expel UNICEF employees and “ruin their careers” for speaking out on this issue in the past, notably when UNICEF wrote a letter complaining about earlier roundups in February 2000.⁴⁴⁹

Earlier Roundups

The government has repeatedly attempted to use roundups to address the growing problem of street children since 1997. All of the roundups were conducted in violation of the Convention on the Rights of the Child insofar as they amounted to arbitrary arrest and detention.⁴⁵⁰ It seems that the only aspect to have been thought through was police action to round the children up. Officials have placed insufficient emphasis on providing the children with rehabilitation or addressing the root causes why they turn to the streets in the first place. The repeated roundups have failed to reduce the number of children living on city streets or to improve the children’s well being.

In April 1997, the government and military rounded up more than 1,600 children from the streets and sent them to a center at Shyongi, Kigali Rural. The Ministry of Youth, Culture, and Sports apparently divided the children by age, and sent those over age thirteen to “solidarity camps” where they underwent training on political ideology and ethnicity along with returning refugees. More than three hundred of the younger children remained at Shyongi where conditions were poor and they received very little assistance.⁴⁵¹ Many escaped from Shyongi and returned to Kigali within days. Francis R. told Human Rights Watch researchers that the fence surrounding the camp, though made of barbed wire, was not solid, making it easy for them to escape. He said he jumped through the fence and ran, then kept running all the way back to Kigali. “There were three classes,” he said, “so they could say that we were studying. But how could we study with nothing to eat?”⁴⁵² Street children use the word “marathon” to describe escaping from police custody because they must run far very quickly. While the “marathon” can be extremely difficult after having been beaten, one child told Human Rights Watch researchers that it is worth hurting oneself running to avoid being subjected to worse pain later.⁴⁵³

In 1998, the government conducted yet another massive, forcible roundup, this time taking the children to a center in Musebeya commune in Gikongoro Prefecture. Gilbert S., an orphan who used to stay with the director of a local nongovernmental organization in Kigali, was seized during this period. His former foster father said he never saw the boy again.⁴⁵⁴ Though the center at Musebeya was ostensibly to provide education for the children, it offered virtually no programming and the children had little access to basic services. After leaving Gikongoro, some children had to be hospitalized for illnesses they had contracted there.⁴⁵⁵ The camps at Shyongi and Gikongoro were not well monitored. One foreign aid worker conducting research on children’s issues at the time later told Human Rights Watch that it would have been easy for even hundreds of children to disappear. He estimated that 1,200-1,400 children were rounded up and taken to Gikongoro in November 1998. Approximately 400 of them escaped and returned to the streets of Kigali within a week. Others returned to the streets later or eventually went home to their families, but he was not able to account for all the children who had been rounded up.⁴⁵⁶ When asked how the 2001 Kigali roundups differed from the previous ones to Shyongi and Gikongoro, Dr. Odette Nyirahirimo, secretary of state of the Ministry of Local Government and Social Affairs told Human Rights Watch that, in 2001, officials separated the children from Kigali from those from other provinces.⁴⁵⁷

⁴⁴⁸ Human Rights Watch interviews, Kigali, June 28, 2001 and August 15, 2001.

⁴⁴⁹ Human Rights Watch interview, Kigali, November 7, 2000.

⁴⁵⁰ Art. 37(b).

⁴⁵¹ Women’s Commission, *Rwanda’s Women and Children*, p. 34.

⁴⁵² Human Rights Watch interview, Kigali, November 16, 2000.

⁴⁵³ Human Rights Watch interview, Kigali, November 16, 2000.

⁴⁵⁴ Human Rights Watch interview, Kigali, July 19, 2000.

⁴⁵⁵ Human Rights Watch interview with a social worker, Butare, October 19, 2000.

⁴⁵⁶ Human Rights Watch interview, Kigali, July 24, 2000.

⁴⁵⁷ Human Rights Watch interview, telephone, Kigali, June 26, 2001.

Several children who spent time at the camps at Shyongi or Gikongoro told Human Rights Watch that they believed they saw soldiers recruit children there for the military. Rochelle S., a thirteen-year-old Kigali girl, testified that soldiers took her and five other children, four of whom she named, to a place where many other children were assembled in the forest on the shores of a body of water. There, the children were beaten and told that they would be taken to an island to join the military. She was not able to confirm when this took place. Rochelle S. and three others managed to escape, and ran the so-called marathon back to Kigali.⁴⁵⁸

In July 1999, gendarmes⁴⁵⁹ in Kigali conducted violent roundups of street children and detained them in cargo containers in the Remera neighborhood. Children later told aid workers that they had received little to eat or drink and were let out to use toilets only once or twice a day. Richard L. managed to escape from a container, but only after a soldier had beaten him with a rifle butt, causing a serious head wound that took months to heal. He told a social worker who helped him get medical care for the wound that two boys died in the poorly-ventilated container where he was detained, and soldiers had left the corpses there for days.⁴⁶⁰ Fourteen year-old Justin K., who spent one month in the containers, told Human Rights Watch that soldiers made the children come outside each day, then beat them with sticks.⁴⁶¹ A police officer had asked Francis R. to come out of the container to do laundry for him. Francis R. obeyed, but then the policeman yelled at him to go back in, so he went in. After that, the policeman called him out yet again, and asked why the boy had refused to work for him. The policeman then bashed Francis R.'s head against the side of the container and threw him on the ground. When he told his story more than a year later, Francis R. showed Human Rights Watch a scar behind his ear from the beating.⁴⁶²

In 2000, authorities changed tactics. They rounded up street children on several occasions but, rather than attempting to confine them in rehabilitation centers, they simply transported the children to their home communes. Authorities in Kigali instructed local burgomasters (now called mayors) to encourage parents to take responsibility for their children, and to keep them at home. In one commune in Butare, parents were reportedly fined 3,000 Rwandan francs as punishment for having let their children go to the street—a questionable strategy given that most of the families reportedly could not afford 500 Rwandan francs for their children's school fees.⁴⁶³ Within days, most of the children had returned to Kigali. Some lied, telling authorities that they came from communes in Gitarama or Kigali Rural, located close to Kigali town, in order to make it easier for them to return to town quickly.⁴⁶⁴ Three girls in Kigali said they were rounded up at dawn on January 5, 2001. They spent two days at the Muhima police station and were then taken to Masaka, Kigali Rural, their prefecture of origin. One explained that they began their journey back to Kigali the same day, "to continue our lives."⁴⁶⁵ Children who escaped the roundup, which had been conducted by hundreds of law enforcement officers, made a plea to the government to provide them with assistance on the streets rather than force them to return to untenable family situations.⁴⁶⁶

Officials in other provincial cities have followed Kigali's lead and attempted to "clean up" their streets as well. In late June 2000, police rounded up street children in Gisenyi. UNICEF staff who visited Gisenyi the following day saw children who had been badly bruised and were still covered with blood.⁴⁶⁷ Children were also rounded up in Butare in January and June 2001, and in Kibuye in June 2001, as noted above. The national radio quoted Kigali Vice Mayor Antoine Semukanya confirming that the city rounded up street children (and unauthorized merchants) on September 17, 2001, and that in some circumstances, "Local defense people use violent means." He added, "We have cases where

⁴⁵⁸ Human Rights Watch interview, Kigali, April 19, 2000.

⁴⁵⁹ In late 1999, gendarmes were officially demobilized and incorporated into the National Police.

⁴⁶⁰ Human Rights Watch interview with a social worker, Butare, October 19, 2000.

⁴⁶¹ Human Rights Watch interview, Kigali, September 19, 2000.

⁴⁶² Human Rights Watch interview, Kigali, November 16, 2000.

⁴⁶³ Human Rights Watch interviews with social workers, Butare, October 19 and 20, 2000.

⁴⁶⁴ Human Rights Watch interview, Kigali, September 16, 2000.

⁴⁶⁵ Human Rights Watch interview, Kigali, February 21, 2001.

⁴⁶⁶ "A roundup of *mayibobo* on Kigali city streets," *Imvaho Nshya*, no. 1369, January 1-10, 2001; Innocent Karekezi, "Street children: A delicate problem," *Imvaho Nshya*, no. 1372, January 22-28, 2001.

⁴⁶⁷ Human Rights Watch interview, Kigali, July 18, 2000.

defense forces are beaten up by street children and hawkers.”⁴⁶⁸ Kigali residents reported that yet another roundup took place there in late December 2001, most likely to clear the streets in preparation for Christmas celebrations.

Several children told Human Rights Watch that after having been rounded up once or twice, they could never be so careless as to let it happen again. A social worker said that one way the children escape capture is by recognizing that a roundup is being prepared—the national radio sometimes even announces the roundups in advance—and going into hiding for a few days, until the coast is clear.⁴⁶⁹ One boy described how he escaped from police custody in 1999. He was rounded up in the morning in the market and spent the day in a jail in the city market. More and more children were brought to the jail as the day wore on until authorities then brought large trucks to take the children to the stadium in Remera in the late afternoon. He ran to escape as soon as they got there.⁴⁷⁰ Children become proud of the ways in which they manage to evade capture, or to escape once they have been rounded up. In a meeting with the Butare sub prefect in 2000, one boy stood up and told her that rounding up the children only teaches them how to be craftier and how to escape the authorities’ grip.⁴⁷¹

“Teaching Children a Lesson”: Violence in Response to Petty Theft

When citizens report incidents of petty theft in markets or crowded city areas, street children are often the most likely suspects. Children, social workers, and prosecutors have all told Human Rights Watch researchers that members of the Local Defense Force routinely use force to arrest the children when they receive reports of theft in an attempt to gain information, recover the stolen property, and deter the children from stealing again.

In the Kigali Central Market, those accused of theft are brought to a lockup inside the market. The children have nicknamed the lockup *kw’ishuri*, meaning “at school” in Kinyarwanda. Children who regularly work in or around the market report that they can be detained at this lockup as often as once a week. Boys and girls are detained together with adults. They say that members of the Local Defense Force who interrogate them at *kw’ishuri* frequently resort to physical force. Paul T., seventeen years old, told Human Rights Watch researchers that he had been hauled into *kw’ishuri* up to seven times per month. While there, police or members of the Local Defense Force would insult him for being a street kid and rough him up.

If there are thieves in the market, then all the kids in the area will be miserable. The police catch all the street children and put them in *kw’ishuri*. If we are lucky, they find the real thief. If they recover the property, it is lucky and the street children are let out.... They do everything to find the thief. They interrogate the kids, and accuse them of being accomplices.⁴⁷²

He said that, most often, they would release the children by 5 p.m. or even earlier if their supervisor came by and found children in the lockup.

Police also detain children for periods of days at urban police stations. One social worker told Human Rights Watch researchers that she sometimes has to take children from her center to the hospital after they have been detained at the police station in Butare because they have broken bones or other injuries resulting from beatings with sticks and iron rods.⁴⁷³ Police stations and city jails may provide little or no food for those detained there, based on the assumption that families usually bring food to their detained relatives. Unless guards take pity on them, street children in detention may not receive anything to eat. Children and social workers in Butare lament that children are often held for two or

⁴⁶⁸ “Rwanda: Hawkers, Street children evicted from Kigali to curb insecurity,” BBC Monitoring, Source: RNA News Agency, Kigali, in English, September 17, 2001.

⁴⁶⁹ Human Rights Watch interview, Kigali, November 17, 2000.

⁴⁷⁰ Human Rights Watch interview, Kigali, November 16, 2000.

⁴⁷¹ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁷² Human Rights Watch interview, Kigali, November 16, 2000.

⁴⁷³ Human Rights Watch interviews, Butare, October 19, 2000.

three days, even as long as a week, with no food. “When the police see that you will soon die of hunger, they let you go,” said a social worker.⁴⁷⁴

When children who participate in programs offered at centers are detained, staff of the centers often go to the police station or lockup to intervene. Social workers told a Human Rights Watch researcher that law enforcement officials sometimes allow them to take their children out and reportedly beat the children less when social workers are monitoring them.⁴⁷⁵ The director of a center in Butare lamented that other children have chided her on the streets for having left them in jail.⁴⁷⁶

Children complain they do not always know why they have been arrested. Sixteen-year-old Pascal K., who was enrolled in a training program at a center in Butare, for example, was arrested by members of the Local Defense Force while on his way to watch a football match in town, beaten, and detained overnight in a local lockup, then released the following day. He is very indignant about the incident, failing to understand how they dared to arrest him when he had written permission from the center to go attend the game.⁴⁷⁷ A nine-year-old boy complained that he had been walking towards the Kigali bus station with a group of boys in early 2000 when they were attacked by members of the Local Defense Force, taken to the police station, beaten, and held for two days. He said they did not know why they were arrested.⁴⁷⁸

There does not seem to be any clear policy or process for law enforcement officials to follow when detaining street children. It appears from the children’s testimonies that the objective of law enforcement officials is to bully them into returning stolen property, and to try to “teach them a lesson.” One child explained:

We are beaten by security forces ... when we are caught, on the way to the lockup, and when we arrive at the lockup. In the lockup, we are beaten by other prisoners who ask us for money. During interrogation, we are beaten so that we will tell the [police inspector] what we stole or tell him who did it.⁴⁷⁹

Street children are rarely brought to Rwanda’s central prisons, where suspected criminals are generally transferred when police establish their case files. They explain that the central prisons are for real criminals who commit serious crimes, not for street children like them. A group of eight street children in Butare said that neither they nor other street children they know had ever been interrogated by a prosecutor, met with a lawyer, or appeared before a judge.⁴⁸⁰ None of the more than one hundred street children interviewed for this report said they had been dealt with in the formal justice process either. The coordinator of the Ministry of Justice/UNICEF Project on minors in conflict with the law told Human Rights Watch that dealing with street children is outside of the project’s mandate.⁴⁸¹

Nor do law enforcement agents follow clear guidelines for dealing with children less than fourteen years of age who are not considered criminally responsible under the Penal Code. The Butare prosecutor told a Human Rights Watch researcher that children under fourteen should be detained for forty-eight hours and then released—to teach them a lesson.⁴⁸² The sub prefect of Butare charged with social affairs, however, maintained that children under fourteen should not be detained under any circumstances.⁴⁸³ And the fact remains that street children younger than fourteen are routinely arrested and detained, but rarely if ever charged with any crime. Street children are, technically,

⁴⁷⁴ Human Rights Watch interviews, Butare, October 19, 2000; Kigali, April 23, 2001.

⁴⁷⁵ Human Rights Watch interviews, Butare, April 24, 2001 and October, 19, 2000.

⁴⁷⁶ Human Rights Watch interview, Butare, October, 19, 2000.

⁴⁷⁷ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁷⁸ Human Rights Watch interview, Butamwa, August 2, 2000.

⁴⁷⁹ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁸⁰ Human Rights Watch interview, Butare, October 19, 2000.

⁴⁸¹ Human Rights Watch interview, Jean Louis Ndahirwa, Kigali, November 16, 2000.

⁴⁸² Human Rights Watch interview with Jules Marius Ntete, Butare, April 25, 2001.

⁴⁸³ Human Rights Watch interview with Ancille Kagabo, Butare, April 25, 2001.

frequently in violation of a national law against vagrancy, but authorities rarely prosecute this offense. The vice mayor of Kigali said that he would encourage prosecutors to begin charging children with vagrancy if they failed to stay off the streets after the roundups.⁴⁸⁴

Given the enormous overload the genocide caseload has caused the justice system and the total lack of a juvenile justice infrastructure, it may not be realistic or appropriate to expect the state to formally accuse and try children accused of theft. A representative of an international humanitarian agency cautioned it could even have perverse effects to insist that authorities mainstream children accused of petty theft in the regular justice system. It would certainly be worse, she said, for a child to spend a year or more in prison awaiting trial than to spend a few days in a local jail.⁴⁸⁵ The director of a center for street children in Butare expressed a similar view.⁴⁸⁶ They remained concerned, however, that it can be difficult to monitor whether children are arbitrarily detained or ill-treated in detention without an official procedure for dealing with them.

Sexual Violence against Street Girls

While less numerous than street boys, girls living on the streets experience most of the same problems as boys and, in addition, are frequently subjected to sexual violence. A local NGO recently reported that 80 percent of street girls have been victims of rape, while another study puts the figure as high as 93 percent.⁴⁸⁷ One study found that girls who turn to the streets are generally younger than street boys.⁴⁸⁸ Street girls are often invisible because they do not travel around in gangs as boys do, staying generally on their own or in small groups.

Many girls flee to the streets when families who have taken them in, either as foster children or as domestic servants, begin to abuse them.⁴⁸⁹ One girl, seventeen years old, recounted that she lost her job as a domestic servant after her employer's brother raped and impregnated her. Lost and with nowhere to go, she went to the street, was raped again, and later became ill with a venereal disease. She was diagnosed at a public hospital and given a prescription for antibiotics. Since she had no money to buy the medicine, though, she just kept the prescription in her pocket. She took the prescription out to show Human Rights Watch. She said she feared for the health of her unborn child.⁴⁹⁰

Most street girls manage to arrange for a place to sleep at night but must still go to the streets to perform odd jobs in order to earn enough money for food. When a stranger invites a girl into his home, he may have more in mind than simply giving her a place to stay. One young man invited two girls from the street to stay with him, supposedly for their protection. Once they got to his house, he took out a machete and raped each of them. Both were later treated for venereal diseases. A night guard invited four girls who stayed at the entrance of the Saint Michel Church in Kigali to sleep at his place rather than outdoors. They told Human Rights Watch that he raped them after he took them in.⁴⁹¹

A Butare social worker said that Christina G. is what is known as a "child of the blue sky," the daughter of a single mother whose family had rejected her. Christina G. had come to live at Nyampinga, a center that provides some fifty street girls with a place to sleep, food and medical care, education, and skills training. Christina G. told the social worker that she felt compelled to leave the center to earn a living, though, when her mother was arrested, so that she could care for her mother's young baby, who is HIV-positive. She now complains to social workers, who continued to visit her, that she must beg for a living and that she is frequently raped.⁴⁹²

⁴⁸⁴ Human Rights Watch interview with Antoine Semukanya, Kigali, June 28, 2001. 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, guaranteed by international human rights law.

⁴⁸⁵ Human Rights Watch interview, Kigali, December 12, 2000.

⁴⁸⁶ Human Rights Watch interview, Butare, April 24, 2001.

⁴⁸⁷ "Près de 80% des 'filles de la rue' violées," Agence France Presse, February 26, 2002; "Sexual Activity ...," IRIN.

⁴⁸⁸ Kigali Archidiocèse, *Qui Suis-Je ?*, p. 3.

⁴⁸⁹ Human Rights Watch interview, Butare, October 20, 2000.

⁴⁹⁰ Human Rights Watch interview, Kigali, February 21, 2001.

⁴⁹¹ Human Rights Watch interviews, Kigali, February 21, 2001.

⁴⁹² Human Rights Watch interview, Butare, October 20, 2000.

Adults who work with street children have remarked that girls are less vulnerable to arbitrary arrest than boys. The director of Nyampinga attributed this to the fact that they tend to move around alone, as opposed to boys who are often in groups.⁴⁹³ But the girls are nevertheless victims of occasional arrests and forcible roundups. Jessica, aged fourteen, was arrested in Butare in April 2001 and spent several days in the lockup of the police station, reportedly for having stolen food to eat.⁴⁹⁴ Law enforcement officers rounded up girls and women who were begging on the streets of Butare in January 2001.⁴⁹⁵ Girls and women who sell produce or other goods from baskets outside of the Kigali Central Market are likewise at risk of harassment by members of the Local Defense Force, who chase them away, beat them, and confiscate their merchandise, implementing a city policy to do away with unauthorized merchants outside the market. When rounded up, girls must sometimes spend the night together with boys and men in lockups.⁴⁹⁶

While on the streets, girls are at almost constant risk of sexual violence. Helen U. can tell stories for hours about all the times she was raped before going to live in a Butare center at age eleven. After she had been attacked by a few men, she quickly learned that they could run faster than her, and eventually just gave in to her fate. Her face is scarred where men repeatedly scratched her with their fingernails. Helen U.'s social worker was present while she spoke to Human Rights Watch.

One day, a man raped Helen U. and then turned a dog on her, leaving lasting scars on her legs. She says that passersby, including law enforcement officers, failed to intervene during this attack. Another night, two men came to rape her. They heard someone coming and ran away, and she, already bleeding, hid in a bush. She said that two soldiers⁴⁹⁷ found her there, and one proceeded to rape her again. At one point her belly swelled up and she thought she was pregnant. She had never menstruated. She first sought assistance when she became severely ill with venereal diseases and could barely walk. She is now in school and gets regular medical treatment. Helen U. fears that she faces a high risk of contracting HIV.⁴⁹⁸

A small group of girls who sleep on Avenue Paul VI in Kigali's wealthy Kiyovu neighborhood all complained to Human Rights Watch about repeated sexual violence. One of them, fifteen-year-old Speciose J., described how she was raped by a member of the Local Defense Force in Gatsata sector, and wound up with severe abdominal pains and venereal diseases. She says she accused him at the police station, and he was briefly detained but then released. Her friend told Human Rights Watch that a guard at the Kigali Institute of Science and Technology (KIST), who she says is a government soldier, forced her to have sex with him, and seriously beat another girl who refused him.⁴⁹⁹

Despite increased law enforcement attention to the problem of child rape across the country, violence against street girls is rarely punished. In one case, the paralegal who assists children at centers run by the Kigali Archdiocese has urged prosecution of a man who raped a street girl. The girl is now pregnant from the rape. The paralegal was not aware of any other cases of sexual violence against street girls being pursued by prosecutors when a Human Rights Watch researcher interviewed him in late 2000.⁵⁰⁰

⁴⁹³ Human Rights Watch interview, Butare, October 20, 2000.

⁴⁹⁴ Human Rights Watch interview with social worker, Butare, April 24, 2001.

⁴⁹⁵ Human Rights Watch field notes, Butare, January 8, 2001. Human Rights Watch interviews, Butare, April 24, 2001.

⁴⁹⁶ Local media regularly report roundups of unauthorized merchants in Kigali. E.g. Radio Rwanda news broadcast, September 17, 2001.

⁴⁹⁷ She used the word for soldier, but may have meant a police officer or member of the Local Defense Force.

⁴⁹⁸ Human Rights Watch interviews, Butare, October 20, 2000 and January 11, 2001.

⁴⁹⁹ Human Rights Watch interviews, Kigali, February 21, 2001.

⁵⁰⁰ Human Rights Watch interview with jurist, Kigali, November 17, 2001.

VIII. THE ROLE OF THE INTERNATIONAL COMMUNITY

“Why are there still children in prison, why are they still rounding up kids on the street, why no juvenile court, why no proper legal framework for orphan care?,” a representative of a donor agency asked Human Rights Watch rhetorically in early 2002.⁵⁰¹ Rwanda’s international donors have provided nearly U.S. \$4 billion in foreign assistance since 1994.⁵⁰² Although many diplomats and foreign aid workers are aware that widespread violations of children’s rights are still committed, the international community has largely muted its criticism. When donors have pressured the government to act on some of the violations discussed in this report, they have mostly done so only intermittently and failed to follow through.

UNICEF, the most important multilateral donor for children’s issues, estimates that it has assisted more than 30,000 orphans and vulnerable children in recent years and is attempting to reach the many others in need of protection.⁵⁰³ UNICEF has had a yearly budget of approximately U.S. \$10 million in Rwanda for the past three years, part of which is allocated from the agency’s general budget and part funded separately by member states.⁵⁰⁴ UNICEF projects spending of approximately U.S. \$25 million in Rwanda for the five-year period 2002-2006, including some U.S. \$5 million for governance and justice, \$5 million for AIDS and reproductive health programming, and \$15 million for poverty reduction, with human rights being a cross-cutting theme for all funding categories.⁵⁰⁵

UNICEF has the greatest expertise and, as the primary financial contributor in this domain, works most closely with the government on children’s rights. However, other bilateral and multilateral donors that contribute to larger government initiatives such as decentralization or reform of the justice system more generally, which benefit children indirectly, also have the power to influence the Rwandan government. The World Bank financed a U.S. \$5.2 million Community Reintegration and Development Project to support “Social Protection.” The World Bank does not currently finance the education sector in Rwanda, although it did prior to the genocide.⁵⁰⁶ The U.N. High Commissioner for Human Rights, U.N. High Commissioner for Refugees, and United Nations Development Programme also provide financial and technical backing for the government. The European Union (E.U.) funds a local NGO to provide assistance to street children in Kigali.

The British Department for International Development (DFID) is Rwanda’s largest bilateral donor, giving more than U.S. \$40 million in general budget support per year since 2000—more than double the amount allocated the previous year and significantly more than the next largest bilateral donor. DFID has suggested that 35 percent be allocated for education but grants the government of Rwanda discretion on how to spend the money.⁵⁰⁷ The United States Agency for International Development (USAID), the next largest bilateral donor, gives Rwanda approximately U.S. \$25 million per year, the largest portion of which goes to HIV/AIDS programming.⁵⁰⁸ In May 2002, USAID announced an increase of U.S. \$2.8 million over two years, \$2 million of which is earmarked for educational assistance for 6,000 genocide survivors.⁵⁰⁹ Other major donors include Germany, the Netherlands, and Belgium.

⁵⁰¹ Human Rights Watch interview, Kigali, March 18, 2002.

⁵⁰² Ministry of Finance and Economic Planning, Department of Statistics, *Rwanda: Development Indicators 2001*, no. 4, July 2001.

⁵⁰³ “Rwanda: Interview with UNICEF Representative Theophane Nikyema,” U.N. Integrated Regional Information Networks (IRIN), June 10, 2002.

⁵⁰⁴ UN Integrated Regional Information Networks (IRIN), November 29, 2001.

⁵⁰⁵ United Nations, *Rwanda: United Nations Development Assistance Framework*, Kigali, October 2001 (abridged version), p. 24.

⁵⁰⁶ See information at <http://www.worldbank.org> (accessed March 27, 2002).

⁵⁰⁷ DFID, *Departmental Report 2001: The Government’s Expenditure Plans 2001/2002 to 2003/2004 and Main Estimates 2001/2002*, p. 159; DFID, *Rwanda: Country Strategy Paper for 1999*, Human Rights Watch interviews, Kigali, March 18, 2002.

⁵⁰⁸ United States Agency for International Development, “Rwanda Mission Program Data Sheet,” 2002.

⁵⁰⁹ “USAID grants US \$2 million for genocide orphans, flood victims,” U.N. Integrated Regional Information Networks (IRIN), May 29, 2002.

To be sure, even large amounts of foreign aid could not eradicate poverty in Rwanda overnight. And, with seemingly infinite needs, every decision to fund one program amounts in practice to a decision not to fund another. Some aid workers assert that they had to work to ensure that children's basic needs were met before they could worry about issues like access to education or inheritance rights. Likewise, international experts who have worked with the Rwandan justice system for years have stressed that they had to address major weaknesses of the justice system as a whole before they could focus on juvenile justice.

But these arguments were more persuasive in the years immediately following the genocide. Rwanda's international donors, bilateral and multilateral, called for the government to give priority to children accused of genocide as early as 1995, as discussed above, and allocated resources for this purpose. In 1996, Gerald Gahima, then chief of staff in the Ministry of Justice, told Human Rights Watch that money was not an issue for dealing with minors accused of genocide. "As far as children are concerned there is plenty of money. People are happy to give money for children," he said.⁵¹⁰ Yet the government accomplished little in this domain before late 2000, and still has yet to bring approximately 4,000 minors accused of genocide to justice.

In 1996, a representative of UNICEF told a Human Rights Watch researcher that the agency's goal was to work with the government without denouncing rights violations.⁵¹¹ Donors have largely maintained this attitude towards Rwanda. But this collaborative approach, often useful, has to be combined with open criticism when it fails to achieve progress if the abuses in question are serious and ongoing.

As described above, the international community has continued to praise the government for making progress in juvenile justice despite its failure to follow through on its commitments. For example, foreign diplomats and the Special Representative of the U.N. Commission on Human Rights to Rwanda praised the government for finally releasing some four hundred children who were too young during the genocide to be held criminally responsible and failed to urge the government to free hundreds more such detainees who remained in prison. Similarly, donors delivered praise for the creation of mobile groups to work on minors' case files in August 2000, but failed to react when the government suspended them a month later, reportedly due to a lack of funds, without having transferred a single file to court. And when progress was finally made on these two issues, the international community had devoted almost all of its attention and resources to gacaca, meaning that trials of minors accused of genocide are no longer being treated as a priority.

In relation to forcible roundups of street children, well-informed sources close to UNICEF said the agency did not denounce the government's policy and action vigorously because the Ministry of Local Government had made clear that it did not want to hear such criticism and that it would create problems for anyone who dared to go against their wishes.⁵¹² Other bilateral and multilateral donors also remained silent, though their representatives in Kigali could not help but notice that the street children who usually begged money them had disappeared from view. Reacting to reports that children had been forcibly rounded up and detained illegally at the Muhima police station in June 2001, a representative of the E.U. asked the government to provide information about the children's situation. Government officials assured her that the children were well taken care of, and took her to visit some who had just been transferred from the police station to a rehabilitation center and given new clothes. Convinced that the government was in fact protecting the children, the E.U. chose not to criticize police or Kigali municipal authorities for forcible roundups, beatings, and illegal detention of children that had and continued to take place.⁵¹³ UNICEF and international NGOs now lament that they have had trouble securing funding for programs to protect street children, programs aimed in part at preventing future roundups.⁵¹⁴

⁵¹⁰ Human Rights Watch interview, Kigali, February 27, 1996.

⁵¹¹ Human Rights Watch interview with Ray Torres, project officer, UNICEF, Kigali, March 21, 1996.

⁵¹² Human Rights Watch interviews, Kigali, November 7, 2000, June 28, 2001, and August 15, 2001.

⁵¹³ Human Rights Watch interviews, by telephone, Kigali, June 26 and 28, 2001.

⁵¹⁴ Human Rights Watch interviews, Kigali, March 18, 2002.

IX. INTERNATIONAL LEGAL STANDARDS

The genocide violated Rwandan children's rights on an unthinkable scale. It also set the stage for a whole host of long-term systemic rights violations for children. Hundreds of thousands of children who were left without parental care are victims of abuse and exploitation on an ongoing basis. Thousands more children who migrated to city streets suffer violence at the hands of law enforcement agents. Thousands more, no longer children, languish in prison without trial for crimes of genocide they allegedly committed while they were children.

Rwanda is a party to the Convention on the Rights of the Child and to the African Charter on the Rights and Welfare of the Child. It is the responsibility of the Rwandan government to protect the rights of all these children and young people. It is not enough to entrust their rights to the traditional social safety net, which has already been stretched beyond its limits. Nor can their plight be put off as an inevitable consequence of poverty. The Rwandan government must put their best interests at the heart of its efforts towards reconstruction and reconciliation, and must use these efforts to enshrine measures that will protect children's rights in the future.⁵¹⁵

Juvenile Justice

The due process guarantees accorded to children under international human rights law apply to children accused of genocide, as for any other crime. The gravity of the crime does not justify suspension or violation of children's fundamental rights and legal standards.⁵¹⁶

Children accused of crimes have a right not to be detained arbitrarily or unlawfully.⁵¹⁷ Imprisonment of a child should be a last resort and for the minimum period possible.⁵¹⁸ The primary objective in placing juveniles in an institution should be to provide them "care, protection, education, and vocational skills," that will enable them to "assume socially constructive and productive roles in society."⁵¹⁹ Yet hundreds of children who were younger than fourteen during the genocide, too young to be held criminally responsible were incarcerated for periods of years instead of benefiting from assistance for rehabilitation and reintegration into society. Thousands more who were between the ages of fourteen and eighteen in 1994 have been held in prolonged pretrial detention, often on unsubstantiated genocide charges. In addition, street children have repeatedly been arrested arbitrarily without any process.

International standards also recognize that children in conflict with the law, a particularly vulnerable group, are entitled to special due process protections. States are strongly encouraged to develop specialized courts and procedures for juveniles.⁵²⁰ Rwanda has established special Minors' Benches in law, but has let them lapse in practice. Juvenile defendants effectively receive no special protections in the justice system as the only benefit to which they are entitled is a reduction in penalties.

Whether or not they have established separate juvenile justice systems, states are obligated to afford children the basic guarantees of a fair trial, including the right to be presumed innocent until proven guilty, to be informed promptly and directly of the charges against them, to have prompt access to legal and other appropriate assistance, and to have their cases heard without delay.⁵²¹ None of these has been consistently respected for juveniles accused of genocide—or common crimes.

⁵¹⁵ Graça Machel, *Impact of Armed Conflict on Children*, GA Doc. A/51/306, August 26, 1996, Section IV, "Reconstruction and Reconciliation." Article 39 of the Convention on the Rights of the Child requires states to take measures to promote recovery and reintegration of child victims of armed conflict.

⁵¹⁶ See, for example, Machel, *Impact of Armed Conflict on Children*, para. 251.

⁵¹⁷ Convention on the Rights of the Child, art. 37(b); International Covenant on Civil and Political Rights, art. 9.

⁵¹⁸ Convention on the Rights of the Child art. 37(b). See also the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), G.A. Res. 40/33, annex, 40 U.N., 44 U.N. G.A.O.R. Supp. no. 53, U.N. Doc. A/40/53, art. 19.1. (1985).

⁵¹⁹ Beijing Rules, art. 26.1.

⁵²⁰ Convention on the Rights of the Child, art. 40(3); Beijing Rules, art. 1.4.

⁵²¹ Convention on the Rights of the Child art. 40(2)(b); International Covenant on Civil and Political Rights, art. 14(5).

The U.N. Rules for the Protection of Juveniles Deprived of their Liberty, as well as the U.N. Standard Minimum Rules for the Treatment of Prisoners, set forth detailed specifications of the conditions under which children may be confined.⁵²² They entitle children to basic standards of health, sanitation, and nutrition. In addition, they require states to provide children in detention with access to education and vocational training. International law also mandates the separation of children from adults in detention.⁵²³ Conditions in Rwandan prisons and lockups and at Gitagata Reeducation Center for Children fall well below these recognized international standards, which are meant to represent only a minimum. At times, treatment has been so inhumane as to violate the prohibition against torture or other mistreatment.⁵²⁴

Freedom from Abuse and Exploitation

Hundreds of thousands of children in Rwanda live without one or both parents. Parents were killed during the genocide and war, children were separated from their parents at so young an age that their families could not be traced, parents are in prison awaiting trial for genocide, and parents have died of AIDS, an epidemic made worse by the widespread sexual violence of the genocide and after. Some children stay with family members, others with foster families, while many live without adults. Article 20 of the Convention on the Rights of the Child requires special protection for them as children deprived of family care.

Children without their parents, like all children, have a right to be free from abuse and exploitation.⁵²⁵ Article 19 of the Convention on the Rights of the Child holds states responsible to protect all children from violence, neglect, mistreatment, abuse, or exploitation at the hands of their parent, legal guardian, or anyone else responsible for their care.⁵²⁶ The Rwandan government has failed to protect these children's rights to be free of exploitation of their labor, to have access to education, and to inherit property.

Under the convention's article 19, Rwanda has an obligation to take legislative, administrative, and other measures to enforce the rights of children. Despite repeated pronouncements since 1995, the Rwandan government has failed to draft legal standards for the protection of children in foster care. Local government officials—on whom the burden falls to protect vulnerable children in their jurisdictions—lack necessary resources and the political will to fulfill this responsibility.

Exploitative forms of child domestic labor are prohibited under the Convention on the Rights of the Child and international labor law. Though not explicitly mentioned, domestic labor can fall squarely within the definition of a hazardous form of work for children in some cases.⁵²⁷ Children in Rwanda, as in other countries, are frequently

⁵²² U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (no. 49A) at 205, U.N. Doc. A/45/49 (1990); Standard Minimum Rules for the Treatment of Prisoners, U.N. ECOSOC Res. 663C (XXIV), U.N. Doc. E/3048 (1957), amended by ECOSOC Res. 2076, U.N. Doc. E/5988 (1977). These standards, although non-binding, have been recognized in the international community by adoption as General Assembly resolutions. They provide an authoritative statement of the international community's agreement on minimum acceptable standards.

⁵²³ Convention on the Rights of the Child art. 37(c); International Covenant on Civil and Political Rights art. 10 (2)(b); Additional Protocol I to the Geneva Conventions of 1949, art. 77; Additional Protocol II to the Geneva Conventions of 1949, art. 6; Fourth Geneva Convention of 1949, art. 68.

⁵²⁴ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. G.A. Res. 39/46, 1984. Rwanda has signed but not ratified the convention. However, the prohibition on torture as codified by the convention is widely considered to be binding customary international law. Torture is also prohibited in Convention on the Rights of the Child art. 37(a) and International Covenant on Civil and Political Rights art. 10(a), which Rwanda has ratified.

⁵²⁵ Convention on the Rights of the Child, arts. 19, 32, and 34. International Covenant on Economic, Social, and Cultural Rights, art. 10(3).

⁵²⁶ See also Arts. 32, 34, and 36.

⁵²⁷ Convention on the Rights of the Child art. 32; ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 1999. (Ratified by Rwanda, May 23, 2000.) Article 3(d) defines the worst forms of child labor as comprising "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health,

required to toil in homes from early morning until late at night, or even to be on call twenty-four hours a day. While they perform chores that might not normally be hazardous, the long hours exacerbate the negative impact the labor has on the child's well being. Girls face a high risk of physical and sexual abuse from their employers. Child domestics rarely receive fair compensation for their labor. In addition, working as a domestic servant can hamper a child's long-term development. The subservient attitudes often required by employers or, as is often the case in Rwanda, foster families, can lead to low self-esteem—particularly when other children in the household are treated differently, for example, being permitted to eat more and go to school. In addition, child domestic servants are invisible—they are in homes across the country, yet difficult to identify and monitor and more difficult still to protect.

All children have a right to education, including free primary education without discrimination.⁵²⁸ This right is progressive, meaning that governments must strive to implement it according to the means available, but poverty is not the sole cause of denial of the right to education. The Government of Rwanda has not taken sufficient steps to ensure children not living with both parents have access to schooling. A national law makes primary education obligatory and free in theory only.⁵²⁹ Costs associated with primary school can be prohibitively expensive for many Rwandan children, especially orphans.

International law requires states to take extra measures to protect children from sexual abuse and exploitation.⁵³⁰ This engenders responsibility to protect girls living with foster parents, girl heads of households who trade sex for school fees or other basic needs, and street girls who are subject to sexual violence.

safety, or morals of children.” For ILO further elaboration of this definition, see ILO Recommendation No.190: Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

⁵²⁸ Art. 28, Convention on the Rights of the Child; art. 11, African Charter; art. 13, IESCR.

⁵²⁹ Law Relating to Rights and Protection of the Child against Violence, art. 10 (English version.)

⁵³⁰ Arts. 19 and 34 Convention on the Rights of the Child, art. 27, African Charter. Anti-discrimination provisions also require states to protect girls from gender-specific forms of exploitation and abuse. Art. 2, Convention on the Rights of the Child; art. 3, African Charter; Art. 2, International Covenant on Civil and Political Rights; Convention on the Elimination of Discrimination Against Women.

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