

**RWANDA: INVESTIGATE
KILLINGS OF REFUGEES**

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1. EXECUTIVE SUMMARY

On 22 February 2018, at least 11 Congolese refugees were killed when the police opened fire on protestors in Karongi town and in Kiziba refugee camp, both in Western Rwanda. Further police operations in Kiziba in April and May resulted in clashes between refugees and the police, with at least one refugee dying of his injuries.

One year on, rather than investigating the unnecessary and/or excessive use of force by police, the Rwandan authorities have arrested and prosecuted refugees for their involvement in protests that were largely peaceful, as well as for “spreading false information with intent to cause a hostile international opinion against the Rwandan Government” by sharing information about the events with international media among others.

The fact that the protests were unauthorized is not enough to justify the decision to disperse them and certainly does not justify the excessive use of force that was employed. While there appears to have been isolated incidents of violence from the protestors, this was not inevitable and might have been avoided with the deployment of effective lawful policing techniques. These incidents and the subsequent prosecution of refugees involved demonstrate the Government of Rwanda’s lack of tolerance towards those who express dissent in the country, through whatever means.

This briefing is based on interviews with 28 people, analysis of video footage and photographs, and a review of official statements and media coverage. Amnesty International shared its detailed findings with the Rwandan government, the National Commission for Human Rights (NCHR) and United Nations High Commissioner for Refugees (UNHCR) on 1 February 2019 but had not received a response by time of publication.

VIOLENT RESPONSE TO PROTESTS

On 20 February 2018, hundreds of Congolese refugees walked out of Kiziba refugee camp in protest at cuts in assistance and other proposed changes. Up to three refugees were seriously injured when soldiers from the Rwanda Defence Force (RDF) opened fire in an apparent attempt to disperse the crowd on its way to the UNHCR field office in Karongi, around 15 km away from the camp.

Between 20-22 February, the Rwanda National Police (RNP), UNHCR and government officials repeatedly asked the refugees that had converged outside the field office to return to the camp. Police encircled the crowd and on the third day of the protest, there was a swift escalation. According to witnesses, around 15 minutes after a final warning was issued, teargas was fired into the crowd. A red flare was fired while teargas still in the air, and was promptly followed by the police opening fire into the crowd, resulting in the deaths of at least eight and injuries to at least 20 refugees.

The next day, the RNP reported that “violent demonstrators armed with stones, sticks and metal projectiles assaulted and wounded seven police officers. Police were forced to use teargas to disperse the rioters, protect and rescue officials, and secure the nearby communities.” The statement does not refer to or explain why the police shot into the crowd.

While some of the protestors may have been throwing stones, the RNP officers were equipped with protective riot gear, and do not appear to have been under any immediate threat to their lives. The use of live ammunition in these circumstances would therefore have been unlawful and unnecessary. In any case, shooting randomly into a crowd of people cannot be justified even as a response to an immediate threat of

death or serious injury. Following the killings, UNHCR said that “this tragedy should have been avoided and the disproportionate use force against refugees is not acceptable.”

In addition to the eight refugees that were confirmed killed in Karongi, a further three were killed on the same day in Kiziba camp. Refugees gave Amnesty International a list of 34 refugees who they claim were injured and 14 who they say were killed during the incidents in Karongi and Kiziba. Amnesty International has not independently confirmed these reports.

From 20 April 2018, the police maintained a heavy presence in and around Kiziba camp. Armed police patrolling on foot were followed and at times obstructed by large groups of people. UNHCR reported that there were confrontations on 30 April. The police used tear gas to disperse groups of youth who had been throwing stones at them. A child was injured and had to be rushed to hospital for treatment. On 1 May, further confrontations led to 14 refugees being hospitalised for their injuries, one of whom died on arrival in hospital.

PROTESTORS PROSECUTED – BUT NOT THE POLICE

At least 65 refugees have been arrested since February 2018 (including 30 on 1 May 2018) and 63 are being or have been prosecuted for their roles in the protests at the time of writing. Two of those arrested were later released. The charges include holding illegal demonstrations and spreading false information with intent to create a hostile international opinion against the Rwandan government. While it is appropriate to prosecute individuals where there is sufficient *prima facie* evidence that they used violence during protests, bringing criminal charges merely for their involvement in a demonstration deemed illegal or sharing information on the events is an unlawful and unnecessary restriction on freedom of peaceful assembly and freedom of expression.

The RNP and the NCHR both announced investigations into the incidents, but, one year on, their findings have not yet been made public. Statements issued by Rwandan government bodies indicate that the investigations focus solely on the role of refugees, but make no mention of an investigation into the actions of the police, including whether the use of force deployed was appropriate or, even if the use of force were necessary, whether less lethal methods could have been used.

In March 2018, the Government of Rwanda, UNHCR and the World Food Programme (WFP) set up a joint support team which undertook a lessons-learned review into the incidents. UNHCR underlined that the team did not have an investigation remit, as that is the responsibility of the Rwandan authorities.

RECOMMENDATIONS

Amnesty International urges the Government of Rwanda to ensure accountability for the events that occurred in Karongi town, Kiziba refugee camp and their environs in February to May 2018. An independent investigation should evaluate the methods employed by the RNP, the local administration and the Rwanda Defence Force to manage the demonstrations, including the use of force and of firearms, and whether deaths and injuries could have been avoided. If there is sufficient evidence, police officers responsible for unlawful use of force and firearms should be suspended from duty pending criminal prosecutions. The NCHR and UNHCR should also publish their findings.

In order to prevent avoidable deaths and serious injuries in future, the Government of Rwanda must review and expand RNP guidelines on policing assemblies and on the use of force and firearms in line with internationally accepted standards and ensure that police officers are trained on these guidelines.

Parliament should revise legislation that unnecessarily restricts the rights to freedom of association, peaceful assembly and expression. This would include revising the 1991 law on public demonstrations and meetings to favour the right to hold peaceful assemblies and demonstrations, including by introducing a notification rather than authorization regime; removing penalties for unauthorized but peaceful demonstrations from the Penal Code; and repealing the offence of ‘Spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan Government’.

2. METHODOLOGY

Amnesty International conducted research for this briefing between February and December 2018. It is based on 28 interviews, including 23 with witnesses to the events described, video footage, photographs, and a review of official statements and media coverage. Interviews were conducted in English and French, as well as Kinyarwanda and Kiswahili with interpretation into English and French. Many individuals interviewed were concerned about their security. To protect their identities, Amnesty International has omitted names, other identifying information, and some interview dates and locations.

During and after the demonstrations in Karongi, many photos and videos of the events circulated online. Amnesty International used its Digital Verification Corps, a network of volunteers trained in social media verification to help in the review and verification process of the materials received. The verification methodology included checking for the capture date and upload date to social media, geolocating the content and checking for corroborating evidence. All visual footage was cross-checked by different members of the Corps using this methodology and reviewed by Amnesty International researchers. Any ambiguous results were subjected to further specialist analysis.

Amnesty International shared initial findings in meetings with the NCHR and with UNHCR in April 2018, and with the Ministry of Justice in May 2018. Amnesty International wrote to the Ministry of Justice, Ministry of Defence, Ministry of Emergency Management and Refugee Affairs, NCHR and UNHCR on 1 February 2019 to request a response to the more detailed findings contained in this briefing and details of any investigations and prosecutions of those suspected to be responsible for violations and abuses. No response to Amnesty International's letters had been received by the time of publication.

3. EXCESSIVE USE OF FORCE IN POLICING PROTEST

On the morning of 20 February 2018, hundreds of Congolese refugees walked with their belongings from Kiziba refugee camp to UNHCR's field office in Karongi in protest at recent cuts to the assistance they had been receiving and over concerns about further proposed changes affecting their livelihoods. The refugees asked UNHCR to help repatriate them to the Democratic Republic of Congo (DRC) or relocate them to any other country.¹ Leaders of the refugee community in the camp, elected to an executive committee, had previously written to UNHCR expressing their concerns, most recently in January and early February 2018.²

As the refugees walked about 15 km from their camp to Karongi, RDF soldiers attempted to block their way and ordered them to return to the camp. Witnesses said that while attempting to disperse the crowd, soldiers shot and injured at least two refugees, one in the leg and the other in the neck.³ Gunfire can be heard in video footage analysed by Amnesty International. Two weapons are heard – one firing semi-automatically, the other in occasional bursts of fully automatic fire – both using live ammunition.⁴ As one refugee described it, “First they shot up and then they shot into the refugees and three people were injured. We scattered.”⁵

Despite this attempt, the crowds of refugees continued to Karongi where they staged a sit-in protest in an empty area in front of the UNHCR office that lasted for three days. Estimates of the number of participants vary widely – RNP announced that 500 refugees took part, UNHCR estimated 700, whereas some media reports spoke of thousands of protesters and some refugees that Amnesty International spoke to said that up to 10,000 people eventually left the camp to come to Karongi.⁶

On the afternoon of 20 February, refugee representatives spoke with UNHCR's head of office to explain their grievances. With many of the refugees having lived in Kiziba camp for over 22 years, their grievances

¹ Amnesty International interviews with witnesses JB and VR.

² Refugees Deeply, ‘Please Tell Us Where We Belong’: A Deadly Refugee Protest in Rwanda, 4 April 2018, <https://www.newsdeeply.com/refugees/articles/2018/04/04/please-tell-us-where-we-belong-a-deadly-refugee-protest-in-rwanda>.

³ Accounts varied as to whether two or three refugees were injured. Amnesty international interviews with witnesses GB, AN, BH, CB and CJ.

⁴ Voice of America, « L'armée tire pour disperser des réfugiés congolais qui manifestaient au Rwanda », 20 February 2018, <https://www.voafrique.com/a/l-armee-a-tire-a-balles-reelles-sur-des-refugies-congolais-qui-manifestaient-au-rwanda/4262465.html>.

⁵ Amnesty International interview with witness CJ.

⁶ Amnesty International interviews with witnesses AN, BH and AG.

combined both short and longer-term concerns about subsistence and livelihoods.⁷ Some of the issues had been raised previously in letters and meetings; others were raised for the first time.⁸

The following morning, on 21 February, UNHCR's head of office, flanked by police, addressed the refugees. He told them that if they wanted to return to the DRC they could, but that UNHCR could not provide any assistance to do that. If the refugees wanted to receive assistance, they should go back to the camp. He urged the refugees to cooperate, as they were breaking Rwandan law. The Mayor of Karongi and the district police commander also addressed the refugees that afternoon.⁹

Police were present throughout the protest and surrounded the refugees camped outside UNHCR's field office. From the second day of the protest (21 February), they allowed refugees to exit the site – for example, to get food to prepare meals – but they denied them entry on their return. At times during the protest, the crowd of refugees blocked access to UNHCR's office.¹⁰

Mid-afternoon on 22 February, UNHCR sent an SMS message to refugees encouraging them to return to Kiziba camp to receive appropriate assistance.¹¹ Around 4pm on the same day, the provincial governor tried to address the refugees but according to a witness was met with cheering and whistling – or “praying and singing” as a refugee described it. He then handed over the megaphone to a police commander who told the crowd to disperse or the police would use the necessary means to do so.¹² According to witnesses, he ordered the women and children to move away from the rest of the crowd. The refugees refused to be separated.¹³

Shortly after that warning was issued, around 15 minutes later, the police fired teargas into the crowd.¹⁴ A video clip shows the crowd of refugees reacting to the teargas, covering their faces and flushing their eyes with water to try to counteract its effects.¹⁵ No one in the crowd is seen throwing stones or behaving violently in the one-minute video clip seen and reviewed by Amnesty International, although some sticks are visible in the images. Towards the end of the recording, more teargas is fired towards the crowd and there is some commotion as refugees begin to run away from it. Similarly, a witness told Amnesty International that the crowd took some time to react but eventually people started running away from the teargas.¹⁶

About 10-15 minutes after teargas started being used, witnesses described seeing a red flare shot in the air immediately followed with gunshots. One witness described hearing a single gunshot first and then seeing a flare being shot into the air, after which the gunshots increased. Likewise, two other witnesses described seeing red fireworks being released before the police started shooting into the crowd.¹⁷

Witnesses interviewed independently told Amnesty International that there was a short interval between the police starting to use teargas and the start of the shooting – their estimations ranged between three and 20 minutes.¹⁸ Three witnesses also told Amnesty International that it was difficult to see exactly what was happening because of the tear gas.¹⁹ This suggests that the police were shooting into the crowd despite having very poor visibility while tear gas was still in the air.

In a statement issued on 23 February, the police spokesperson CP Theos Badege said that: “the demonstrations turned violent and Police intervened to calm down the situation. Violent demonstrators armed with stones, sticks and metal projectiles assaulted and wounded seven police officers. Police were forced to use teargas to disperse the rioters, protect and rescue officials, and secure the nearby communities.”²⁰ The RNP statement did not address or explain why the police shot into the crowd.

⁷ The refugees were particularly concerned about a proposal by UNHCR “to launch with its partners a socio-economic profiling exercise to (i) categorize refugees in accordance with protection principles and local approaches to social protection of vulnerable individuals (ubudehe) and (ii) develop a baseline that can be used to develop a targeting strategy for the operation to enable self-sufficient refugees to graduate out of assistance.” UNHCR, Internal/External Vacancy Announcement No: 18/HCR/KGL/VN/008, 12 February 2018, <https://www.unhcr.org/rw/wp-content/uploads/sites/4/2018/02/NOA-Assistant-Durable-Solutions-Officer-Social-economic-profiling-Kigali.pdf>. The *Ubudehe* programme classifies Rwandan households into wellbeing categories and informs the level of social assistance available to them.

⁸ Amnesty International interviews with witnesses JB and BH.

⁹ Amnesty International interviews with witnesses BH, MM, AN, GB and JB.

¹⁰ Amnesty International interviews with witnesses GB, JB and CJ.

¹¹ Amnesty International communication with UNHCR.

¹² Amnesty International interviews with witnesses MM, BH and JB.

¹³ Amnesty International interviews with witnesses AG, CJ and JH.

¹⁴ Amnesty International interviews with witnesses JB, GB and AN.

¹⁵ Video on file with Amnesty International. Analysis of the metadata confirmed that it was indeed shot outside the UNHCR field office in Karongi.

¹⁶ Amnesty International interview with witness JB.

¹⁷ Amnesty International interviews with witnesses AN, WR and JB.

¹⁸ Amnesty International interviews with witnesses AN, AG, GB, JB and VR.

¹⁹ Amnesty International interviews with witnesses GB, JB and VR.

²⁰ CP Theos Badege, Rwanda National Police, Statement on refugee demonstrations in Karongi, 23 February 2018, http://police.gov.rw/news-detail/?tx_ttnews%5Btt_news%5D=11438&cHash=0006fc6a447d6b5df93be5ab6ebe4ee5

None of the refugees Amnesty International spoke to said that the protestors threw stones. However, one witness did state that while protestors did not come to the protest armed, some picked up stones from the ground, seeking to defend themselves after the police fired teargas on the crowd. The same witness also described seeing one police officer bleeding from a head wound.²¹

After the police opened fire on the crowd, the refugees scattered. At least eight people were killed and many others injured.²²

Many refugees made their way back to the camp, while others spent the night outside the camp for fear of being arrested. Some of the injured were taken to health centres and hospitals for treatment.²³

UNHCR said that three refugees were killed the same day in Kiziba camp following a protest at the police post and that the deaths were caused by the RNP firing on protestors.²⁴ Less information is available on the precise sequence of events at the camp than in Karongi.

While the RNP confirmed on 23 February that 20 'rioters' were wounded, with five succumbing to their injuries, UNHCR reported on 26 February that 11 refugees had been killed (eight in Karongi and three in Kiziba) and that many others, including police, had been injured. UNHCR did not include a final number of refugees injured in the February incidents.²⁵

Refugees gave Amnesty International a list of 34 refugees who they claim were injured and 14 who they say were killed during the incidents in Karongi and Kiziba, including two babies reported to have been born prematurely. Amnesty International has not independently confirmed these reports.²⁶

Witness testimony, video footage and photos attest to the fact that police deployed in the frontline were equipped with protective gear including helmets, riot shields and body armour and do not appear to have been under any immediate threat to their lives.²⁷ The use of live ammunition in these circumstances would therefore be unlawful and unnecessary. In any case, shooting randomly into a crowd of people can never be justified even as a response to an immediate threat of death or serious injury. Following the killings on 22 February, UNHCR said that "this tragedy should have been avoided and the disproportionate use force against refugees is not acceptable. UNHCR calls on the authorities to refrain from further use of force and to investigate the circumstances of these tragic incidents."²⁸

²¹ Amnesty International interview with witness GB.

²² UNHCR, UNHCR shocked over refugee deaths in Rwanda, 26 February 2018, <https://www.unhcr.org/rw/13150-unhcr-shocked-refugee-deaths-rwanda.html>

²³ Amnesty International interviews with witnesses VR, AN and WR.

²⁴ UNHCR, Rwanda Operational Update, February 2018, <https://www.unhcr.org/rw/wp-content/uploads/sites/4/2018/03/Operational-Update-Feb-2018.pdf>; UNHCR, UNHCR shocked over refugee deaths in Rwanda, 26 February 2018, <https://www.unhcr.org/rw/13150-unhcr-shocked-refugee-deaths-rwanda.html>

²⁵ UNHCR, UNHCR shocked over refugee deaths in Rwanda, 26 February 2018, <https://www.unhcr.org/rw/13150-unhcr-shocked-refugee-deaths-rwanda.html>

²⁶ The youngest reported to have died were newborn babies; the oldest was a 48-year-old man. Apart from a 14-year-old and a 16-year-old, the others were all reported to be in their twenties and thirties.

²⁷ Video and photos on file with Amnesty International.

²⁸ UNHCR spokesperson Cécile Pouilly, "UNHCR shocked over reports of refugee deaths in Rwanda", 23 February 2018, <https://www.unhcr.org/news/briefing/2018/2/5a8fde6b4/unhcr-shocked-reports-refugee-deaths-rwanda.html>

4. ARREST AND PROSECUTION OF REFUGEES

I want to be very clear with you – this land where you are is Rwandan territory ... it doesn't belong to UNHCR. We don't have a territory, we don't have services, and we don't have land. We are here to support the government to ensure your protection and your wellbeing. I want to be very clear – you are in the hands of the Rwandan government, you are not in the hands of UNHCR.

UNHCR's country representative, Ahmed Baba Fall, responds to questions during a meeting with refugees from Kiziba and Rwandan government officials on 15 March 2018.²⁹

Following the violent dispersal of the protest, the RNP arrested people accused of involvement in organizing the protests and “instigating the violence.” Many refugees went into hiding after the violent dispersal of the protest, afraid of being arrested.

On 23 February, the day after the protests, police initially reported that 15 refugees had been arrested. It was later confirmed that 21 refugees were arrested in the immediate aftermath of the February demonstration, with a further two refugees arrested and detained on 10 and 25 March 2018. Following these, 30 more refugees were arrested on 1 May and 12 others were taken into custody during the course of the month. Two were later released, bringing to 63 the total number of refugees in detention in relation to the events of February and May 2018.³⁰

Thirty of the arrests took place following a security operation conducted in Kiziba camp two months after the protests. On 20 April 2018, Amnesty International began receiving reports that the RNP was conducting a security operation in Kiziba refugee camp and was surrounding the area by deploying a large number of police officers in and around the camp. When contacted the same day, the then police spokesperson, CP Theos Badege, told Amnesty International, “I don't know where you get your information. There is nothing special going on in Karongi police activities.”³¹ Despite this denial, UNHCR later confirmed that they were made aware of the deployment of a “large number of police officers in and around Kiziba camp” on the morning of 20 April.³² According to UNHCR, the Ministry of Disaster Management and Refugee Affairs (MIDIMAR)³³, informed them that “the increase of police officers is also due to the rise of tensions in the camp and they are there to ensure security and safety of refugees, staff and host communities.” During the

²⁹ Audio recording available at Refugees Deeply, ‘Please Tell Us Where We Belong’: A Deadly Refugee Protest in Rwanda, 4 April 2018, <https://www.newsdeeply.com/refugees/articles/2018/04/04/please-tell-us-where-we-belong-a-deadly-refugee-protest-in-rwanda>

³⁰ Email communication with UNHCR, August 2018. UNHCR is supporting legal aid for the detained refugees.

³¹ Telephone interview with CP Theos Badege, 20 April 2018. Note on file with Amnesty International.

³² UNHCR, ‘UNHCR deploras refugee death in Kiziba camp, appeals to avoid further confrontation,’ 3 May 2018, <https://www.unhcr.org/rw/13241-unhcr-deploras-refugee-death-kiziba-camp-appeals-avoid-confrontation.html>

³³ The Ministry of Disaster Management and Refugee Affairs (MIDIMAR) was replaced by the Ministry of Emergency Management and Refugee Affairs in the October 2018 cabinet reshuffle.

operations, humanitarians were evacuated from the camp on several occasions for their safety due to increased violence.³⁴

While the police operations were underway, on 24 April 2018 the Rwanda Investigation Bureau (RIB) issued a number of summonses to members of the refugee's executive committee and other refugees in leadership positions in the camp.³⁵ Some of the refugee leaders are among those who were arrested in May. It appears that the arrest of the refugee leaders may have been another motivation for the security operation in Kiziba. On 30 April, MIDIMAR issued a statement informing the public that "preliminary findings have established that a core issue causing unrest in the Kiziba Camp was the refugees' executive committee, which was established to help in the management of the camp, but has instead been mobilising refugees to revolt against government officials and partner institutions [...]."³⁶ The Ministry announced that it had decided to dissolve the committee with immediate effect.

A heavy police presence was maintained in and around the camp. Armed police patrolling on foot were followed and at times obstructed by large groups of people.³⁷ UNHCR reported that there were confrontations on 30 April, with tear gas used by the police to disperse groups of youth who had been throwing stones at them. A child was injured in the confrontations and had to be rushed to hospital for treatment.³⁸ On 1 May, further confrontations led to 14 refugees being hospitalised for their injuries, one of whom died on arrival in hospital.³⁹

COURT CASES

The cases are being tried in at least four groups. The first group of refugees, arrested in February and March 2018, are accused of illegal demonstration or public gathering,⁴⁰ disobeying enforcement of laws,⁴¹ rebellion⁴² and violence against public authorities.⁴³ The former members of the executive committee on trial are accused of the same offences, as well as additional charges of spreading false information with intent to create a hostile international opinion against the Rwandan state.⁴⁴ The third group of refugees, arrested in May in relation to disturbances in the camp, are accused of throwing stones at the police officers and are charged with violence against public authorities.⁴⁵

In a fourth case, a refugee was convicted of spreading false information or harmful propaganda with intent to cause a hostile international opinion against the Rwandan government, causing uprising or unrest among the population, and illegal demonstration or public meeting.⁴⁶ Convicted of being among the protest organisers and of having circulated false information, including to international media and human rights groups, he was sentenced in late October 2018 to 15 years in prison.⁴⁷

While it is appropriate to prosecute individuals where there is sufficient *prima facie* evidence that they used violence during protests, bringing criminal charges merely for their involvement in a demonstration that is deemed illegal is an unlawful and unnecessary restriction on freedom of peaceful assembly. As explained in more detail below, criminal liability for any violent acts should be personal and organizers should not be held responsible for the acts of others.

Criminalizing the sharing of information on the events, through the charge of 'spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan Government' is an unlawful and unnecessary restriction on the peaceful expression of opinions.

³⁴ UNHCR, 'UNHCR deplors refugee death in Kiziba camp, appeals to avoid further confrontation,' 3 May 2018, <https://www.unhcr.org/rw/13241-unhcr-deplors-refugee-death-kiziba-camp-appeals-avoid-confrontation.html>

³⁵ Copies on file with Amnesty International.

³⁶ Ministry of Disaster Management and Refugee Affairs, Statement on Ongoing Normalisation Process in Kiziba Refugee Camp, 30 April 2018, <http://midimar.gov.rw/news-and-multimedia/press-release/>

³⁷ Video on file with Amnesty International.

³⁸ UNHCR, 'UNHCR deplors refugee death in Kiziba camp, appeals to avoid further confrontation,' 3 May 2018, <https://www.unhcr.org/rw/13241-unhcr-deplors-refugee-death-kiziba-camp-appeals-avoid-confrontation.html>

³⁹ UNHCR, 'UNHCR deplors refugee death in Kiziba camp, appeals to avoid further confrontation,' 3 May 2018, <https://www.unhcr.org/rw/13241-unhcr-deplors-refugee-death-kiziba-camp-appeals-avoid-confrontation.html>

⁴⁰ Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code, article 685. The equivalent in the 2018 Penal Code ("Law N°68/2018 of 30/08/2018 determining offences and penalties in general") is article 225.

⁴¹ Penal Code 2012, article 464. No direct equivalent in 2018 Penal Code.

⁴² Penal Code 2012, article 530; equivalent to article 230 in 2018 Penal Code.

⁴³ Penal Code 2012, article 540; equivalent to article 234 in 2018 Penal Code.

⁴⁴ Penal Code 2018, article 194.

⁴⁵ Penal Code 2012, article 540; equivalent to article 234 in 2018 Penal Code.

⁴⁶ Penal Code 2018, articles 194, 204 and 225.

⁴⁷ Copy of judgement issued by High Court of Rusizi sitting in Karongi, 31 October 2018

5. INCOMPLETE, UNTRANSPARENT INVESTIGATIONS

While the protests were still ongoing, MIDIMAR announced on 21 February 2018 that the RNP would start investigations into the cause of the protests. Jean Claude Rwahama, Director of Refugee Affairs, was cited as saying: “We are mindful of the rights of refugees but also caution that they must respect the laws of the host country. Police will therefore carry out thorough investigations into this incident, to establish responsibility and ensure it doesn’t re-occur.”⁴⁸

In a statement released on 23 February, the RNP Spokesperson also recalled that: “Rwanda National Police reminded the protestors that disruption of public order was unacceptable. The refugees were requested to respect the law, avoid unlawful demonstration and exercise calm as their issues are looked into by concerned institutions.”⁴⁹

The NCHR initiated investigations of its own immediately after the protests and visited Karongi town and Kiziba refugee camp on 23 February. In a press release issued on 9 March, NCHR shared its preliminary findings and stated that “the Commission learnt that after negotiations that were initiated by local authorities failed, the protests turned violent when clashes broke out on Thursday 22 between refugees and the police after the latter were attacked while trying to quell violence at the United Nations High Commissioner for Refugees office in Karongi District.”⁵⁰ A detailed report was to be published in due course, but to date it is not publicly available. Amnesty International requested information on the progress of the report during its meeting with the NCHR in April 2018 and understood that the report was being prepared at that time. The NCHR did not reply to Amnesty International’s letter of 1 February 2019 requesting further information on the report’s progress.

The scope of the NCHR investigation has not been announced, but none of the statements issued by Rwandan government bodies or the NCHR have mentioned any investigation into the actions of the police, including whether the use of force deployed was appropriate or whether less lethal methods could have been used.

In March 2018, the Government of Rwanda, UNHCR and the World Food Programme (WFP) set up a joint support team which undertook a lessons-learned review into the incidents. UNHCR underlined that the team “did not have an investigation remit, as it is the responsibility of the Rwandan authorities to institute a

⁴⁸ KT Press, Police To Investigate Congolese Refugees Protest, 21 February 2018, <https://ktpress.rw/2018/02/police-to-investigate-congolese-refugees-protest/>

⁴⁹ CP Theos Badege, Rwanda National Police, Statement on refugee demonstrations in Karongi, 23 February 2018, http://police.gov.rw/news-detail?tx_ttnews%5Btt_news%5D=11438&cHash=0006fc6a447d6b5df93be5ab6ebe4ee5

⁵⁰ National Commission for Human Rights, Press Release on Protest by Congolese Refugees in Karongi Town and Kiziba Refugee Camp, 9 March 2018, http://cndp.org.rw/fileadmin/user_upload/Statement_on_the_protest_by_Congolese_refugees_in_Karongi_town_and_Kiziba_refugee_camp.pdf

competent, independent and objective investigation into the incidents and the circumstances leading up to the incidents and aftermath.”⁵¹

A delegation from UNHCR’s Office of the Inspector General’s Oversight Operations Unit also visited Kiziba in late March 2018.⁵² The unit is tasked, among others, with conducting ad hoc inquiries into incidents of violent attacks on UNHCR personnel and operations, that involve fatalities, major injuries or large-scale damage to UNHCR assets.

Neither UNHCR nor the Government of Rwanda have published their findings.

⁵¹ UNHCR, Rwanda Operational Update, March 2018, <https://www.unhcr.org/rw/wp-content/uploads/sites/4/2018/04/March-2018-Operational-update.pdf>

⁵² Communication with refugees and UNHCR.

6. APPLICABLE RWANDAN AND INTERNATIONAL LAW

RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Rwanda's constitution guarantees the right to freedom of peaceful and unarmed assembly and states that prior authorization is not required, except when provided for by the law. Any limitations must be provided for by the law "aimed at ensuring recognition and respect of other people."⁵³ However, under the Penal Code "[a]ny person who illegally holds a demonstration or a meeting or who demonstrates on a public place without prior authorization, commits an offence."⁵⁴ This means that in practice, public assemblies do require prior authorization. The penalty for holding an unauthorized demonstration is between eight days and six months' imprisonment and/or a fine of 500,000-1,000,000 Rwandan francs (approximately 560-1120 USD). If the demonstration is judged to have threatened security, public order or health, the penalty is six months to a year in prison and a fine of 3,000,000-5,000,000 Rwandan francs (approximately 3345-5575 USD).

The 1991 law on public demonstrations and meetings requires prior written notification of public assemblies, including demonstrations, to be made to the mayor, prefect or minister responsible for the interior if the event takes place in a town, in several towns of the same prefecture, or in several prefectures, respectively. The notification should be given in person six days before the event, or 30 days if sent by mail.⁵⁵ While described as notification, the law in effect requires prior authorization.

Rwanda's 2010 police law additionally requires competent public entities who have granted authorization to hold "rallies, demonstrations, peaceful protest or support marches, or use of mobile or static loudspeakers that may disrupt public order and security of the population" to send a copy of the authorization to the local police authorities at least 24 hours before the event.⁵⁶ The RNP is responsible for maintaining security at authorized rallies. In the case of unauthorized rallies, the police are instructed to prevent or stop them from being held.⁵⁷

The right to freedom of peaceful assembly is protected by the International Covenant on Civil and Political Rights (ICCPR), to which Rwanda is a State party. Permissible restrictions on the rights are broadly in line with those provided in the Rwandan constitution, with a slight difference in wording ("public health" rather than "social welfare").

The former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association visited Rwanda in 2014. He found that Rwanda's "legal framework is not conducive to a free and unhindered exercise of the right to freedom of peaceful assembly. He firmly believes that such exercise should not be

⁵³ The Constitution of the Republic of Rwanda of 2003 revised in 2015, article 41

⁵⁴ Law N°68/2018 of 30/08/2018 determining offences and penalties in general (Penal Code), article 225

⁵⁵ Law 33/91 of 05/08/1991 relating to public demonstrations and meetings, articles 4 and 5. Prefectures are no longer in use in Rwanda, having been replaced by a smaller number of provinces, sub-divided into districts. Likewise, the functions of the former Ministry of Interior have been integrated into different government ministries. It is not clear which ministry would now authorize assemblies.

⁵⁶ Law N°46/2010 of 14/12/2010 Determining the Powers, Responsibilities, Organization and Functioning of the Rwanda National Police, article 35

⁵⁷ Law N°46/2010, article 36

subject to prior authorization by the authorities, including de facto authorization as stipulated by the above-mentioned provisions. At most, a prior notification requirement is sufficient to facilitate peaceful assemblies and demonstrations and to take measures to protect public safety and order and the rights and freedoms of others. Further spontaneous assemblies and demonstrations should be recognized in law, exempted from prior notification and, therefore, not be sanctioned. [...] Furthermore, the law should contain a clear presumption in favour of holding peaceful assemblies and demonstrations to facilitate the exercise of the right to freedom of peaceful assembly.”⁵⁸

In relation to sanctions, the Guidelines of the African Commission on Human and Peoples’ Rights (ACHPR) on Freedom of Association and Assembly in Africa provide that they “shall be applied only in narrow and lawfully prescribed circumstances” and that criminal sanctions shall not be imposed, “in the context of laws governing assemblies”. Further, “liability shall be personal. Neither the organizers nor fellow participants of a public assembly shall be subjected to sanctions of any kind on the basis of acts committed by others” and “organizers shall not be subject to sanctions or dispersal merely for failure to notify.”⁵⁹

A decision to disperse a protest, even one that is unauthorized, must be taken in line with the principles of necessity and proportionality – that is when there are no other means available to protect a legitimate aim (national security or public safety, public order, the protection of public health or morals, the protection of the rights and freedoms of others) that outweighs the right of people to assemble.

While both national and international law are clear that only peaceful assemblies are protected, it is also important to note that a peaceful assembly does not lose its peaceful character due to sporadic violence or unlawful behaviours of some individuals.

USE OF FORCE AND FIREARMS

Rwanda’s police law provides guidance on the use of force and firearms:

“Article 37: Use of force

The Rwanda National Police may use appropriate means of force if it realizes that its objective cannot be achieved otherwise. The use of force has to be lawful, reasonable and proportionate to the objective. The use of force shall be consistent with laws governing police officers.

“Article 38: Use of firearms

The Rwanda National Police shall endeavour to accomplish its mission without using firearms. A police officer may, where necessary, use a firearm if: 1. he/she has unsuccessfully tried other means of force; 2. he/she is subject to violence or has to assist other persons who are subject to violence when no other means are available; 3. he/she is fighting armed persons and cannot protect persons or property he/she is supposed to protect by any other means; 4. he/she has to arrest notorious criminals or any other armed persons.”

The RNP’s code of conduct does not provide further guidance on the use of force and firearms and Amnesty International is not aware of any other publicly available guidelines on the use of force by law enforcement officials in Rwanda.

The provisions in the police law are not precise enough to meet the requirements of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The law does not explicitly state that the use of force should be avoided as far as possible and that if it is necessary it should be restricted to the minimum required. The Basic Principles lay out clear guidance that firearms may only be used as a last resort and when strictly necessary to protect law enforcement officials or others against the imminent threat of death or serious injury. Police should be equipped with protective gear in situations where violence may occur and give preference to the use of less-lethal weapons over live ammunition. Firing warning shots into the air to clear a crowd, for example, is not a permissible use of firearms.

The UN Special Rapporteur observed that “the fear of being targeted has contributed to individuals and associations refraining from exercising their right to peaceful assembly to voice their grievances” and that the

⁵⁸ Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 16 September 2014, A/HRC/26/29/Add.2, paras 18 and 19.

⁵⁹ African Commission on Human and Peoples’ Rights, Guidelines on Freedom of Association and Assembly in Africa, Articles 99, 100, 101 and 102.

police saw their role solely to be maintaining public order and not one of facilitating peaceful assemblies.⁶⁰ The Inspector General of the Police told the UN Special Rapporteur when they met in 2014 that there had been no instance of police misconduct during the policing of assemblies and demonstrations.⁶¹

In 2017, the ACHPR issued its ground-breaking Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa. The guidelines lay out several key actions that should follow a demonstration, five of which are especially pertinent in this case:

“24.3. Any use of force by law enforcement officials during the conduct of an assembly operation should be subject to an automatic and prompt review by a competent and independent authority. Law enforcement officials who are the subject of a review must not be deployed to assembly operations until the conclusion of such review.

24.4. The discharge of a firearm by a law enforcement official during an assembly operation must be promptly reported by operational command to a competent authority, such as any oversight authority with a mandate to review and report on police conduct and operations.

24.5. State Parties must conduct a thorough investigation and account of circumstances surrounding every case of death or serious injury of persons in the context of assemblies.

24.6. If a person dies as a result of law enforcement action, a prompt, impartial and independent inquiry into the cause of death must be undertaken by an independent judicial authority. The purpose of the investigation is to determine the cause, manner and time of death, the persons responsible, and any pattern or practice that may have brought about that death. The investigating authority must have access to all necessary information and persons to conduct their inquiry.

24.7. Law enforcement agencies should publicly communicate the findings of any internal debriefings and/or investigations, whether internal and external, resulting from each assembly operation.”

Following the incidents in Karongi and Kiziba, it is clear that there needs to be an urgent investigation into police conduct during the demonstrations, and that a broader evaluation of policing methods is required to ensure that adequate guidance is in place to avoid loss of life and/or injuries when policing future demonstrations.

RIGHT TO FREEDOM OF EXPRESSION

The freedom of press, of expression and of access to information is protected by Rwanda's constitution, with the proviso that “freedom of expression and freedom of access to information shall not prejudice public order, good morals, the protection of the youth and children, the right of every citizen to honour and dignity and protection of personal and family privacy. Conditions for exercising and respect for these freedoms are determined by law.”⁶²

While certain limitations may be imposed on freedom of expression, in line with Article 19 of the International Covenant on Civil and Political Rights, to which Rwanda is a state party, they must be clearly laid out in national law, have a legitimate aim and be necessary and proportionate to that aim.

Two provisions of the Penal Code which are often used to stifle the expression of dissent have been brought to bring charges against refugees who participated in the February 2018 protests – spreading false information or harmful propaganda with intent to cause a hostile international opinion against the Rwandan Government, and causing uprising or unrest among the population.⁶³ The vague and overly broad wording of these and similar offenses allows for them to be misused to criminalise criticism of the government. In recent court cases, such as the 2018 case against the former independent presidential aspirant Diane Rwigara, the

⁶⁰ Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, paras 25 and 26

⁶¹ Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, para 26

⁶² The Constitution of the Republic of Rwanda of 2003 revised in 2015, article 38

⁶³ Law N°68/2018 of 30/08/2018 determining offences and penalties in general (Penal Code), articles 194 and 204

debate has focused on the veracity of the statements made, rather than the rights of individuals and groups to voice their opinions and to share information.

7. CONCLUSION AND RECOMMENDATIONS

The events in and around Kiziba camp and Karongi town in February to May 2018 and their aftermath demonstrate once again that dissent is not welcome in Rwanda. The government of Rwanda has been relentless in pursuing and prosecuting those involved in the protests but has been totally silent on the unnecessary and/or excessive use of force by its law enforcement officials. The government should redirect its energies towards ensuring justice for the victims and preventing avoidable deaths in the future.

Amnesty International recommends the following concrete steps to ensure accountability, implement necessary reforms and rebuild trust with the refugee community.

TO THE MINISTRY OF JUSTICE

- Mandate an independent judicial mechanism to investigate the events that occurred in Karongi town, Kiziba refugee camp and their environs in February to May 2018. The investigation should evaluate the methods employed by the RNP, the local administration and the RDF to manage the demonstrations in Karongi, Kiziba and on the road to Karongi, including the use of force, less-lethal weapons (such as teargas) and the use of firearms, and whether deaths and injuries could have been avoided. If there is sufficient evidence, police officers responsible for unlawful use of force and firearms resulting in the death and serious injury of protestors should be suspended from duty pending criminal prosecution;
- Review and expand RNP guidelines on policing assemblies and on the use of force and firearms in line with internationally accepted standards. Ensure that RNP officers are trained on these guidelines.

TO THE PARLIAMENT OF RWANDA

- Revise Law 33/91 of 05/08/1991 relating to public demonstrations and meetings to promote a presumption in favour of the right to hold peaceful assemblies and demonstrations, including by introducing a notification rather than authorization regime;
- Amend the Law N°68/2018 of 30/08/2018 determining offences and penalties in general (Penal Code 2018) to remove the penalties for holding unauthorized but peaceful demonstrations and to repeal the offence of 'spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan Government' on the basis that it criminalizes the peaceful expression of opinions.

TO THE NATIONAL COMMISSION FOR HUMAN RIGHTS

- Publish the findings of its investigation into the events that occurred in Karongi town, Kiziba refugee camp and their environs in February 2018;
- Monitor and report on the trials of the refugees being prosecuted in relation to the protests;
- Propose amendments to Rwanda's Penal Code (2018) and Law relating to public demonstrations and meetings (1991) to ensure that they are in line with international standards protecting the rights to freedom of peaceful assembly, of association and of expression.

TO UNHCR

- Publish the findings of the lessons learned review conducted with the Government of Rwanda and the WFP into the events that occurred in Karongi town and Kiziba refugee camp in February 2018;
- Undertake measures to build trust with the refugees at Kiziba camp and ensure clarity of communication.

TO THE MINISTRY OF EMERGENCY MANAGEMENT AND REFUGEE AFFAIRS

- Undertake measures to build trust with the refugees at Kiziba camp and ensure clarity of communication.

TO DONOR GOVERNMENTS AND RESETTLEMENT STATES

- Ensure sufficient funding for refugee response and increase the number of places available for third-country refugee resettlement, especially for protracted situations.

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TO ONE PERSON, IT
MATTERS TO US ALL.**

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RWANDA: INVESTIGATE KILLINGS OF REFUGEES

On 22 February 2018, at least 11 Congolese refugees were killed when the police opened fire on protestors in Karongi town and in Kiziba refugee camp, both in Western Rwanda. Further police operations in Kiziba in April and May resulted in clashes between refugees and the police, with at least one refugee dying of his injuries.

One year on, rather than investigating the unnecessary and/or excessive use of force by police, the Rwandan authorities have arrested and prosecuted refugees for their involvement in the protests, as well as for “spreading false information with intent to cause a hostile international opinion against the Rwandan Government” by sharing information about the events with international media among others.

Amnesty International urges the Government of Rwanda to redirect its energies towards ensuring justice for the victims and preventing avoidable deaths in the future.