



REPUBLIC OF RWANDA



MINISTRY IN THE PRIME MINISTER'S OFFICE IN
CHARGE OF FAMILY PROMOTION AND GENDER

INITIAL REPORT ON THE
IMPLEMENTATION OF
AFRICAN CHARTER ON THE
RIGHTS AND WELFARE OF
THE CHILD

FINAL PAPER

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List of Acronyms and Abbreviations

ASOFERWA	Association de Solidarité des Femmes Rwandaises
ACRWC	African Charter on the Rights and Welfare of the Child
CRC	Convention on the Rights of the Child
CUC	Centres for Unaccompanied Children
DRC	Democratic Republic of Congo
FARG	Fund for Assistance to Survivors of Genocide
FAWE	Forum for African Women Educationalist
GCPH	General Census of the Population and Housing
GoR	Government of Rwanda
HAMS	Hygiène et Assainissement en Milieu Scolaire
ICRC	International Committee of Red Cross
ILO	International Labour Organisation
KURET	Kenya, Uganda, Rwanda, Ethiopia Together
MAP	Multi - Sector AIDS Programme
	Ministry of Public Service, Skills Development, Vocational Training and Labour
MIFOTRA	Ministry in the Prime Minister's Office in Charge of Family Promotion and Gender
MIGEPROF	Ministry of Youth, Sports and Culture
MIJESPOC	Ministry of Local Government, Community Development and Social Affairs
MINALOC	Ministry of Education, Science, Technology and Research
MINEDUC	Ministry of Justice
MINIJUST	Ministry of Internal Affairs
MININTER	Ministry of Health
MINISANTE	National Commission for Human Rights
NCHR	Non-Government Organisation
NGO	National Programme of the Child
NPC	National Unity and Reconciliation Commission
NURC	National Youth Council
NYC	Official Gazette
OG	Office National de la Population
ONAPO	Orphans and Vulnerable Children
OVC	Protection And Care of Families against AIDS
PACFA	President's Emergency Programme For AIDS Relief
PEPFAR	National AIDS Control Programme
PNLS	Sexually Transmitted Diseases
STDs	United Nations Development Programme
UNDP	United Nations High Commissioner for Refugees
UNHCR	United Nations Population Fund
UNFPA	United Nations Children's Fund
UNICEF	

USAID	United States Agency for International Development
WHO	World Health Organisation
WOS	Women's Organisational Structure

CHAPTER ONE: INTRODUCTION

1. African Charter on the Rights and Welfare of the Child (ACRWC) was adopted in 1990, Addis Ababa (Ethiopia) at the end of XXVI Summit of Heads of State and Government of the Organization of African Unity.
2. It came into force on November 29, 1999.
3. Rwanda, which had signed it on October 2, 1991, submitted her adhesion instruments on November 11, 1999 and her ratification instruments on May 30, 2000. These gaps in dates are only attributable to the gloomy history of that period marred by war and Genocide.
4. In accordance with Article 43, the First Rwandan Initial Report was due within two years of the ratification of the Charter. There can therefore be observed a significant delay: it is due to the fact that this period has been devoted to drafting another international report, namely the Initial Report on the Implementation of the UN Convention on the Rights of the Child submitted to the Child Rights Committee in 2002, Geneva and adopted by the Committee in May 2004. Given that both reports are closely related, we had to wait for “the final observations and recommendations” from the UN Committee to draw on them during the drafting process of the report to be submitted to the African Committee (See Part XI on guidelines).
5. The process of drafting and submitting a report to the African Child Rights and Welfare Committee is a better opportunity for national introspection and assessment of the country policies and legislation, government programmes, practices of the civil society and private sector, as well as the community attitudes and skills in general regarding the implementation of the Charter. In fact, drafting such a report involves consultations between partners at all levels, including central and grassroots levels, public and parastatal services, national and international NGOs, as well as religious organisations and UN agencies.
6. Through this process, the State reaffirms its will to observe its commitments and ensure the respect of rights and duties of the child set forth in the Charter. Rwanda, like other AU countries, asserts that the future of Africa lies in the welfare of her children and youth, that investing in children is a guarantee for peace, security, democracy and sustainable development for tomorrow.
7. In addition to important international and African legal instruments, this report will draw its arguments mainly from the following major national papers:
 - The Constitution of the Republic of Rwanda of 04 June 2003;
 - Law N° 27/2001 of 28/04/2001 Relating to Rights and Protection of the Child against Violence (O.G. N°23 of 1 January 2001).
 - Law N° 22/99 of 12/11/1999 to supplement Book I of the Civil Code and to institute the Part Five regarding matrimonial regimes, liberalities and Successions

- La loi N° 42/1988 du 27 octobre 1988 portant Titre préliminaire et livre premier du Code Civil
- Vision 2020
- Poverty Reduction Strategy Paper of June 2002
- The 7-year Government programme (proclaimed on 07/11/2003).
- Sector policies of various government ministries
- The General Census of Population and Housing of August 2002
- The Decentralisation Policy adopted in 2000.

1.1. Rwanda Geographic Location

8. Rwanda is situated south the Equator, at latitude between 1.04° and 2.51° south and at 30°, 53° longitude east. Located in the Great Lakes Region, among East African countries, Rwanda is with a total surface area of 26, 338 square kilometres. It is bordered by the DRC to the West, Burundi to the South, Tanzania to the East and Uganda to the North. As the crow flies, it is located at 1,200 km from the Indian Ocean and 2,000 km from the Atlantic Ocean.
9. It is morphologically linked to the high lands in Central and East Africa with a mountainous relief to the North that becomes hilly in the central part (the land of a thousand hills), followed by a flat relief to the East; on the whole an altitude of between 1,000 and 4,500 metres.
10. As regards the climate, Rwanda has a subequatorial climate tempered by altitude. Average temperature is about 18.55° Celsius, whereas the average rainfall is estimated at 1250 mm. As to precipitation, it is alternatively divided into four seasons: a short dry season followed by a long rainy season, and a long dry season followed by a short rainy season. Nevertheless, there are regional changes in climate according to levels of altitude in general.

1.2. Socio- demographic Situation

11. According to the General Census of Population and Housing of Rwanda of August 2002, the total Rwandan population was 8,128,553 people. Children aged between 0 and 18 represented 52% of the total population, i.e. 4,223,526. 30% of these children are orphans of father or mother, or even of both parents. Rwanda is still one of the most densely populated in Africa with more than 321/sq km of population density and an extremely high growth of the population of about 3%. The fertility rate was estimated at more than 5.8 in 2002. The proportion of households living below the poverty line (1 US \$/person/day) was 70% in 1996 and is estimated at higher than 60% since 2002.
12. Poverty associated with Genocide is peculiar to Rwanda. In fact, vulnerability has been worsening since 1994, resulting in a new class of people living in extreme poverty and trauma. Poor households are today encountered within widow- and/or child-headed households, and are characterised by a non-active population largely higher than the active population.

13. Unequal distribution of population between urban areas and rural areas is one of the characteristics of Rwanda. The population in urban areas is about 17 % of the total population for more than 83 % in rural areas. Yet, there are about 18,500 sq km of land available for agriculture; which makes population density, ascribed to the surface area available for agriculture, be estimated at 410/sq km. There is therefore great pressure on land that increases in such a way that this phenomenon is one of the major challenges faced by the country. However, a better management of its human resources could be a source of wealth instead of poverty.
14. This demographic situation has a different impact on the Rwandan population categories. Even though, all the Rwandan population is affected by the effects of excessive growth, children and their mothers, both particularly vulnerable groups, are the most affected.

1.3. Socio-economic Situation

15. Rwanda is a country that is mainly involved in agriculture. More than 90% of the active population is employed in primary sector, dominated by a rather subsistence agriculture. The input of agriculture in GDP is 46% whereas the input of industry and services is 20 and 34% respectively. The main export products are tea and coffee.
16. After the economic disasters that followed the war and genocide, steps such as rescheduling foreign debt, support by IMF and World Bank, suppression of export taxes, rehabilitation of banking sector, the easing of restrictions on trade, currency and on salary regime, establishing a streamlined accounting system, strengthening of freedom of the Central Bank and the privatization, as well as restructuring of public institutions, initiated after 1994, have allowed to consolidate economy. As a result, in 2002, there was an increase in growth ranging from 6 to 9.9%, the GDP increased by 10% and the inflation rate stayed around 3.2%.
17. In addition to her commitment towards good governance, Rwanda pursued regional integration goals as laid down in the Cross Border Initiative (CBI) and the Common Market for Eastern and Southern Africa (COMESA). The country has firmly embarked on the process of joining the East African Community (EAC).
18. Conducive measures for investment are included in a law adopted in 1998 and promulgating the Code of Investments. The Free Trade Area is oriented towards the production of export and re-export products.
19. Rwanda adhered with determination to the goals of NEPAD (adopted on 11 July in Lusaka) by accepting to be among the first four member States to be subjected to the African Peer Review Mechanism.
20. "As a less developed country", Rwanda benefits from a free access and without a quota to the American and European market according to the provisions of the African Growth and Opportunity Act (AGOA), as well as the Cotonou Agreement.

21. However, the gradual scattering of family land plots, especially due to a demographic growth in still isolated residences goes with a very high rate of people moving from rural areas to urban areas. Tertiary sector with its limited possibilities cannot either generate job opportunities for all rural surplus labour. As to the informal or non-structured sector, it is gradually developing and constitutes an important alternative to job creation outside agriculture. Nevertheless, the recapitalisation of rural areas through microfinance, the development of cooperatives and associations, the High Labour Intensity Programme (HIMO) and other traditional forms of community solidarity is one of the steps against rural unemployment, especially within the youth.

1.4. Social Structure

22. The family, which the main core of social relationships, has greatly been affected by the 1994 war and Genocide. At that time, perpetrated massacres were sometimes carried out among extended family members, thus igniting fear and suspicion within the very basic community and leading more often to the deterioration of the friendly relationships within neighbouring communities.

23. At the social level, the Genocide and population movements entailed by it have deeply changed the profile of the Rwandan population. Households lost several family members, their property has been destroyed, and social behaviours changed, as well as the social fabric that has been deeply shattered. In this context of war and Genocide, thousands of Rwandan children lost their parents or were separated from them. During this time, almost all children went through traumatising experiences, some of them having themselves been either wounded or threatened, either compelled or driven to kill or torture. A number of the children eventually found themselves heading their households, while others were placed into foster families and others in Centres for Unaccompanied Children (CUC), whereas a significant number of children were driven to the streets.

24. Nevertheless, though the foundations of the Rwandan society have been shattered, significant efforts have been made to get the country back on its feet: returned refugees, including ex-combatants, have been reintegrated ; a particular emphasis was put on restoring security, operational judicial system, comprising the Gacaca Courts, the Mediators Committee, the Office of Ombudsman, and the National Commission for Human Rights was established with a new juridical arsenal ; a political framework of participatory and democratic governance was put in place, constitutional provisions related to gender and the youth were adopted: all this in line with the unique language and culture environment.

1.5. Administrative Structure

25. Rwanda has a better decentralised administrative structure. Law N° 47/2000 of 19 December 2000 introduced changes as regards the government mode of decentralised administrative entities. Subsequently, the territory of the Republic of Rwanda is divided into Provinces in addition to Kigali City, which is the Capital City of the country. The Provinces and Kigali City are divided into Districts and

Towns. Districts are divided into Sectors, which are also comprised of Cells. The Province is administered by a Coordination Committee headed by a Prefect, whereas District/Town activities are planned by the District Council and managed by an Executive Committee headed by a Mayor. Authorities in the three latter institutions are elected by the population. Reforms for a better service delivery are almost finished.

<p>CHAPTER 2: COMPREHENSIVE MEASURES FOR THE ACRWC IMPLEMENTATION</p>
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26. In accordance with Article 1 of African Charter on the Rights and Welfare of the Child, the Republic of Rwanda, in conformity with her constitutional procedures and the provisions of the Charter, took needed steps for the enforcement of the provisions of the Charter.
27. The most prominent action is that Rwanda, on different dates, submitted all instruments of signature, adhesion and ratification of the Charter and it was done likewise regarding the UN Convention on the Rights of the Child and other optional protocols to this Convention, including the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. Furthermore, Rwanda signed the Rwanda ratified the ILO Convention for the Elimination of the Worst Forms of Child Labour.
28. Moreover, the country took several measures to align the Rwandan legislation and policy with the content of the African Charter on the Rights and Welfare of the Child for its application in many areas.

2.1. Legislative Measures

29. On 26 May 2003, a new Constitution was adopted through a referendum, promulgated, and published in the Official Gazette of the Republic of Rwanda on June 04, 2003. This Constitution conveys relevant provisions on human rights, including the rights of the child.
30. This Constitution enshrines the fundamental human rights, including rights of the child, set forth in various international legal instruments, especially the Charter of the United Nations of 26 June 1945, the Universal Declaration of Human Rights of 10 December 1948, The International Covenant on Economic, Social and Cultural Rights of 19 December 1966, the African Charter on Human and People's Rights of 27 June 1981, the Convention of the United Nations on the Rights of the Child adopted on 20 November 1989 and the African Charter on the Rights and Welfare of the Child (Rwanda adhesion on 11 December 1999).
31. Especially, Articles 27 and 28 of this Constitution are devoted to the family and child. Article 28 reads as follows: "Every child is entitled to special measures of protection by his/her family, society and the State that are necessary, depending on the status of the child, under national and international law".

32. Before the promulgation of the Constitution of 4 June 2003, Rwanda had already adopted Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence. This law sets forth not only the rights acknowledged to the child but also the child's duties and outlines offences against the child, as well as sanctions provided for every case of those offences.
33. Furthermore, prior to these two legal instruments, Rwanda had improved her Civil Code in the spirit of gender equality. It is in this development that Law N° 22/99 of 12/11/1999 to supplement the First Book of the Civil Code and to institute Part Five regarding matrimonial regimes, liberalities and successions was promulgated. Here, we should mention Articles 43 and 51, and especially Article 50 that reads; "all legitimate children of the de cujus, in accordance with civil laws, inherit in equal parts without any discrimination between male and female children."
34. Apart from this complement, through this very Civil Code (Law N° 42/1988 of 27 October 1988 establishing the Preliminary Title and the First Book of the Civil Code for People and Family), several articles define various measures taken in different matters such as the name of the child (58-62), minor's residence (84-85), the declaration and certificates of birth (101,117-120), education, maintenance and related order (197,200-203), filiation (307-317), adoption (332-342), parental rights; and, all these are always in favour of the child.
35. Likewise, in the Decree-Law N° 21/77 of 18 August 1977 establishing the Penal Code, it can be seen that many articles are related to the interest of the child regarding abortion circumstances (327), the best interest of the child (380), and the case of single mother, etc.
36. More recently, the judicial reform has introduced in the courts specialised child chambers, while separating children from adults was already a usual practice in the prison system. It should also be noted that, within the National Police, a special unit is in charge of the protection of the child.
37. Finally, a draft code of the child is in preparation: preliminary meetings have already gathered the practitioners of the rights of the child.
38. The only clashing point should be pointed out, however: with the judicial reform that has already come to an end, a legal loophole can somehow be noticed. In fact, as the Prosecution no longer intervenes in civil matters, the interests of minors without parents or guardians, who used to be represented in courts by the public prosecutor as children in state care (see art. 21 of law n° 27/2001 of 28 April 2001), have no person to defend them and have to wait for the majority of the person concerned. In the mean time, this results in the fact that the rights of these children can be flouted. There are and will ever be several cases where children are robbed of their property with impunity by unscrupulous people. However, the Bar has tried to address this situation through establishing a free defence system for the very poor.

2.2. Political Measures

39. Over the last decade, after almost a half century of poor governance that culminated in the 1994 Genocide, Rwanda has provided herself with important national political guiding instruments in which investment in the human being, therefore in the child, has a pride of place. Here, we will point out some of these instruments: Vision 2020 (initiated in 1998, the paper was finished in 2002), through its third main goal, that is, ensuring social cohesion and sustainable human development, lays an emphasis on population whose major objectives are increasing women's capacity and the rate of people involved in non-agricultural activities, on education with the fundamental objective of providing basic education for all by 2010, on health whose two key objectives are reducing child mortality by two-thirds and reducing maternal mortality by two thirds by 2015, on food security whose two-phase key objective is, first, ensuring a minimum adequate level of calories intake per person by 2005 and, then, ensuring an international standard level of calories intake by 2020, on gender equality whose crucial objective is enrolment equality between sexes at the level of tertiary education, on environment whose first objective is better using natural resources, increasing productivity and enhancing the living conditions in rural areas. It is obvious that as these are reached, the welfare of the child is ensured and his rights are respected.
40. The second national document includes the Poverty Reduction Strategy (was approved in June 2002), which, in fact, outlines the detailed implementation of the first basing the on results collected using the participatory approach within the population and other partners from the Government, civil society and private sector.
41. Another national important instrument is the seven-year Government Programme (proclaimed on 7 November 2003). Out of four chapters that are included in the programme, three are somehow focused on the rights of the child: the first chapter on good governance, in its fifth point on gender and family promotion, puts an emphasis on the implementation of the family policy focusing on the rights of the child, on the suppression of discriminatory legal provisions regarding sex and gender promotion, on the encouragement of the girl and woman to enrol in all levels of education. Chapter three on justice, in its third point on fighting injustice and corruption, requires to teach the youth, including children, to refuse injustice and train them to refuse it; in its fourth point on the human rights, it requires to teach children when they are still young human rights and teach them the value of the human being. It is mostly its chapter four on the welfare (social affairs) that puts an emphasis on the implementation of the Charter advocating explicit measures on labour, health, education, ICT and research, such fundamental rights of the child that will be addressed in specific chapters hereinafter.
42. In addition to these three major guiding papers, the Decentralisation Policy (adopted in 2000), the fourth national reference instrument, provides a wide range of possibilities of the implementation of the Charter by involving the community and local authorities in the process of promotion and protection of the rights and duties of the child.

43. To end this part, we will point out various sector policies of the government ministries having in their attributions the areas governed by the articles of the Charter such as health, education, labour, child and family, justice, youth and culture, social affairs, these areas to which we will come back later on in this paper.
44. More particularly in the last area, given the scope of vulnerability in the country, especially regarding children, a specific National Policy for orphans and other vulnerable children was adopted in 2003.
45. It defines “a vulnerable child as a person under 18 years exposed to conditions, which do not permit him/her to fulfil her/his fundamental rights for her/his harmonious development.” It based on the vulnerability criterion to group vulnerable children in fifteen (15) categories¹, namely :
- Children living in minor-headed households;
 - Children in foster families;
 - Street children;
 - Children affected by armed conflict;
 - Children living in centres;
 - Children in conflict with the law;
 - Disabled children;
 - Working children
 - Sexually exploited and abused children;
 - Children affected/infected by HIV/ AIDS;
 - Infants with their mothers in prison;
 - Refugee and internally displaced children;
 - Children of single mothers;
 - Children in destitute households;
 - Children who are married before their majority or through forced marriage.

Each of these categories will be developed in related chapters in this paper.

46. Moreover, Rwanda contemplates adopting in the coming days a National Policy for Children to be harmonized with the code of the child that is under preparation. It goes without saying that the promotion and protection of the rights and duties of the child will be the recurring themes of this policy. Related consultations with relevant partners, including the Civil Society, are already under way with a view to ensuring that this policy can reflect a World fit for children.
47. Unfortunately, some constraints hinder the smooth implementation of these policies. The most important of them are:
- The shortage of resources for the full implementation of these policies, hence the objectives are not reached within planned deadlines.
 - Immaturity of the population, who cannot ensure serious control on services delivered by their elected and/or leaders.

¹ MINALOC, National Policy for Orphans and other Vulnerable Children, Rwanda, January 2003.

- Lack of patriotism for some authorities who do not respect the public good and the general interest.
- The dependence syndrome that hampers the participation of local population because they have not yet done away with the habit of waiting for the support from the highest, welfare state or external “benefactors”.

2.3. Mechanisms for the Coordination of Policies in favour of the Child

48. The promotion and protection of the rights and the welfare of the child are crosscutting issues. In fact, when looked at carefully, it can be seen that, in a way or another, all services in the country are involved. However, this report will only point out the mechanisms that are directly involved in the coordination of policies, programmes and activities for the child.
49. The Government put in place an Inter-ministerial Coordination Committee (ICC) for social ministries. The latter is in charge of harmonizing and coordinating activities undertaken or to be undertaken in social area. It is comprised of the ministries having labour, health, education, justice, youth and culture, child and family, as well as social affairs in their attributions. The committee is supported by a representative of the ministry having finance in its attributions. The technical ICC is headed by the Director of the Cabinet in the Prime Minister’s Office, while at the level of ministries; the Prime Minister himself ensures its chair. Under the ICC, every ministry has its mandate.
50. Since 2003, it is the [Minister in the Prime Minister’s Office in charge of Family Promotion and Gender](#), who has been entrusted with the mandate of developing policies and programmes for children and ensuring their implementation.
51. Therefore, the Minister ensures the coordination of different related activities carried out by various partners, including the representatives of state and parastatal organisations, the civil society, the private sector, UN agencies, decentralised structures and children themselves in some circumstances. This partnership has led to structures that are already operational in the country: the Forum of Stakeholders and a Steering Committee, as well as a Children’s Cluster.
52. Other structures are also involved in activities for the child, though the prior mission is not the child in particular. There should be mentioned: the National Human Rights Commission (NHRC), the National Police, the National AIDS Control Commission (CNLS), the National Youth Council (NYC), the National Women’s Council (NWC), the Fund for Assistance to Survivors of Genocide (FARG), the National Examination Council (NEC), the Demobilisation Commission and the Maternal and Infant Health Service in the Ministry of Health, the Office of the Ombudsman and the Mediators’ Committee.
53. Concerning specifically the NYC of Rwanda, it was established in 1998 and designed to be the champion of specific youth’s interests. It is both an advocacy and representation organ for the youth aged between 15 and 35 years. It is therefore obvious that it is in charge of children aged between 15 and 18 years. Its structure

and organs are encountered at all levels of local administration and, it is represented in Parliament by two deputies.

54. Through Law N° 04/ 99 of 12 March 1999, there was established the National Commission for Human Rights. It has been operational since 24 March 1999.
55. The Constitution of the Republic of Rwanda of 04 June 2004 in its Article 177 devotes one chapter to the National Commission for Human Rights. The Commission is an independent national institution that is mandated especially to (1) educate and mobilise the population about human rights; (2) examine the violations of human rights, including the children's rights, committed on Rwandan territory by State organs, public officials using their duties as cover, by organisations and individuals; and (3) carry out investigations of human rights abuses and filing complaints in respect thereof with the competent courts.
56. The NCHR annual reports published in July 2004 includes a chapter on major achievements concerning the rights of the child, the violations of the rights of the child in education and proposed solutions to restore the children's rights.
57. The idea of setting up a National Forum for Children is unfolding smoothly: already, the Children's Summit that brought together 250 children's representatives from all the country's Districts, from 29 to 30 April 2004, enabled them to meet the highest authorities of the country, and the seriousness of the recommendations from the summit is an evidence of its feasibility.

2.4. Activities of Disseminating and Raising Public Awareness about the African Charter on the Rights and Welfare of the Child

58. Campaigns for sensitising the population to the rights of the child have been conducted both for the CRC and for ACRWC, and are still conducted all over the country by Government institutions, national and international NGOs, faith-based organisations and UN agencies having children in their attributions.
59. In this development, the translation of the UN Convention and the African Charter on the Rights and Welfare of the Child into Kinyarwanda, the only local language, has allowed their large scale dissemination in seminars, conferences and workshops gathering the stakeholders in the area of the protection and promotion of the rights of the child.
60. Moreover, training sessions and refresher courses have been organised for the Vice-Mayors in charge of social affairs, the Directors of schools, planning officers at the Province and District level, representatives of religious denominations, representatives of national and international NGOs, police and military officers, as well as for children themselves.
61. Various workshops and conferences have been organised for promoting children's rights in general and vulnerable children's rights in particular. It is worth mentioning the seminars on street children, children living in childcare centres,

child-headed households, children in foster families, refugee children, children in armed conflicts, children in prison, and exploited children.

62. As said above, from 29 to 30 April, a National Children's Summit was organised in Kigali after a wide range sensitisation of parents, children, educators, and local authorities at the level of each administrative sector. During this summit, children's representatives formulated recommendations related to the promotion and protection of their rights, and the Government of Rwanda at highest level has committed itself to implementing them. These recommendations have been summed up in a Statement of Commitment personally signed by the highest authorities of the country, including the Head of State.
63. The Statement of Commitment is as follows :
- a) Establishing structures at all levels allowing the participation of children in institutions in charge of making decisions related to children and monitoring the implementation of their rights;
 - b) Ensuring access to basic and quality education for all children, boys and girls;
 - c) Caring for and protecting orphans and vulnerable children;
 - d) Fighting and stopping sexual abuse and exploitation committed on children;
 - e) Fighting HIV/AIDS and strengthening interventions towards children in this area;
 - f) Ensuring a peaceful society for children and their participation in the process of unity and reconciliation and as far as possible, in justice administration.
64. This summit has been an opportunity for Rwandan authorities to listen to children, to share with them the conception of the future of the country and the world, and it has enabled the leaders of the country to realize how the children's ideas can be constructive.

CHAPTER 3: DEFINITION OF A CHILD

65. In accordance with the Convention (Art.1) and the Charter (Art.2), Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence, in its Article 1, defines a child as "anybody aged below eighteen (18) years with the exception of what is provided for in other laws."
66. However, it should be pointed out that there are discrepancies in Rwandan legislation between the minimum age for admission to employment , the minimum age for compulsory education, the minimum age for the fulfilment of civil or political life related acts, and the minimum age for the child to be legally responsible for his/her acts.
67. Article 360 of the Civil Code, First Book (O.G. N° 1 of 1 January 1989) defines a minor as an individual of either sex below the age of 21 years.

Maturity of Age

68. Article 431 of the Civil Code places maturity of age at 21 years. At this age, one is capable of fulfilling civil life acts with the exception of what is provided for by the law. It is for instance in this development that Article 171 of the same Code *prohibits marriage between a boy and girl aged below 21 years save age dispensation granted by the Ministry of Justice for serious reasons.*
69. Article 47, only stresses the provisions of the Civil Code that places maturity age at 21 years, while defining premature and forced marriage as: *“Any conjugal living-together of a boy and girl where one of the two or both of them are below the age provided for in the Preliminary Title of Book I of the Civil Code, is considered premature marriage.”*
70. *“Forced marriage is any marriage of a girl/boy of less than twenty-one years and without her/his consent.”*

Penal Maturity

71. The Rwandan Penal Code places **penal maturity age at 14 years** (Article 77). However, the best interests of the child being of paramount importance, the child benefits from minority excuse if s/he is aged between 14 and 18 years and if s/he commits a penal offence. This means that a child below the age of 14 is not legally responsible.
72. The excuse stipulated in Article 77 is as follows: *“When the perpetrator or accomplice of a crime or offence was aged above 14 years and below 18 years when the offence was committed, sentences will be, in case of conviction, passed as follows:*
- “- If s/he has been sentenced to death or life imprisonment, s/he shall be sentenced to imprisonment of between 10 and 20 years.”*
- “- If s/he has been sentenced to imprisonment or fined, sentences that shall be passed against him/her shall not go beyond half those that s/he should have served if s/he had been 18 years old.”*
73. Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence, in its Article 21, stipulates that the State provides legal assistance to a child without a guardian when involved in a legal case before the courts. Furthermore, it stipulates that in case it is necessary for a child to be imprisoned, s/he is separated from adult prisoners. Law N° 13/2004 of 17 May establishing the Penal Procedure Code (Art. 60 and 184) provides that children aged twelve (12) years are allowed to give evidence like the persons who are of age (60,a1.1) and a child who is twelve (12) years of age cannot be put in police custody (184,a1.1)

Electoral Maturity

74. Concerning election, Article 8 of Law N° 42/2000 of 15 December 2000 governing the organization of local elections in Rwanda stipulates that to be eligible to vote, it is necessary to be 18 years of age, while it is necessary *to be 21 years of age* (Article 10) to be eligible for election.
75. Still in election, Article 5 of Organic Law N° 17/2003 of 7 July 2003 governing presidential and parliamentary elections stipulates that *“persons entitled to vote are all Rwandans who are at least 18 years of age as of the date of elections, registered on the electoral list within the period specified by the National Electoral Commission and have not been deprived of their civil and political rights by a court of law or excluded from voting by any of the limitations provided for by Article 10 of this Organic Law.”*
76. And Article 21 of this Organic Law adds that *“a person eligible for election as deputy is any Rwandan who has attained at least twenty-one (21) years of age; is a person of integrity; is not restricted by any of the limitations provided for in Article 10 of this Organic Law.”*

Concerning Labour²

77. The Rwandan Labour Code, in its Article 61, forbids to employ on night work children below 16 years of age and, in its Article 65, paragraph I, it is forbidden to employ less than sixteen year children in any company, for apprenticeship. It is also stipulated in this Article; paragraph III, that less than sixteen year children cannot be employed for night tasks that are unhealthy, hard, noxious or dangerous for their health and training. The list of these tasks is established by an order of the Minister having Labour in his/her attributions. This draft ministerial order has been elaborated. This order sets forth conditions and employment categories in which pregnant or nursing women cannot be employed.
78. Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence, in its Article 18, stipulates that *“the work performed by the child should not burden him/her to the extent that it compromises his/her education, health or physical development. It is prohibited for children to be employed in any enterprise before they reach the age of 14.”*
79. Mindful of the fact that some laws need to be harmonised with the provisions of the African Charter on the Rights and Welfare of the Child, the Government of Rwanda (GoR) has already put in place a committee in charge of identifying the provisions contrary to the principles and provisions in terms of the rights of the child. The results from the work of this committee will enable the GoR to reform its legislation, but also to eliminate all identified contradictions in relation to conditions required for minimum age. At the end of this work, the Code of the child shall be adopted.

² The Labour Code is established by Law N° 51/2001 of 30 December 2001 (O.G. N° 5 of 1 March 2002)

CHAPTER 4: GENERAL PRINCIPLES

4.1. Right to Non-Discrimination (Articles 3 and 26)

80. The Constitution of the Republic of Rwanda of 04 June 2003 prohibits discrimination of whatever kind, as follows: *“All Rwandans are born and remain free and equal in rights and duties. Discrimination of whatever kind based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law.”* (Article 11)
81. *“All human beings are equal before the law. They shall enjoy, without any discrimination, equal protection of the law.”* (Article 16)
82. Both provisions are of paramount importance, as they acknowledge the rights of minors of either sex and, subsequently, they contradict entirely customary practices, which granted much privilege to male children compared to female ones.
83. Law N° 27/2001 of 28 April 2001 talks only of the child which, inclusively, shows that it does not make a distinction between children. Its articles 4, 5 and 8 use the words “all” and “every” applied to the child and show that it indirectly advocates non-discrimination.
84. Non-discrimination principle is also emphasised by the provisions of Articles 323, 326 and 331 of Law N° 42/1988 of 27 October 1988 establishing the Preliminary Title of Book I of the Civil Code, which underscore equal treatment of all children irrespective of their birth circumstances. According to these three Articles, legitimised, acknowledged children or children whose paternity or maternity is established following legal action for parental affiliation, have the same rights and obligations as legitimate children towards the involved parents.
85. This is a revolutionary situation in the sense that all previous provisions, dating back to many decades, enshrined in the Decree of 04 May 1985 outlined a clear distinction between illegitimate and legitimate children (Article 206). It was forbidden for illegitimate children to be recognised by their fathers and they could not therefore enjoy the same rights as legitimate children.
86. Rwanda has made tremendous efforts to address all discrimination problems between children (boys and girls), between men and women regarding succession and matrimonial regimes, which prevailed until very recently. It is in this development that on the 12 November 1999, the Law N° 22/99 to supplement Book I of the Civil Code and to institute Part Five regarding matrimonial regimes, liberalities and successions was adopted.
87. Under the terms of this law, all children irrespective of their age and sex have the same rights and responsibilities as regards succession and liberalities. Girls have the

right to succession in the same way as their brothers, which was not the case before November 1999.

4.2. Best Interests of the Child (Article 4)

88. “Best interests of the child” include all things that give pride of place to the rights of the child compared to the rights of third parties.
89. The principle of best interests of the child is not a new principle in Rwandan legislation. It is a primary consideration for the highest leaders of the country, as well as for all national institutions. This principle relating to “the best interests of the child” is pervasive in the Constitution of the Republic of Rwanda, especially in its Article 28, where it is stipulated that *“every child is entitled to special measures of protection by his or her family, society and the State that are necessary, depending on the status of the child, under national and international law”*.
90. The Penal Code places the legal majority at 14 years of age (Penal Code, Article 77). This means that at this age the child is not legally responsible for his/her offences because at this age s/he has no discernment. Moreover, the best interest of the child is taken into consideration by the same Code, for it enables the child, in case of sentencing, to benefit from a minority excuse if s/he is between 14 and 18 years.
91. Law n°27/2001 relating to rights and protection of the child against violence stipulates clearly that in all decisions regarding the child his/her interests are to be given primary consideration and in its Article 21, it stipulates that in case it is necessary for a child to be imprisoned, s/he should be separated from adult prisoners.
92. In the Civil Code, the First Book, Articles 248 and 249 provide that, while parents are waiting for a divorce, the judge referred to shall primarily consider the best interests of the children whose parents want to divorce. The destiny of the children whose parents are waiting for a divorce is in the judge’s hands. It is up to him/her to take supremely the decision to entrust the children’s guardianship to one or the other of the spouses or to a third party. S/he takes, in any case, provisional measures as regards the person and property of both spouses, as well as of shared children.
93. Decisions taken in accordance with the foregoing provisions are binding, notwithstanding any way of appeal without bail, but in respect of the best interests of the child (Article 254).
94. The spouses who want a divorce or legal separation by mutual consent are obliged to certify by a notarised deed their agreement about the person to whom their own or adopted children are to be entrusted either during trial or after the divorce has been pronounced (Articles 260 and 288).
95. Articles 283 - 286 relating to divorce effects only emphasize that the best interests of the child have to be safeguarded. Children are entrusted to the spouse who has

obtained the divorce unless the court, automatically or upon request of one of the parents or the Public Prosecution, orders for the children's best advantage, that all or some of the children be entrusted to either of the spouses or a third party.

96. Under the terms of Article 285 of the Civil Code, the dissolution of marriage by divorce does not deprive children of any of the advantages guaranteed by the law or their parents' marriage agreements. However, children are entitled to rights in the same way and circumstances as if there has been no divorce.
97. Still as regards parents divorce, Article 286 provides that in case of divorce by mutual consent, the half of property of each of the parents is legitimately acquired, on the day of their first declaration, by their own children.
98. As regards adoption, under the terms of Article 339, adopted children have the same rights and responsibilities as children of the adoptive parent, with some exceptions provided for by the same Article.
99. The policy of the country is that every child has to live within a family. But in case the father or mother abuses his/her parental rights, ill-treats the child or is not worthy of parental rights, Article 359 of the Civil Code provides that, for the best interest of the child, the tribunal can deprive temporarily or definitely one parent of parental rights. In that case, the State separates the child from his/her parents and transfers him/her in an appropriate childcare institution.

4.3. The Right to Life, Survival and Development (Article 5)

The Right to Life and Survival

100. The right to life is enshrined in the Constitution of the Republic of Rwanda of 04 June 2003 in its chapter on fundamental human rights. Its Article 12 stipulates; "Every person has the right to life. No person shall be arbitrarily deprived of life." In its Article 4, Law n°27/2001 relating to rights and protection of the child against violence stipulates that from his/her time of conception every child has the right to life and that abortion is prohibited except in circumstances provided for by law. In its Article 29, this law refers to the provisions of the Penal Code as regards penalties provided for in the case of an abortion, which resulted in the death of the child. It is more severe in the sense that it considers voluntary abortion and an attempt to commit abortion as a crime and an offence respectively.
101. This law punishes any attempt to commit abortion with an imprisonment of between 6 months and 3 years. However, considering the interests of the child, the sentence is suspended for all its duration (Article 30 paragraphs II and III). As to other cases of abortion, the same law, Articles 30 and 31, appears to be more severe than the Penal Code. As the new law abrogates the previous one, the judge, once referred to in case of abortion, will apply the new law in this case.
102. The Decree-Law N° 21/77 of 18 August 1977 establishing the Rwandan Penal Code as modified to date, considers it, depending on circumstances, as a murder or

assassination committed against a child at the time of or immediately after his/her birth (Articles 311 and 312). Depending on the consideration of the judge, the perpetrator of infanticide is sentenced to either life imprisonment or death sentence (Article 314).

103. Abortion is an action that deprives a child of his/her right to life. It can be voluntary. It can also be done with or without woman's consent. The woman can attempt or have an abortion. In any case, irrespective of the reasons or circumstances behind abortion, the latter is either an offence or a crime. Thus, penalties provided for by the Rwandan Penal Code as modified to date also differ depending on those various circumstances (Articles 325-326 of the Penal Code). However, abortion can be accepted in case it is done under reasons and conditions provided for by the law (Articles 327-328 of the Penal Code).

The Right to Development

104. Under the terms of Articles 197 and 200 of the Rwandan Penal Code, both spouses have the obligation to maintain and educate their children. The obligation to maintain a child implies a maintenance order to the parents towards their children. In case one of the spouses shirks this duty, the other, in the best interests of the child can take action to compel him/her to that order. This action can also be taken by the Public Prosecution.

105. In its Article 7, Law n° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence stipulates that every child has the right to know his/her parents and be brought up by them. When it is not possible to live with his/her parents, the child has the right to obtain necessary assistance from them for his/her welfare and to visit them whenever s/he wishes to in case this does not prejudice his/her security or the security of the country. The same Article stipulates that as long as the child is under 6 years old s/he must live with his/her mother as long as the child's interests are not prejudiced.

106. For the best interests of the child, and according to this law, every parentless child should be either under guardianship, adopted or entrusted to an appropriate childcare institution. A child who has neither parents nor guardian nor adoptive parents is in charge of the State.

107. According to the Civil Code, Article 16, a conceived child is entitled to enjoyment of rights provided that s/he is born alive. A merely conceived child is considered born all the time that it is required by his/her interests.

4.4. Respect of Opinions of the Child (Article 7)

108. According to the Constitution of 4 June 2003, in its Article 33, freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law.

109. The Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence stipulates, in its Article 9, that the child's interests must be taken into account before any decision concerning him/her is made; that the child has **the** right to express his/her opinion on any matter regarding him/her and that it is necessary to hear from the child prior to making any decision concerning him/her regarding administrative and judicial matters whether directly or indirectly through his/her guardian.
110. It is in this development that, for instance in case of adoption, the child to be adopted expresses his/her consent as well as the person wishing to adopt. Nevertheless, in case the child is too young to have discernment capacity, his/her parents will give their consent (Articles 340 of the law N°42/1988 of 27 October 1988 establishing Preliminary Title and the Book I of the Civil Code).
111. In courts of law, children shall equally be heard as full witnesses in proceedings where their interests are at stake. For instance, their opinions are currently more than needed in Genocide proceedings conducted by Gacaca Courts throughout the country with a view to knowing the whole truth about events that have plunged Rwanda into mourning in 1994.
112. Children have evidence concerning what they saw, lived, or heard about Genocide perpetrators.
113. In any judicial or administrative proceedings involving the child, every thing shall be done for the views of the child, who is able to communicate, to be heard.
114. Thus, so as to ensure the rights of the child, s/he is informed of the existence of dossiers involving him/her and of different legal proceedings that can be instituted either by him/herself or through his/her guardian or representative to claim or enforce the respect of their rights. S/he shall be informed of the whole sequence of events in civil or penal proceedings until their end.
115. The right to information is also expressed, as regards proceedings in which the interests of the child can be obviously seen, through summons established in due form. The child, through his/her guardian or his/her representative or any other person to whom parental rights have been entrusted, is regularly summoned in the same way as other plaintiffs or defendants.
116. The voice of children has to be heard not only in any proceedings involving them either directly or through their representatives, but also in international, regional or national conferences organised for them.
117. During many an activity undertaken, the population has been sensitised on enabling the child to have opinions and views regarding the events taking place in his/her neighbourhood.
118. Subsequently, active participation of children in conferences, seminars, and/or workshops on children's problems is an example of an enabling environment for

children to express their opinions, which are or will be taken into consideration by relevant authorities while defining the national policy in the area of the child.

119. The experience of the first National Conference on the Rights of the Child held in Kigali in August 2000 under the sponsorship of the First Lady is an outstanding example. The conference that lasted one week brought together Ministers, Parliamentarians, Representatives of UN agencies, Representatives of Diplomatic Corps accredited in Kigali, NGOs, political and religious authorities, all people involved in the domain of children, as well as representatives of children.

120. The children participated actively in that conference and this has been an opportunity for them to make their voices heard through testimony regarding their living conditions and questions addressed to various participants.

121. Furthermore, the National Children's Summit held in Kigali from 29 to 30 April 2004 was conducted by the children themselves. They expressed their opinions regarding their rights and duties. They also expressed their opinions about problems faced by our country and proposed related solutions. They were listened to not only by their parents or guardians, but also by the highest authorities of the country.

4.5. Access to Information and Promotion of Children's Participation (Articles 4, 7 and 12)

122. According to the Constitution of 4 June 2003, in its Article 34, freedom of the press and freedom of information are recognised and guaranteed by the State, but they shall not prejudice public order and good morals, the protection of the youth and minors, as well as the right of every citizen to honour, good reputation and the privacy of personal and family life.

123. The Law N° 27/2001 of 28 April 2001, in its Articles 11, 12, 13, defines the freedoms of thought, association, and assembly, the freedom of conscience and religion.

124. This law requires the State and the society to promote media and literature for children. It recommends that parents or guardians educate the child and give him/her related advice considering his/her age and maturity.

125. The National Population Policy for Sustainable Development in Rwanda³, in its chapter on the child protection, requires especially "*teaching children their rights and duties at schools, in Youth Council and clubs and through grassroots level communities*".

4.5.1. Press, Newspapers, and Periodicals

126. The national radio and television on the one hand, and public and private press on the other hand, organise and publish on a regular basis programmes for the

³ Ministry of Health, National Population Policy for Sustainable Development in Rwanda, ONAPO, January 2003

benefit of children. The quality of those programmes and newspapers is controlled in order to sell to children products that are adapted to the level of their maturity.

127. In Rwanda, there are newspapers and periodicals for children. Those are HOBE, which has been being issued since 1957, 5 years before the country's independence; Editions BAKAME issued since 1997 and widely distributed in schools; IMVAHO NSHYA, a weekly newspaper that devotes in every issue a whole page to human rights, including the rights of the child.
128. A strip cartoon is published on a regular basis on the initiative of Clubs SARA, launched by the Office of UNICEF in the Eastern and Southern African Region. Those clubs bring together boys and girls from zero to 14 years and primarily focus on building their capacity to enable them to participate in the fulfilment of their rights, especially in the prevention of HIV/AIDS.
129. However, it should be deplored that some newspapers take the liberty of using some bad language and image that are likely to shock children by breaking the Article 34 of the Constitution mentioned above.

4.5.2. In Primary and Secondary Schools

130. Today, in all primary and secondary schools, lessons about human rights in general and the rights of the child in particular, are taught to children.
131. However, as regards all these freedoms (opinion, thinking, information, etc.), it should be pointed out that the burden of tradition that tends to prevent children from expressing their opinion is still heavy within the community and several families. Significant efforts remain to be done for the child to fully enjoy his rights.

CHAPTER 5: LIBERTIES AND CIVIL RIGHTS

5.1. Name, Nationality, Identity and Registration after Birth (Article 6)

5.1.1. Name and Registration after Birth:

132. Traditionally, giving a name to a child is a very important ceremony, which brings together the whole family and friends of the child's parents. Nevertheless, procedures relating to birth official registration, the right to have a name and an identity suffer from delay, especially in rural areas.
133. In statute law, the name is one of the elements enabling to identify easily persons (Article 57 of the Civil Code). Every person is to have a last name and, if need be, one or many first names (Article 58 of the Civil Code). The last name and possibly first names are given to a child within fifteen days following his/her birth (Article 59 of the same code).

134. Moreover, the Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence adds that “Every new born child must be given a name and enrolled according to the provisions of the existing law”.
135. Parents shall declare their child’s birth within fifteen days and, if need be, on the presentation of a certificate of birth (Article 117 of the Civil Code).
136. The certificate of birth states:
- The year, month, day and place of birth, sex, last name and first name(s) of the child;
 - Last and first names, age, profession and domicile of parents, or those of the informant, in case there is one;
 - Names of the issuing official of the medical certificate of birth;
 - If parents are unknown, this is to be mentioned in the register (Article 118 of the same Code).
137. It should be pointed out that some mothers abandon their children immediately after birth and the number of those abandoned children is greatly increasing. However, no survey has been conducted to establish the number of those children and reasons behind that phenomenon, but the reasons are mainly social and economic, such as poverty, HIV positiveness, and unwanted pregnancies.
138. Children abandoned in such circumstances are deprived of their rights to know their parents and to be brought up by them (Article 7 paragraph 1 of the Law N° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence), to be given a name and enrolled in legal time. Fortunately, some of those children are received in foster families or childcare institutions, which give them names and make them registered.

5.1.2. The Citizenship of the Child

139. The Constitution of 4 June 2003, in its Article 7, is very clear and elaborate regarding the citizenship: it ranges from the fact that every person has the right to a nationality to the one that all persons originating from Rwanda and their descendants shall, upon their request, be entitled to Rwandan nationality.
140. The Law N° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence provides that “the child has right to Rwandan citizenship in accordance with the law relating to citizenship” and sets forth that a child born of a Rwandan mother with a father who is a foreigner is automatically a Rwandan citizen (Article 6, paragraph II).
141. The Organic Law N° 29/2004 of 31 December 2004 establishing the Code on the Rwandan Citizenship, determines conditions for acquiring Rwandan citizenship and, in its Article 4, spells out that “Every child whose at least one parent is Rwandan, is a Rwandan citizen”.

142. Every legitimate or illegitimate child is automatically Rwandan due to his/her affiliation (Article 3). Every newborn child found in Rwanda and whose parents are not known is a Rwandan citizen. S/he is no longer a Rwandan if, during his/her minority, his/her affiliation is established to a foreigner and if, in accordance with the national law of that foreigner, s/he has the citizenship of the foreigner (Article 5).
143. For the best interest of the child, the Code on citizenship, in its Article 23, spells out that loss of citizenship of a parent is not extended to his/her minor children.

5.1.3. Preservation of the Identity of the Child

144. The rule is that every child keeps the name and identity acquired at his/her birth and after being registered. However, if there are good reasons and on request to the Minister of Justice by the person concerned, the law allows for name change (Article 65 of the Civil Code). Even in case of adoption, Article 337 of the Civil Code stipulates that “the adopted child keeps the names given to him/her at birth”.
145. It should be noted that during and after the 1994 war and Genocide, some children could not preserve their identity and names, while others were not even given names and identity. The same case goes for children evacuated in Europe, Africa, and America. It is also the case of abandoned children, who have been received in Centres for Unaccompanied Children. Some children came back in Rwanda after the war. Others who are still unidentified or who lost their parents have been illegally adopted by foreign families, as it has been the case especially for the 41 children adopted in BRESCIA in Italy. Procedures have been undertaken to repatriate those children and restore their rights to Rwandan citizenship.
146. With a view to restoring the identity of more than 14,000 children, who were in 86 Centres for Unaccompanied Children in the wake of the 1994 Genocide, the Government of Rwanda, supported by UN Agencies and NGOs, initiated tracing and family reunification programmes. Those programmes helped most of the children to be reintegrated in their families at the end of 2001. Today, there are more or less 3,600 unaccompanied children living in 27 centres. Some of those children can be included in socio-economic cases and cases of no abode. The “photo-tracing” technique and the filling in of forms for every child, jointly initiated by UNICEF and International Committee of the Red Cross have been fruitful in the sense that they facilitated the tracing and family reunification task.

5.2. Freedom of Expression (Article 7)

147. As regards this situation, there has been an improvement, even if it is a slight one, especially after the 1994 Genocide and war. With the new Constitution, freedom of expression is a right guaranteed by the State (Article 34). The Law N° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence stipulates that it is a right for the child to express freely his/her opinion on any matter involving him/her (Article 9, paragraph II) and to express freely his/her views according to laws and culture of the country and the child’s age. Government and Rwandan society should encourage, support the production and dissemination of

child-oriented books and journals, as well as special broadcast programmes for children (Article 11).

148. It is in this framework that the project “ Bourgmestre, défenseur des droits de l’enfant “ supported by UNICEF and MINALOC is focused on giving pride of place to artistic productions, songs, poems, sketches and speeches produced and presented in public by children.

149. It should not be worth overlooking the culture and traditional habits relating to the role of the child in decision-making within the family. The voice of the child is still hardly heard. Dialogue between parents and children is still rare. According to the tradition, the child is to submit himself/herself to his/her parents’ authority, especially the father’s authority. Child’s participation in decision-making is very limited. But things are changing rapidly.

5.3. Freedom of Thought, Conscience and Religion (Article 9)

150. Freedom of thought, conscience, and religion is a right recognised by the Constitution of the Republic of Rwanda of 04 June 2003 (Articles 33, paragraph I). It is guaranteed by the State under conditions defined by the law and applies to all Rwandans without any discrimination, adults as well as children, women as well as men.

151. As regards children specifically, details about this right are provided for by the Law n°27/2001 of 28 April 2001 relating to rights and protection of the child against violence. In its Article 13, the law stipulates that “depending on his/her age and level of understanding, the child has the right to freedom of thinking, consciousness and has the right to belong to a religion of his/her choice”. Parents or guardians of the child are responsible for advising and guiding him/her in good conduct for enjoyment of rights for the sake of his/her interests. Practically, children’s freedom of thought is realized through shows, especially cultural ones where young artists express freely their opinions without coming under the adult persons’ censure.

152. As regards the exercise of the right to freedom of conscience and religion by the child, it is known that parents have the responsibility to guide their children, who are still under the discernment age. They are responsible for choice of the religion of their children corresponding to their beliefs. Article 7 of the Presidential Order N° 509/13 of 10 October 1985 relating to general organisation of primary education, rural and integrated vocational training, stipulates that “the headmaster of a school has to do his/her best to ensure that students’ rights are not infringed on as regards teaching and practising religion or morality”. It is understood that every child is free to practise his/her religion. The child is not to be forced to adhere to the religion of the school owner, as it was the case on the arrival of missionaries in Rwanda.

5.4. Freedom of Association and Assembly (Article 8)

153. Freedom of association is a fundamental right guaranteed by the Rwandan Constitution and cannot be submitted to prior authorisation (Article 35). Freedom of

peaceful assembly without arms is also guaranteed within the bounds of the law (Article 36).

154. Both rights are recognised to all Rwandans and applied without any discrimination to men and women, to adults, as well as to male or female children, young or old people.

155. The Article 12 of the Law N°27/2001 of 28 April 2001 relating to rights and protection of the child against violence put an emphasis on the situation by stipulating that “children have right to assemble together and meet peacefully”.

156. Children and, more especially the youth, choose freely associations of which they want to become members whether at school or in the village. A number of the youth are members of youth associations such as Boy Scouts/ Girl Guides, Xaveri, JOC, JOCF. The youth initiate cooperatives or other associations to earn money or to make progress in different domains. What is more interesting is that the State and authorities of the country at all levels have always provided moral or material support to those initiatives.

5.5. Protection of Privacy (Article 10)

157. In its Article 22, paragraph I, the Constitution of the Republic of Rwanda stipulates that “*the private life, family, home or correspondence of a person shall not be subjected to arbitrary interference; his or her honour and good reputation shall be respected*”.

158. Even if neither the Constitution nor other laws into force in Rwanda specifically set forth the protection of the child’s privacy, it is obvious that the above provision applies to all Rwandans, including men and women, young and old persons, adults and children, boys or girls without a distinction.

159. It can be understood that family home or the correspondence of the child shall be interfered with in no case, except in cases and forms provided for by law.

5.6. Protection against Child Abuse and Torture (Article 16)

160. Physical injury, torture, cruel, inhuman or degrading treatment or other serious violence against children are punished by the Rwandan Penal Code. The Constitution of 4 June 2003, in its Article 15, stipulates; “Every person has the right to physical and mental integrity and no person shall be subjected to torture, physical abuse or cruel, inhuman or degrading treatment.”

161. Likewise, Article 20 of the Law n°27/2001 of 28 April 2001 relating to rights and protection of the child against violence stipulates that “*no child should be subjected to torture, inhuman and degrading treatment*”.

162. Article 32 of the same law stipulates that any sadistic torture including disproportional punishment, ill-treatment, inhuman or degrading punishment inflicted on a child be sentenced to between four months and three years

imprisonment, and a fine of between fifty thousand and two hundred thousand francs. Nevertheless, as it has been mentioned earlier, it is worth deploring that today some parents, including some social workers of childcare institutions, consider beating as a normal correction measure.

163. Penalties against persons found guilty of those offences vary according to the driving intention when they committed offence, the age of the victim, mental or physical state of the child victim and the level of consequences of each of those offences. Thus, a person who will injure intentionally a child under 14 years shall be sentenced to between a one and five year imprisonment and pay a fine not exceeding 20,000 Rwandan francs, or to one of these penalties. If the crimes referred to above caused the child's death, the sentence shall be life imprisonment or death sentence depending on whether the crime was committed with an intention of killing the child or not (Articles 323, paragraph I and 324 of the Penal Code).

CHAPTER 6: FAMILY ENVIRONMENT AND ALTERNATIVE PROTECTION

164. The Rwandan tradition gives a very important role first to the nuclear family, then to the extended family and finally to the community in harmonious development of the child.
165. The Constitution of 4 June 2003 bases on this good custom to assert, in its Article 27, that the family is the natural foundation of the Rwandan society, that it is to be protected by the State and that both parents have the right and duty to bring up their children.
166. In its different articles, the Law n°27/2001 of 28 April 2001 relating to rights and protection of the child against violence shows the concern that the child should have someone to look after him/her: the parents, the adoptive person, the guardian, the institution or the State. Its Article 7 lays an emphasis on the fact that the child has the right to know his/her parents and to be brought up by them.

6.1. Parent Education (Article 20)

167. Children have therefore the right to a family environment where they are loved and understood and where their best interests are given primary consideration.
168. In the family environment, parents are to provide their children with advice in harmony with the development of their capacities and prepare them for an individual life within the society and this in a spirit of peace, dignity, tolerance, liberty, equality, and solidarity.
169. Article 347 of the Law N° 42/1988 of 27 October 1988 establishing the Preliminary Title and Book I of the Civil Code stipulates that the father and the mother have the right to punish their minor and non-emancipated children.
170. As to Article 13 of the Law n°27/2001 of 28 April 2001 relating to rights and protection of the child against violence, it stipulates, in its paragraph II, that parents

or guardians of the child are responsible for advising and guiding him/her in good conduct for the enjoyment of rights in line with his/her interests.

171. It is worth mentioning that in our traditional society, every mature member had parental rights, that is, s/he had the right to punish the child and the responsibility to ensure the child's integration within the family group. The whole family was responsible for children's mistakes and was to account jointly for those mistakes to third parties.
172. This collective solidarity allowed to replace or deputise for parents when they were not available or if anything should crop up without further ado.
173. However, due to the modernisation with its individualism, this collective duty begins to be forgotten making way for a kind of reprehensible indifference. Moreover, it should be noted that the suspicion and mistrust between neighbours and, sometimes, between members of the same family has deeply undermined these better practices.

6.2. Parental Rights (Article 20.1)

174. Every minor child is under the parental rights. The Rwandan legislation is very explicit about it: Under the terms of Article 345 of the Civil Code, parental rights are entrusted to the father and mother, for children whose double affiliation is established and to a guardian for unrecognised children, orphans of both parents and abandoned children.
175. Article 350 of the Civil Code stipulates that parents are duty bound to maintain and educate the child within the bounds of their status and financial capacities.
176. From these provisions, parental rights are a right recognised for the person who exercises them, but also a duty that cannot be shirked. Practically, parental rights include the right of guardianship and legal administration.

6.2.1. Right of Guardianship

177. According to Article 84 of the Civil Code, a minor and non-emancipated child is legally supposed to reside with the person exercising the parental rights on him/her. Thus, a legitimate child has his/her father, or failing that, his/her mother's domicile as his/her legal domicile. A child under guardianship has the same home as the guardian. A child cannot leave his/her family home without permission from his/her parents or guardian.
178. The law determines conditions under which a child can be removed from that home. Parents have punishment right to oblige the child to stay at home. Likewise, every person who is in charge of educating the child has that right.

Social Advantages Associated with Legal Guardianship:

179. Under the terms of Article 68 of the Law N°51/2001 of 30 December 2001 establishing the Labour Code, for delivery purposes, a salaried woman has the right to suspend her work during twelve consecutive weeks of which six at least are obligatory after delivery.
180. As regards the father, there is a decline regarding the paternity leave duration. Contrarily to the Presidential Order N°06/01 of 6 March 1996 determining incidental leaves and their duration, according to which paternity leave was 4 days; the Law N°51/2001 stipulates that paternity leave be 2 business days.
181. Concerning parents' right to a leave once their child is sick, existing legislation is not explicit. However, this is practically tolerated and negotiations are under way to formalise the situation. Salary for parents on leave is provided for in the three official texts, namely:
1. The Labour Code in its Article 68 paragraph 3 according to which a salaried woman is entitled to two thirds of her usual salary;
 2. The Presidential Order N° 06/01 of 6 March 1996 modifying the Presidential Order N°442 of 10 May 1990;
 3. The Presidential Order N°69/03/2 establishing statutes of civil servants provides for the totality of the salary during circumstantial leave.
182. In a bid to allow active parents to look after their children alongside their professional activities, Article 129 of the Labour Code stipulates that during a fifteen-month period starting from the birth of her child, every salaried woman be entitled to two rest periods of half an hour per day to allow her to breastfeed her child.
183. From the foregoing provisions, it follows that the guardianship is not limited to maintenance only, it is also extended to school fees and all basic needs of the child until his/her majority or the end of his/her studies.
184. In order to facilitate the execution of obligations for persons involved in a work contract, the Labour Code obliges the employer to offer medical services to his/her employees and to their family members under their responsibility. The general statute of civil servants guarantees the same advantages to civil servants.
185. Besides, children who have lost a parent affiliated to the National Social Security Fund draw a survivor's pension. However, the Social Protection Policy, which is under elaboration, provides for palliative measures.
186. Nevertheless, the application of those principles has a very limited scope. In fact, the Social Security covers only a limited number of the population affiliated to the National Social Security Fund of Rwanda.

187. Furthermore, many children work in families as servants without any control on recruitment and working conditions. At this level, there can be many abuse cases.

6.2.2. Legal Administration

188. Under the terms of Article 352 of the Civil Code, the father, or failing that, the mother is responsible for the management of the personal property of the child. The mother has to ensure the management of the property of the child and that it is not squandered. In general, both of them agree to the management and in case of misunderstanding, the judge can intervene to settle the problem considering the child's interests.

189. Article 353 limits the father's right to mere administration. Thus, he cannot undertake alienation action or any other action aimed at putting a serious strain on the property of the minor without authorisation by the Court. The latter shall appraise whether the child's interests require undertaking such actions, or otherwise the permission shall be denied.

6.2.3. Penalties Related to Parental Rights

190. The law provides for penalties against persons who shirk duties of parental rights or who abuse them and against persons who prevent people with parental rights from fulfilling them. Those penalties can be either penal or civil.

Penal Penalties

191. Article 380 of the Penal Code provides for penalties of between a fine of 20,000 francs and imprisonment from 2 months to 2 years against a person who shirks moral or material duties resulting from parental rights. The same penalties apply for a mother or father who ill-treats or who hampers the education of the child in their charge by giving them "pernicious examples of usual drunkenness, notorious loose living by lack of care or of necessary guidance..." Abandonment and exposure of a minor who is not able to protect him/herself due to his/her physical or mental status are also punished under the Penal Code, in its Article 383, of a fine of between 500 to 1,000 francs and/or an imprisonment of between one month and one year. If the perpetrator of the offence is the father or mother of the child or any other person having parental rights on the child, s/he shall be sentenced to a fine of between 1,000 and 10,000 francs and/or an imprisonment of between six months and five years (Article 385 of the Penal Code).

192. The Public Prosecution or any other interested person can also take legal action to decline parental rights due to notorious misconduct or physical cruelty inflicted on the child (Article 359 of the Civil Code). Furthermore, the loss of parental rights can be pronounced when the person with those responsibilities has been criminally sentenced.

193. Perpetrators of child kidnapping and switching round of babies are sentenced by Article 255 of the Penal Code. The sentence provided for for these offences is a fine of between 10,000 up to 50,000 francs and an imprisonment of one to ten years.

Civil Penalties

194. Under the terms of Article 260 of the Civil Code, persons with parental rights are accountable for the actions of the minor child that cause harm to other people. The accountability of the guardian is involved when the prejudicial action is done by the child. The parental rights holder can only shirk the duty to compensate for the harm caused by the child only when s/he has evidence to substantiate that the child was under the control of another person or that s/he did what a reasonable person should do to prevent that prejudicial action.

6.3. Separation from Parents (Article 19.2 and 3 and 25)

195. The Government of Rwanda has done its utmost to prevent the separation of children from their parents. To this end, it considers that a family is the first line of defence for children. Indeed, the more children are far from their family, the more they are vulnerable: children separated from their families, both those living in street and in childcare institutions, are more likely to be marginalised and ill-treated. It is in a bid to avoid this marginalisation and ill-treatment that the Rwandan Legislator provided in the Civil Code (Article 249) that children cannot be separated from their family unless the separation is done for the best interests of the child.

196. Article 284 of the same Code stipulates that whoever to whom children are entrusted, the father and mother have the right to monitor the maintenance and education given to their children.

197. In penitentiary system, women in prison live with their babies and they cannot be separated until babies are 3 years of age and in conformity with the guidelines of the Ministry of Justice and the Ministry of Internal Affairs.

198. Under the terms of the national policy, every child has to live in a family. However, in case the father and mother abuse of the parental rights, ill-treat the child, or are not worthy of parental rights, Article 359 of the Civil Code provides that, in the child's best interest, the court can deprive either temporarily or definitely the parents of parental rights. In this case, the State decides to separate the child from his/her parents and to transfer him/her to an appropriate childcare institution.

199. It is worth mentioning that, as a matter of fact, children whose parents are imprisoned have the right to pay them a visit twice a month.

200. As regards street children living in rehabilitation institutions, contacts with their family are fostered, for they will eventually be reintegrated in their families after rehabilitation and vocational training.

6.4. Family Reunification and Children Deprived of their Family Environment (Article 25.5 (b))

201. Article 25.2 (b) of the African Charter on the Rights and Welfare of the Child requires any State Party to take all necessary measures to trace and re-unite children with parents where separation is caused by internal and external displacement arising from armed conflicts or natural disasters. One of the encountered difficulties is that some children have no families with which they can be re-united. Those children are known as “unaccompanied children”.

202. The term “*unaccompanied child*”⁴ refers to any minor child under 18 years whose father and mother (not one of them) are:

- reported missing and presumed absent or dead (two years of life presumption since disappearance, plus 7 years before death presumption). In this case, it is necessary to establish the situation by the relevant court of the last jurisdiction;
- certainly dead (with death certificate of both of them or judgement of death certification by the same court).

203. The right of those children to have a family is not easy to ensure. Indeed, due to the 1994 war and Genocide, the normal family cell has been destroyed. Many families have lost their members or have been separated from one another. Others are leading a precarious financial situation and cannot meet their children’s needs. The result is the big number of child-headed households, street children, children living in childcare institutions. The State should take the responsibility to protect all those children and ensure the respect of their rights. Mindful of this problem, the Government of Rwanda encourages support to vulnerable families as a strategy to help children.

204. After the 1994 Genocide, there have been many cases of spontaneous reintegration without the involvement of any agency or ministerial department. Family reunifications and foster placements have been carried out by the Government with the support of NGOs and UN agencies. Unfortunately, recent studies on orphans’ situation and reintegration demonstrated that due to lack of sufficient financial resources, the monitoring stage is not well conducted.

205. Children whose family tracing have not proved fruitful and who have not been placed in foster families still live in Centres for Unaccompanied Children (CUCs). In 1966, there were 86 CUCs accommodating more or less 14,000 children. Today, there are only 27 CUCs accommodating about 4,013 unaccompanied children, including orphans and children separated from their parents. The table N°01 below shows the list of CUCs and the number of accommodated children. Note that this number varies as children are admitted in or discharged from the centres.

⁴ HAGURUKA , Juristes sans Frontières, UNICEF, Droits et Devoirs pour prendre en charge un enfant non accompagné, Rwanda, 1996, page 10

Table N° 01: NUMBER OF CHILDREN LIVING IN CUCs TO 31 MARCH 2005

PROVINCE	DISTRICT	CUC	CHILDREN
Kigali City	Nyamirambo	1.Centre Mémorial Gisimba	160
		Kacyiru	2.SOS Kacyiru
			3.Mère du Verbe
	Kicukiro	4.Petites Sœurs de Jésus	38
		5.Cité de la Misericorde de Kigali	120
	Gikondo	6.Mpore Pefa	41
		7.PAMASOR	82
	Nyarugenge	8.Urugo Saint Joseph	61
		9.Home of Hope	150
Butare	Nyamure	10.Don Bosco Cyotamakara-Ruyenzi	148
		Nyanza Town	11.Antonien Nyanza
	Butare Town	12.Ste Elisabeth	111
		13.Cité de la Misericorde Butare	45
Kibuye	Rusenyi	14.Espérance Children's Aid Mugonero	118
	Kibuye Town	15. Mabanza	61
Byumba	Byumba Town	16.SOS Byumba	180
	Humure	17.Muhura	97
	Ngarama	18.Home of Mercy	73
Gisenyi	Gisenyi Town	19.CENA Imbabazi	140
	Cyanzarwe	20.Noel Nyundo	524
Kigali Ngari	Rulindo	21.Rulindo	39
Kibungo	Kibungo	22.House of Joy	150
Umutara	Murambi	23.Gakoni	205
Cyangugu	Gashonga	24.Cité de la Misericorde Rusayo	394
Gikongoro	Gikongoro Town	25.SOS Gikongoro	132
		26.Kaduha	58
Gitarama	Gitarama Town	27.JAM	367
TOTAL			4,013

206. The decrease in the number of CUCs since 1996 is the result of the implementation of the national policy for unaccompanied children, based on the principle; "A child, a family" and national sensitisation on fostering parentless children. Target children are mainly children aged between 0 and 10 years for whom family tracing was unsuccessful. This principle comes from the central theme chosen on the fourth celebration of the African child day on 16 June 1995.

207. Most of children still living in CUCs are "residual cases" for which family tracing has not proved fruitful and socio-economic cases, including children infected/affected by HIV/AIDS, children from poverty-stricken families that cannot afford their maintenance, etc.

208. The Government of Rwanda, in accordance with Article 406 of the Civil Code, allocates funds every year for the maintenance and education of those unaccompanied children. This is done through the Ministry having child protection in its attributions, Provinces and Districts.
209. As regards the placement of unaccompanied children in childcare institutions in particular, the latter submit periodical reports to relevant authorities, and control/monitoring visits are organised.
210. In accordance with Article 8, last paragraph, of the Law N°27/2001 relating to rights and protection of the child against violence, the Ministry having the child protection in its attributions has issued for childcare institutions instructions governing them pending the elaboration of a Ministerial Order provided for by that law.
211. The constraints on this policy are that the foster families express preferences that are sometimes not reflected by available children, and that the legal status of the child is not well defined yet.

6.5. Child Maintenance (Article 18.3)

212. The family is the fundamental unit of society and the natural environment for the growth and welfare of all members, especially children. The latter have the right to be brought up in an environment that ensures their protection. If this protection is ensured, children are more likely to grow up being physically or mentally healthy and to have a better future.
213. In this development, the Government of Rwanda committed itself, through its legislation, to creating a protective environment that consists in ensuring the evolution of mentalities, traditions, custom and behaviours that might jeopardise the rights of the children.
214. Therefore, the Constitution of 4 June 2003, in its Article 27, lays emphasis on the duty of parents to bring up their children and on that of the State to put in place appropriate legislation and institutions for the protection of the family and the mother and child in particular.
215. The Law N° 27/2001 of 28 April 2001, in its Articles 7, paragraph II and 14, goes back respectively to the right of the child to be brought up by the parents and to his/her right to live in conditions that can foster his/her welfare.
216. The Civil Code (Articles 197,198, 200 and following) stipulates that maintenance order is between spouses. It also prevails between parents and their children. The same Articles set forth that, through simple marriage contract, both spouses have the duty to maintain and educate their children. If one of them shirks this duty, the other is obliged to compel him/her to fulfil it. The maintenance order is performed in cash or in kind.

Article 204 of the same Code adds that it is performed in accordance with the needs of the creditor and the financial means of the debtor.

6.6. Adoption and Periodical Report on Placement (Article 24)

217. The Law N^o 27/2001 of 28 April 2001, stipulates adoption among solutions for a parentless child.

218. The Civil Code distinguishes between conditions to be fulfilled by the person wishing to adopt and those to be fulfilled by the child to be adopted. Adoption is a solemn contract subject to imperative forms and that has to fulfil some requirements of content and form. If those requirements are not met, the adoption cannot take effect.

6.6.1. Conditions Imposed on the Adoptive Person

- Minimum Age

219. The person wishing to adopt a child has to be over 35 years. Besides, there must be an age difference of 15 years at least between the age of the person wishing to adopt and the age of the child to be adopted (Article 333 of the Civil Code).

- Capacity to Undertake Legal Actions

220. The person wishing to adopt must, as in case of any legal action, be able not only to enjoy rights, but also to exercise them (Article 431 of the Civil Code). It is in that sense that persons whose privileges have been suspended and those who lost their parental rights cannot adopt.

6.6.2. Conditions Imposed upon the Adopted Child

- Adoption Age

221. The child to be adopted is not subjected to any age condition. Adoption can be done at any age provided that the age difference between the person wishing to adopt and the child to be adopted is respected.

- Consent

222. If the child to be adopted is 18 years old, s/he has to express his/her consent before the registrar of the jurisdiction where the adoption procedure is going to take place. Only this consent shall be enough for the adoption to take effect legally.

223. If the child to be adopted is under 18 years, the consent is given by both parents if they are still alive, one of them if the other is dead, absent or cannot express his/her will, or by the guardian of the child in case of divorce or legal separation. According to Article 335 of the Civil Code, consent to adoption can also be given by the guardian or the person in charge of the minor when his/her parents are dead, absent

or unable to express their will. This consent shall be subject to approval by the court of the domicile of the adopted child.

6.6.3. Adoption Procedure

224. In Rwanda, adoption is done in a legal deed before the registrar within the jurisdiction including the domicile of the adopted child. The registrar has a passive role in the sense that s/he only registers declarations of the parties in presence of witnesses without necessarily verifying if they are accurate. The court will verify their accuracy in case of dispute.

225. The adoption deed is established in accordance with the law. It includes the place, date, month and year of establishment, names and position of the registrar who establishes it, names, date of birth, occupation and residence of involved people and all documents that have been produced. The deed includes signatures of the registrar, parties and witnesses.

226. The deed is established in two copies: one for the registrar and the other for the court's clerk. Parties are given an excerpt or a carbon copy of the deed.

227. It should be mentioned that even though the country has not yet ratified the The Hague Convention on International Adoption, there have been cases of international adoption. Thus, during the period of January -December 2004, Rwandan children have been adopted by foreigners. Here, we have to deplore the case of Rwandan children evacuated in Italy, who have been adopted without respecting the adoption procedures. Negotiations have been undertaken between the Government of Rwanda and Italy to restore the rights of those children, but the problem is not solved yet. The law relating to rights and protection of the child against violence stipulates that adoption of a child should be done in his/her best interests (Article 16). Concerning children placed in foster families and CUCs, there are still some shortcomings as there is no legal framework governing the placement of children in foster families so far. However, the process of drawing up that framework is underway in collaboration with the Ministry of Justice (MINIJUST).

6.7. Abuse, Neglect, Exploitation, including Physical and Psychological Rehabilitation and Social Reintegration (Articles 16 and 27)

228. In order to bring in some income for their parents, children are obliged to begin to work very early, at the risk of their health, physical and psychological development. In traditional society, the child labour consisted in looking after cattle, helping parents in farm and house work.

229. It was merely an ordinary socialisation process. Today, Children work in extremely hard conditions and most of the time for derisory pay.

230. Moreover, there is sometimes lack of follow-up by parents, who let the children grow without caring about giving them strong basic education. As a result, those

children are eventually found in street, fending for themselves and exposed to all types of exploitation.

231. The Law N° 27/2001 of 28/04/2001, in its Articles 43 to 50, as mentioned earlier in this report, provides for sanctions against parents, adoptive people, guardians and heads of institution found guilty of the violation of the rights of the child through abandonment, neglect and involvement in premature or forced marriage of the child.

232. In 1999, the “Convention N°182 against Worst Forms of Child Labour” was unanimously adopted by 174 States (including Rwanda) members of International Labour Organisation and it was the first legal instrument recognising explicitly that compulsory or forced recruitment of the child in armed conflicts is a form of abusive child labour. Rwanda ratified this Convention, as well as the Convention N°29 relating to forced labour.

233. The Decree-Law N° 21/77 of 18 August 1977 establishing the Rwandan Penal Code provides for and punishes various offences inflicted on children or enacts serious penalties when some offences are inflicted on children.

Hereafter are some of the cases set forth in the Penal Code:

- Infanticide (Article 314);
- Abortion (Articles 325 - 328);
- Indecent assault and rape (Articles 358 - 362);
- Corruption, exploitation and providing facilities for prostitution (Articles 374, paragraph I and 375, paragraph II);
- Advertisement of abortive means (Article 379);
- Abandonment, neglect and exposure of the child (Articles 380 - 387),
- Violation of individual freedom (Article 388).

234. The Organic Law of 30 August 1996 on the organisation of the legal proceedings of offences constituting the Genocide crime or crimes against humanity strictly punishes the perpetrators of sexual violence committed against women and girls. According to Article 2 of this law, the person who committed sexual torture is put in the first category, and incurs death sentence in the same way as the Genocide masterminds.

235. Over the last years, there has been observed a violence phenomenon towards children especially towards little girls, even within the family circle. For instance, during 2004, 1,853 cases of rape for children under 18 were reported and 310 rape cases were recorded during January and February 2005.

236. The Government of Rwanda prioritizes this type of proceedings. The extent of this phenomenon has led to the elaboration of a law that increases the punishments against the perpetrators of such an offence. Thus, Article 22 of the Law relating to rights and protection of the child against violence stipulates that “necessary

administrative, legal measures and those concerning social welfare and education must be taken in order to reinforce the protection of the child against any kind of violence, or physical or psychological brutality, abandonment, neglect, abuse, or exploitation”.

237. It is worth noting that the effects of tradition keep weighing heavily on the children as regards beating them. Some parents, including social workers in charge of vulnerable children living in childcare institutions, defend beating as a normal disciplinary measure arguing that only exaggeration is inadmissible.

CHAPTER 7: HEALTH AND WELFARE OF THE CHILD

7.1. Survival and Development (Article 5)

238. Faithful to its Constitution (Article 10), Rwanda has placed the child at the heart of its action by setting up a mechanism to save infants’ lives and protect mothers and children’s health. Efforts have also been made in a bid to reduce infant – juvenile mortality rates through building, rehabilitating and equipping health centres. Nonetheless, child mortality rates are still high in Rwanda. In fact, in 2002, out of 1000 live births, about 139 children die before 1 year. As regards child – juvenile mortality, 221 children died before 5 years. As for juvenile mortality, it was 102 for 1000 live births.

239. Given that voluntary abortion is not legalised in Rwanda, it is quite difficult to find reliable statistical data, even if in practice, we know that it is done in secret. However, reported abortion cases are strongly punished as provided for by law.

240. In order to prevent premature maternity and unwanted pregnancies among teenagers, training programmes on reproductive health intended for the youth have been initiated by various ministerial departments, with financial and technical support from partners, including UNICEF, UNFPA, and USAID.

241. The child suicide phenomenon is not pervasive in Rwanda. That is why there is no service in charge of reporting and recording suicide cases only.

7.2. Disabled Children (Article 13)

242. According to the data from the third General Census of Population and Housing carried out in August 2002, 93,299 children currently suffer from physical disabilities. The breakdown of disabled children’s figures per age group and according to the type of disabilities can be found in table N° 02 below.

Table N° 02: **Breakdown of Disabled Children Figures per Age Group and Type of Disability**⁵

Age	Total	Blind	Deaf/ Dumb	Disable d lower limbs	Disable d upper limbs	Mental deficie ncy	Trau ma	Other disabilit y	Not deter mined
Total	93299	3323	7446	13684	10808	2206	934	14345	40553
00-04	22455	804	989	2354	1499	167	37	2225	14380
05-09	23955	857	2485	3222	2692	528	176	3906	10089
10-14	27803	1037	2636	4507	3782	829	411	4776	9825
15-17	19086	625	1336	3601	2835	682	310	3438	6259

243. The Constitution 4 June 2003, in its Article 14, entrusts the State with the duty to take special action for the welfare, especially of people with disability.

244. The Law N° 27/2001 of 28/04/2001, in its Article 15, stipulates that a handicapped child should be particularly taken care of for his / her health, education and welfare by the parents, the guardian and the Ministry having social affairs in its attributions.

245. Article 350 of the Civil Code stipulates that *“the right to childcare entails for fathers and mothers the obligation to maintain and educate their children in conformity with their state and form”*.

246. In Rwanda, there have always been specialised institutions, generally religious, to take care of handicapped children. The most notorious example is that of Gatagara Centre for Disabled People, in Gitarama Province, set up under the initiative of late Father FRAIPONT NDAGIJIMANA. Other existing structures need strengthening. These are especially Butare and Gahini Centres, which do not manage to cover the numerous needs of disabled people. Their services in terms of facilities, specialised care, special education, socio-economic promotion, are still modest.

247. Through the Ministries having social affairs and education in their attributions, the Government contributes to the private institutions efforts, as regards the equipment and financial resources, in a bid to ensure to disabled children required care and special education.

248. Explicitly, though general, the law is clear enough and unreserved regarding the rights of disabled children. In reality, we can say that those children do not enjoy proper consideration and special protection that they deserve due to limited resources. However, the political will of the Government is obvious and has been

⁵ **Source:** Third General Census of Population and Housing (GCPH) to 15 August 2002.

translated through various specific measures: in collaboration with handicapped people, the Government contributed to the establishment of the Federation of Associations and Centres of the Disabled in Rwanda (FACHR).

249. Chapter 4 of the Government seven-year Programme, in its point 4, spells out a good number of planned actions for the handicapped.

250. Moreover, a specific policy for the handicapped was adopted by the Cabinet and a specific law will be adopted in the foreseeable future.

251. Ultimately, the Constitution of 4 June 2003, in its Article 76, provides for one seat in the Chamber of Deputies for one representative of FACHR elected by his/her fellow handicapped. It can be understood that the child, in one way or another, is targeted by these measures.

7.3. Health and Health Services (Article 14)

7.3.1. Infant and Infant - Juvenile Mortality

252. Reduce child mortality is one of the millennium development goals: the target is to reduce by two-thirds, between 2000 and 2015, the under-five mortality rate. In order to reach that objective and in spite of various challenges it has to confront, Rwanda has deployed and keeps deploying considerable efforts. Today, the country has embarked on non-risk maternity policy that makes free antenatal checkups and deliveries within public health institutions.

253. However, considering the indicators, there is still a long way to go. In fact, during a Demographic and Health Survey (DHS) conducted by the National Population Office in 2000, infant - child mortality rates observed were respectively 117.4 and 206.7 out of 1000 live births.

254. According to the results from the census of August 2002, the mortality level observed among children is still high.

Table N° 03: Breakdown of Mother per Age group and Number of Live Births and Survived Children (Source: 3rd GCPH, 2002).

Age	All women	Women having notified	Children born alive	Survived children	Dead children
Total	2,410,950	2,267,284	5,167,662	3,965,210	1,202,452
12-14	350,066	295,764	802	527	275
15-19	551,489	496,081	40,576	32,938	7,638
20-24	426,972	408,839	344,364	282,886	61,478
25-29	301,209	295,284	677,114	546,014	131,100
30-34	238,741	235,363	852,523	673,381	179,142
35-39	204,003	201,569	1,020,879	787,930	232,949
40-44	193,431	191,129	1,206,839	908,113	298,726
45-49	145,039	143,255	1,024,565	733,421	291,144

255. By observing the main diseases behind that high mortality, you can notice that malaria ranks the first followed by acute respiratory tract infections, worms, diarrhoeic or deficiency diseases (malnutrition). In addition to those diseases, it is worth highlighting that HIV / AIDS represents also a permanent danger for children's health.

7.3.2. Health Facilities

256. Health facilities were also destroyed by the war and genocide; but, through joint efforts of the Government, NGOs, FBOs and external partners, the health services have been re-organised. In the country, there are 39 health districts, 32 district hospitals, 291 health centres, 37 clinics and 22 infirmaries. In 2002, 1/5 doctors in rural areas, one doctor attended to 50,000 people and one nurse for 5,000 people. Very recently, so as to overcome this shortage, the Government decided to mobilise doctors in non-medical services to dispatch them to health services, especially in rural areas. It should also be noted that in order to increase the number of skilled personnel in this area, a health Institute (Kigali Health Institute -KHI), which has already its first graduates, was put in place. Furthermore, regarding health, the secondary education system has been reviewed.

7.3.3. Nutrition

1. Food Situation

257. The analysis of the Rwandan population food situation shows that food security is far from being ensured for a significant proportion of the Rwandan population. This can be especially observed through the rate of prevalence of deficiency diseases.

258. In fact, acute and chronic protein - energetic malnutrition constitutes a major public health problem in Rwanda. Malnutrition affects particularly children aged between 6 and 24 months because of weaning problems specific to this age group. About 10 % of the deaths registered in hospitals are related to malnutrition and this percentage reaches 15 % for children under five years of age.

2. Summary of Malnutrition Causes

Causes attributable to households and community	Causes attributable to services and institutions
Food availability problems with a significant shortage of food production	Progressive impoverishment
Iron, iodine and vitamin A deficiency	Insufficient nutrition education
Poor income	Shortage of budgets for social programmes

Numerous pregnancies and which are too close / premature weaning	Insufficiency of information programmes on reproductive health
Poor allocation of family incomes	Low level of population education
Poor access to weaning food and inadequate use of supplementary feeding	Poor control of morbidity
Poor access to drinking water	Insufficient budgets
Women's excessive work	Gender education still in its embryonic stage

7.3.4. Access to Drinking Water, Hygiene, Sanitation

1. Access to Drinking Water

259. The data from the General Census of Population and Housing shows that 67.2 % of households can be said to have access to drinking water. However, the gap remains huge between the population in rural areas and urban areas, respectively with 79 and 67.2 % of households with access to drinking water. Surveys have shown that the progress made in drinking water supply, especially in the areas of sanitation and hygiene, can be reflected by 22% decrease in diarrhoea cases and by a 65 % decrease in deaths due this disease.

260. However, insufficient drinking water supply and poor sanitation are some of the main causes of mortality, diseases, and infant malnutrition. While deploying efforts to increase the water supply coverage, it will also be necessary needed to ensure that protected drinking water springs and wells supply truly drinking water. Indeed, negative effects of dirty water, particularly on children, are known. It is especially the origin of diarrhoeic and parasitic diseases, which are fatal for those children, especially children under 5 years of age.

2. Hygiene and Sanitation

261. Concerning faeces draining, results from the General Census of Population and Housing have shown that 85.6% of households have private latrines, rural households having more than urban ones with respectively 85.6 % and 64.5 %⁶.

262. Even though these figures seem to be encouraging, it is needed, once again, to put an emphasis on the quality and cleanness of those latrines.

263. Indeed, the current situation regarding sanitation fosters especially the spread of faecal diseases that affect families in general and children in particular. Wastewater

⁶ Idem, p. 40

draining and treatment system is not adequate: there is hardly a collective wastewater cleaning system or purification plant even in residential and industrial areas in cities.

264. In town slums and rural areas, there is also no house wastewater draining system. Therefore, this water is prone to harbour micro organisms, including some that can be pathogenic. Stagnant water can also be a better place for the development of mosquitoes, vectors of malaria, which is the major cause of mortality among children.

7.3.5. Environment Situation

265. The quality of the environment affects children insofar as it currently determines the management of natural resources, which are the backbone of their existence.

266. Concerning environment protection, Rwanda already faces critical situations as regards hygiene, housing, atmospheric pollution, and preservation of soil, forest and energy.

267. As to family and psychosocial setting of the child, there are major problems such as extreme poverty (60.29% of the population live below the poverty line), disintegration of traditional family unity, family conflicts, effects of the 1994 Genocide and war, etc.

268. **This situation entails the following consequences:**

- Primary needs, including clothing and food, unmet;
- Inadequate socialization process and child labour;
- Abuse, abandonment;
- Rapes and sexual exploitation;
- Parental responsibility and work poorly distributed among the family members;
- Family size and mother's excessive work.

7.3.6. Reproductive Health

269. For Rwanda, six priority components have been retained during the Round Table that brought together specialists of several backgrounds in Gisenyi, in September 2000. Infant health and teenagers' sexual and reproductive health take pride of place in those components. That Round Table was aimed at laying down the foundation of a national health and reproduction policy.

Following are the six priority components for Rwanda:

1. Safe maternity;
2. Infant health;
3. Family planning;
4. Genital infections, STI/HVI and AIDS;
5. Reproductive health and sexual violence management;

6. Social changes to increase women's decision -making power.

270. In a bid to ensure the right to life and children's health, a pilot Project for Preventing Mother-to-Child HIV Transmission has been undertaken in order to reduce mother -to-child transmission of HIV. That project is based in Kigali City, and caters for HIV positive pregnant women. The results have been encouraging, and allowed to extend the programme to six new health centres in the country. Nonetheless, it is worth scaling up efforts of distributing drugs needed by those women after delivery; in order to lengthen their survival, and thereby, enable them to look after their children for a long time. The other project constraint is associated with the reluctance of several husbands regarding voluntary testing, as well as difficult access to antiretroviral therapy (ART) for children.

1. Adolescents' Reproductive Health

271. Several indicators show that the situation is not satisfactory (Development Indicators in Rwanda, 2001):

- Fertility synthesis: 6.5
- Fertility rates among adolescents (delivery for 1000 women aged between 15 and 19 years): 54
- Unintentional conception in % of married women aged between 15 and 49 years: 37
- Overall contraceptive prevalence rate (women aged between 15 and 49): 13.2
- Number of births attended by skilled health professionals: 14%
- Maternal mortality rate for 100,000 live births: 810

272. Even though we can assert that adolescents' education on reproductive health exists, it is needed to acknowledge the need to strengthen and streamline it. This applies also to information, education, and communication services on sexual health and family planning.

2. Other Problems among Adolescents

273. Alcoholism, drug abuse, delinquency, and criminality phenomena exist but they have not yet reached alarming proportions. On the contrary, prostitution among adolescents and even among very little girls (12 years) keeps increasing⁷, especially due to poverty and degradation of traditional positive values, under the influence of outside negative values. Those phenomena are taken into consideration by relevant authorities and integrated fighting measures are studied in various sectors, especially within the Ministry in the Prime Minister's Office in charge of Gender and Family Promotion, the Ministry of Local Government, Good Governance, Community Development and Social Affairs, the Ministry of Justice and the Ministry of Internal Affairs.

⁷ A survey conducted in March 2000 by MIFOTRA showed that the number of prostitute children was estimated at 2,140.

7.3.7. Specific Policies for Children

274. The action plan agreed upon between the Government of Rwanda and UNICEF for 2001 – 2006 includes a water and environment sanitation programme aimed at ensuring an increase of 30% of access to drinking water, improvement of sanitation facilities, as well as changes in behaviour in school setting through education to hygiene. In fact, there is an apology for **health** and sanitation conditions in school environment. In most cases, schools do not have adequate latrines with running water.

275. It is with a view to appraising ways and means of addressing that type of problems that the Ministry of Energy, Water and Natural Resources with the support of UNICEF, has launched a hygiene and sanitation pilot programme in school setting (HAMS). This project is aimed at launching, developing, and supporting hygiene and sanitation culture among school populations, having a positive impact on communities, expressed through a general change in behaviour. To this end, it is worth mentioning that HAMS committees, including heads of water and sanitation services in Provinces, inspectors of school districts and head doctors of health regions, have been established since 2000 throughout the country.

276. Planned for 5 years, this programme will involve the following activities:

- Conducting an assessment of sanitation facilities and installations in schools;
- Training teachers, school and administrative authorities on techniques of mobilising the population for hygiene and sanitation practices;
- Support local communities in putting in place water and sanitation facilities in schools and building water tanks to collect rainwater and building improved latrines.

7.4. Social Security, Childcare Services and Institutions [Article 20.2 (a-c)]

277. The law organising Social Security institutes a Social Security Regime for workers governed by the Labour Code. In its Article 65, this code provides that children with less than 16 years cannot be allowed to contract for employment in any company, even for apprenticeship. In addition, in its paragraph III, the same Article states that less than sixteen years old child cannot be employed for night tasks that are unhealthy, noxious, or dangerous for his/her health and training.

278. Public and private institutions working in social security: Rwanda Social Security Fund (CSR) was instituted by the Decree of 22 August 1974 and included as of 31 December 1999, 10,275 employees of the public and private sectors. It is clear that the benefits of the Rwanda Social Security Fund go to eligible adult people and children as well.

279. Regarding social insurance, the Rwandan Health Insurance (RAMA), created in 2000, covers medical fees for all civil servants and their dependants: spouse (s) and

children. It is also worth noting prepaid health insurance schemes initiated by the Ministry of Health since 1999, through health centres. Today, their membership rate is estimated at 45%. A national policy for prepaid health insurance schemes has been adopted and a related law voted.

280. It should be noted that some insurance companies such as SORAS and SONARWA, have, of recent, initiated health insurance, life insurance, education allowance insurance, whose first beneficiaries are children.

281. The Government, through MINALOC, is developing a policy mainly aimed at mass mobilisation for savings, social security, insurance, prepaid health insurance schemes and social solidarity in a bid to safeguard the children's future. The paper is to be discussed in the Cabinet in the foreseeable future.

282. As regards childcare services and childcare institutions for working parents' children, five day-care centres were identified in July 2001 throughout the country, that is, two in Kigali City, two in Butare Town and only one in Ruhengeri, all of which are private. In this connection, it can be pointed out that, during 2003-2004 school year, there were all over the country 335 nursery schools (including only 28 public schools) taking care of 28,103 children, including 13,876 boys and 14,227 girls.

7.5. Maintenance of Orphans (Article 26)

283. As stated earlier, Article 14 of the Constitution of 4 June 2003 provides that the State shall take special measures for special protection of vulnerable groups, especially orphans.

284. Likewise, as previously stated, Article 8 of the Law N° 27 of 28 /04/2003 provides for successive measures for protection of the orphan child ; guardianship, adoption, placement in an institution or in care of the State.

285. The law lays down guardianship for children without parents, who have parental rights on them. The registrar refers to the court, which chooses the guardian from the closest adult relatives or from any other persons that are able to take in charge the minor's care and education. In practice, guardianship is organised through arrangement within families without having to go to the court. The law provides also, as already stated above, for the possibility of adopting children, especially orphans, and provides for administrative procedures that must be followed by persons wanting to adopt.

286. All this is done in a bid to achieve respect of the rights of an orphan child to non-discrimination in the same way as other children.

CHAPTER 8: EDUCATION, LEISURE AND CULTURAL ACTIVITIES
8.1. Education, including Training and Career Guidance (Article 11)

287. The Rwandan legislation, especially the Constitution puts an emphasis on the right of the child to education.

288. In its Article 40, the Constitution stipulates that “Every person has the right to education. Freedom of learning and teaching shall be guaranteed in accordance with conditions determined by law. Primary education is compulsory. It is free in public schools.”

289. Likewise, the Law relating to rights and protection of the child against violence also states that the child has the right to education (Article 10). The same Article adds that primary education is compulsory in respect to the provisions of the law. The Ministries having Education and Social Affairs in their attributions determine modalities according to which children with needy parents may gain access to secondary and higher education. This law entrusts the District Council with the responsibility to ensure the implementation of provisions laid down in this law as regards free and compulsory education. It is in this framework that District funds have been put in place to pay the school fees for vulnerable children.

290. The Government of Rwanda has therefore placed education among its first priorities and at the heart of its mission. Vision 2020, the Poverty Reduction Strategy, the seven-year Government Programme and the Sector Policy of the ministry having education in its attributions consider education as one of the major pillars of sustainable human development of Rwanda. In official speeches and others, the recurring theme is that children are the most important wealth of Rwanda, which has neither diamond-mines nor oil. To this end, the country adopted as its own the major international goals on education: the Millennium Development Goals, those of Jomtien, Beijing and the ones of Dakar.

8.1.1. Access to Education

In the Rwandan traditional system, responsibility for the education of the child lies with the nuclear and extended family, as well as with the community and peers. The child grows up by adapting himself to various patterns offered by daily life through which he is initiated into social values, just as the saying: “Uburere buruta ubuvuke = education is more important than birth”. Modern life has added the school to this system.

Level of Education

The main indicators of the Rwandan education:

* At primary level:

1. Between 1999 – 2004, the net education rate considerably increased from 69.9% to 90%, but the rate of school dropouts is still high sometimes reaching 16.6%;
2. The rate of children promoted to secondary education does not reach 45%;
3. The percentage of skilled teachers has clearly increased over the past five years from 49.2% to 88.2%, but the number of children looked after by a skilled teacher goes beyond acceptable standards (112 pupils per skilled teacher in 1999 against 95.8 pupils per skilled teacher in 2004);
4. In 2004, the number of the population in school age (between 7 and 12 years) was 1,339,845, while children attending the school were estimated at 1,246,634, that is, a balance of 93,211 children not sent to school;
5. The rate of pupils promoted was 50.5% in 1999, whereas in 2003, it was 64.2%;
6. The repeat rate was 38.1% in 1999 against 20.6% in 2003.

291. Even if we have made significant progress over the last five years as can be seen from the related table, the number of 28,103 children in nursery schools is not at all enough, when it is known that the number of children enrolled in primary schools is beyond 1,300,000. It is needed to point out that the less developed pre-school education is also too expensive and concentrated in urban areas in the hands of private investors.

292. In fact, the problem of poverty within families compels some parents to not sending their children to school, due to lack of educational stationery. This great number of children outside the school is being reduced through the “Catch-up programme” initiated by the Ministry of Education in collaboration with UNICEF.

* At secondary level:

- The number of school age children (between 13 – 18 years) was 1,333,751 in 2004, while the number of school children was only around 20,3551, i.e., a balance of 1,130,200 children not attending school. Thus, the net schooling rate was only 15.2 % in 2004.
- The % of skilled teachers is still 51%, while a skilled teacher is in charge of 51.5 students.

Accommodation Capacity of Facilities

293. In 2003/2004 school year, primary education included 2,263 school centres with 29,385 classrooms. At secondary level, the total number of schools was 504 with 286 public and 218 private schools with 4,573 classrooms. Overall, school facilities are not sufficient, and a number of them are in bad conditions and not adequately equipped.

8.1.2. Girl's Education

294. Over the last years, Rwanda is increasingly concerned with the disparities between boys and girls' education levels. This awareness has become manifest at various levels and that since the world conference on education held in Thailand in 1990, which led to the universal declaration on "Education for All".
295. At the national level, there is no hindrance to girls' education. The obstacles that used to be located at the level of stereotypes and negativist practices are decreasing significantly and have to be taken as bygone. It is worth highlighting the invaluable role of women's organisational structures (WOS) in sensitizing the Rwandan community and setting up FAWE School and clubs in various schools involved in the advocacy of girl's education promotion.
296. Activities undertaken through PACFA Project under the patronage of the Rwandan First Lady by awarding prizes to girl students for having passed national exams with distinction are intended to encourage girl's education, and constitute a decisive turning point to eradicate the disparities that have characterised our education system for years.
297. However, due to various factors, it appears clearly that a significant proportion of children in school age do not attend school, even though primary education is compulsory and free. The underlying cause of this situation is especially illiteracy and poverty of the parents worsened by facilities being so far from home, lack of equipment and genocide consequences.

8.2. Leisure, Recreation and Cultural Activities (Article 12)

298. Rwandan children have the right to entertainment, and have to be allowed possibility to have fun, play, participate in cultural activities, and do sports.
299. The mission entrusted to the Ministry having youth, sports and culture in its attributions (MIJESPOC) is presented in 4 main points, namely developing artistic and cultural activity among the youth, promoting and safeguarding cultural and historical inheritance, promoting Rwandan cultural positive values, as well as sports and leisure activities.
300. Within the framework of the Law relating to rights and protection of the child against violence, it is stipulated, in its Article 17, that a child has the right to rest, enjoyment of sports and of recreational activities that correspond to his/her age. Paragraph two of the same law states that the Ministry having sports in its attributions shall make sure that District, Towns, and childcare institutions have adequate sports facilities for the child.
301. It is in the same development that MIJESPOC, within its priorities, has already thought of designing programmes aimed at creating kindergartens, and sports and entertainment centres available to everybody. In the long run, the Ministry intends

to provide each Province with a functional sports complex that can allow various sports activities.

302. It should be added that there are physical and sports education courses at all education levels since nursery school up to the end of secondary education. There are also interschool tournaments organised each year in various disciplines and gathering teams from different schools all over the country. We should also point out trainings known as “Ingando” organised within the framework of Unity and Reconciliation for former soldier children and for all the youth before entering public higher education.

CHAPTER 9: SPECIAL MEASURES FOR PROTECTION OF THE CHILD

9.1. Children in Emergencies

9.1.1. Refugee and Internally Displaced Children (Articles 23 and 25)

303. The difficult situations of war and Genocide that Rwanda went through in 1994, as well as insecurity situation experienced by our country in 1997 – 1998 have left a huge number of refugee and internally displaced children. Some of those children live alone in child-headed households, others in the centres for unaccompanied children (CUCs).

304. Regarding unaccompanied Rwandan children living abroad, the data from the ICRC on 30 December 2004 showed 400 children were identified in African and western countries. As set forth in the Government Policy, children deprived of their family setting have the right to specific protection, help, and support mechanisms. As far as possible, it is necessary to avoid placing children in institutions, and it should only be decided as the last resort solution.

305. Basing on the Rwandan culture, our country encourages Rwandan families to take in orphans or unaccompanied children once come back from exile after a short transit in CUCs. Overall, 22,525 children have been received in families, including 10,212 boys, i.e. 45.3 % and 12,313 girls, i.e. 54.7%⁸.

306. As to foreign refugees living on the Rwandan territory early in 2005, there were 40,798 refugees, including more than 27,529 who were still under 18 years of age.

307. The Government of Rwanda works hand in hand with UN agencies, especially UNHCR and UNICEF, as well as with local NGOs in order to manage to meet those refugees’ needs. In this context, refugee children enjoy the same rights as Rwandan children as regards health, education, and nutritional assistance.

308. It is also interesting to note that Rwanda has ratified various international instruments in that area, namely:

⁸ Data from the 3rd General Census of Population and Housing, August 2002.

1. Geneva Convention of 28 July 1951 related to the status of refugees, ratified on October 1979;
2. The International Covenant on Civil and Political Rights of 19 December 1966; ratified on February 12, 1975;
3. The Protocol relating to the Status of Refugees of 31 January 1967, ratified on 22 October 1979;
4. The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, of 10 September 1969, ratified on 22 October 1979.

9.1.2. Children in Armed Conflicts, including Specific Measures for Children's Protection and their Care (Article 33).

309. During the 1994 war and Genocide, some children under 19 were enrolled in the warring factions.

310. Soon after the war and Genocide, all those children were demobilised and a rehabilitation and reintegration programme into schools was set up with the support of international donors as set forth by the Worst Forms of Child Labour Convention, 1999 (No. 182) ratified by the Government of Rwanda. Overall, 2,922 child soldiers have been demobilised. The Government of Rwanda opened, in June 1995, a "KADOGO (child soldiers) School" in Butare in a bid to ensure social integration for those children.

311. Other children enrolled in armed groups of infiltrators return from DRC on a regular basis and are referred to the rehabilitation centres to be reintegrated later on in the community. 2,000 children may still be in DRC.

9.2. Children in Conflict with the Law

9.2.1. Administration of Juvenile Justice (Article 17)

312. It is worth pointing out that with the support of UNICEF, MINIJUST has acquired a service known as "**Children in conflict with the law**" with the central mission of:

1. protecting the rights of detained children in order to release those who were under 14 when the offence they are accused of was committed;
2. speeding up the process of establishing case files for those who were aged between 14 and 18 when the offence was committed;
3. following up rape cases by providing the Public Prosecutor's offices with criminal investigation officers, especially in charge of children's cases;
4. establishing needed contacts with the courts to speed up legal proceedings of minors;
5. conducting awareness raising campaigns at all levels aimed at promoting the respect of the rights of the child;
6. making lawyers available to children to defend them before the courts (Article 21 of Law N° 27/2001 of 28 April 2001).

9.2.2. Children Deprived of their Freedom, including any Form of Detention, Imprisonment, or Reminding in Custody and the Conformity with the Provisions of Article 5 (3) of Children’s Charter Banning the Death Penalty (Article 17.2(a)).

1. Minors under 14

313. In collaboration with UNICEF, the Government of Rwanda, through MINIJUST and MININTER, ensures the welfare of minors living in prison, who committed offences before legal majority of 14 years since they are criminally irresponsible. They are gradually being released and reintegrated in their families after being rehabilitated in an ad hoc centre.

2. Minors Aged between 14 and 18

314. These are minor children, who are criminally responsible but who are entitled to legal minority excuse because they were 14 old and less than 18 at the time of the charges against them. In fact, the Rwandan Civil Code establishes the criminal majority at 14 years of age (Article 77). Thus, less serious punishments are inflicted on those young people under age⁹. As of 31 January 2005, the total number of minors in prison throughout the country was 948 as shown in table N° 4 below.

TABLE N°4: SITUATION OF MINORS AND INFANTS IN PRISON TO 31 JANUARY 2005

PRISONS	MINORS -14 YEARS		MINORS 14- 18 YEARS		INFANTS - 3 YEARS	
	G	F	G	F	G	F
KIGALI	0	0	127	28	12	10
REMERA	0	0	8	0	0	0
RILIMA	0	0	9	0	1	0
GITARAMA	3	0	323	6	5	6
NYANZA	0	0	7	2	18	4
MPANGA	0	0	0	0	0	0
BUTARE	0	0	28	2	7	5
GIKONGORO	0	0	39	4	1	7
CYANGUGU	0	0	33	3	1	2
GISOVU	0	0	40	2	4	1
GISENYI	0	0	47	6	8	14
RUHENGERI	0	0	43	11	2	1
MIYOVE	0	0	58	0	0	0
NSINDA	0	0	0	0	3	4
KIBUNGO	0	0	91	6	3	8
NYAGATARE	0	0	22	0	0	0
TOTAL	3	0	875	70	65	62

⁹ See above, Chapter 3, on penal maturity, p.12.

9.2.3. Reform, Family Reintegration and Social Rehabilitation (Article 17.3.3)

315. As stated previously, detained minors who committed offences before they were 14 years old are being gradually released and placed in a rehabilitation centre before joining their families. It is in this context that about 500 children, who were involved in the 1994 Genocide, have been rehabilitated in the Gitagata rehabilitation centre (located in Kigali Ngali Province) and reintegrated into their families in December 2000 after a long process of sensitizing and preparing families and the community for receiving them. That centre provides psychological support to minors and ensures vocational training, functional literacy, training on hygiene and national reconciliation.

316. The Ministry of Justice and MIGEPROF are now expecting to receive in the rehabilitation centre minors still in detention places.

9.3. Children with Imprisoned Mothers

9.3.1. Special Treatment to Convicted Pregnant Women and Mothers with Infants and Young Children (Article 30)

317. In collaboration with an NGO called ASOFERWA, MINIJUST has, since 1997, appointed for each prison a social assistant in charge of the problems of infants and pregnant women and the overall management of minors. Besides, infants and expectant mothers are provided with supplementary feeding. Furthermore, the training conducted by ASOFERWA is aimed at making easier the reintegration into their foster families by tracing those families or close relatives of those children as they reach the age of 3 years and that their mothers are to stay in prison. The number of infants, who were still under the age of 3 years, was 161 children in September 2005 (see Table n°4 above).

9.3.2. A Mother Should not Be Imprisoned with her Child (Article 30 (b))

318. In our legislation, there are no specific provisions on mothers, who are imprisoned with their children. The only existing instruction is that one admitting that a child aged at least three years can be separated from his/her mother in order to be received by his /her closest family member. ASSOFERWA is specifically in charge of such cases.

9.3.3. Reform, Integration of the Mother in the Family and Social Rehabilitation (Article 30 (f))

319. The Rwandan legislation shows loopholes regarding this area. Like any other detainee, the mother is reintegrated into the community after having finished her punishment. It should be noted, however, the mothers and their children live in separate cells.

9.4. Children in Exploitation and Abuse Situation

9.4.1. Economic Exploitation and Child Labour (Article 15)

320. In its Article 65, paragraph I, the Rwandan Labour Code prohibits the employment of children under 14. It is stipulated that only the Minister having labour in his/her attributions can enact an exception to this Article. In any case, this exception may be granted only to children aged between 14 and 16 to be employed for light tasks as long as these are not likely to prejudice their health, studies, and their participation in their orientation and supplementary training programmes.
321. The same article further stipulates, in its paragraph 3, that a child under 16 cannot be employed for night tasks that are unhealthy, noxious or dangerous for his/her health and training. The list of these tasks is established by an order of the Minister having labour in his /her attributions.
322. In its Article 18, Law N^o 27/2001 of 28 April 2001 stipulates that the work performed by the child should not burden him/her to the extent that it compromises his/her education or harm his/her health and development. The same Article adds that, in any case, children should not be employed in any enterprise before they reach 14 years.
323. The National Policy for Orphans and Other Vulnerable Children specifies that many children carry out activities that help their families within the socialisation process framework. Subsequently, still according to this policy, it is necessary to distinguish the daily home tasks from work situations that endanger the child's health and development. Child labour in its worst forms is abuse.
324. In reality, children are often obliged to work even before they are 14 years for their survival. Several children are encountered in informal activities such as in sand and stone quarries, brick-making firms, and tea plantations... They are also used as servants in households.
325. In Rwanda, the worst forms of child labour as enshrined in the Convention N^o 182 of the ILO¹⁰ are known: prostitution, dangerous work that can harm children's health, security or morality; work in mines, fishing, restaurants, farm work (sugar cane, tea, rice plantations, etc.); domestic work, hawking, assistant in workshops (garages and joinery).
326. According to the General Census of Population and Housing of August 2002, out of 2,643,403 children aged between 6 and 17, child labour is related to 352,550 children, who declared that they were involved in various activities, including 166,245 boys, i.e. 47.2%, and 186,305 girls, i.e. 52.8%.
327. As can be seen from table N^o 5 below, the most significant proportion of children involved in child labour (97%) is concentrated in four areas, i.e. agriculture, hunting

¹⁰ Rwanda ratified this Convention through the Presidential Order N^o39 bis/01 of 30 September 1999.

and forestry (83.1%), households using home servants, (11.9%), trade and repairing (1.2%) and finally, manufacturing activities (0.7%).

Table N° 5: Gender-Disaggregated Figures of Employed Children Aged 6 - 17 Years by Activity Sectors¹¹

SECTOR	Total		MALE		FEMAL E	
	Number	%	Number	%	Number	%
Agriculture, Hunting and Forestry	293,101	83.1	136,441	46.6	156,660	53.4
Households using home servants	41,876	11.9	18,454	44.1	23,422	55.9
Trade and Repairing	4,156	1.2	3,031	72.9	1,125	27.1
Manufacturing activities	2,306	0.7	1,426	61.8	880	38.2
Transport, warehousing and communication	1,219	0.3	1,050	86.1	169	13.9
Other activities of group services	918	0.3	654	71.2	264	28.8
Hotels and restaurants	559	0.2	444	79.4	115	20.6
Construction	750	0.2	675	90.0	75	10.0
Fishing, fish farming and related activities	422	0.1	397	94.1	25	5.9
Mining industries	407	0.1	254	62.4	153	37.6
Property, hire and service activities	388	0.1	202	52.1	186	47.9
Administration, defence and social security	282	0.1	215	76.2	67	23.8
Production and distribution of electricity, water and gas	17	0.0	14	82.4	3	17.6
Financial intermediation	16	0.0	10	62.5	6	37.5
Education	140	0.0	65	46.4	75	53.6
Health and social action	102	0.0	49	48.0	53	52.0
International Organisations	13	0.0	7	53.8	6	46.2
Not determined	5,878	1.7	2,857	48.6	3,021	51.4

328. A number of those children work to help their families because they contribute a significant income to their family budget. As regards child-headed households, the elder children have usually to help their siblings, who are not able to work and cater for themselves.

329. The issue of child labour constitutes a dilemma that challenges the Government policy that prohibits child labour. However, considering the Rwandan particular situation, this is virtually impossible. In fact, many children, even those living with their natural families, need to work regularly because their contribution to the family

¹¹ Data from GCPH, August 2002.

income is very crucial and sometimes so vital that it saves the family from falling into utter destitution.

330. Through the Ministry having child labour in its attributions, and in collaboration with partners, the Government of Rwanda has developed projects aimed at fighting the worst forms of child labour. These are namely KURET Project: “Child labour, HIV/AIDS and Education” executed by World Vision and funded by the American Labour Department, “BIT/IPEC ex-enfants soldats” Project, etc.
331. Through the same Ministry, the Government of Rwanda sensitizes the population and children themselves on the consequences of the worst forms of child labour. The consequences of the child labour persistence have several forms as spelled out during the Conference on the rights of the child in Rwanda held from 14 to 18 August 2000. They can be:
- Physical: work hazards and professional diseases, sexual abuse resulting into STIs and HIV/AIDS, growth retardation or bone deformities.
 - Psychological: some places where children are working may lead them into prostitution. Likewise, they may feel frustrated and develop certain aggressiveness; they may also lose confidence in their parents and even towards any other adult person.
 - Financial: Poor or no salaries that cannot help them meet their needs.

A consultative technical committee on issues related to combatting the worst forms of child labour was put in place in January 2005.

9.4.2. Drug Abuse (Article 28)

332. Drug use is strictly punished by Rwandan legislation in general, and regarding children in particular, Law N° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence sentences whoever gives illicit drugs to a child or uses him/her in illicit drugs or arms trafficking or fraudulent practices to an imprisonment ranging from 5 to 20 years and with a fine of between one hundred thousand (100,000) and (200,000) two hundred thousand francs (Article 42).
333. Under the terms of Article 1 of the Decree-Law of 19 November 1973 concerning the moral preservation of the youth, the presence in drinking establishments and bars is forbidden to an unmarried child under the age of 18, unless accompanied by his/her father, mother, guardian or the person to whom s/he has been entrusted. Other provisions of that Decree-Law provide for punishments against the bar manager or bar owner, and multiplies them by two in the event of repetition of the offence. Repressive measures are also provided for against any person who will have directly or indirectly involved, contributed, or helped to contribute to the presence of an unmarried child under the age of 18 in drinking establishments and bars. In addition, Article 8 of the aforementioned Decree-Law stipulates that the bar manager or owner must post up on the bar entrance the text of Decree-Law and a

notice with these words; “No access for unmarried minors under 18” and provides for appropriate measures against any child who will break this ban.

9.4.3. Abuse and Torture (Article 16)

334. The Constitution of 4 June, in its Article 15, states that every person has the right to physical and mental integrity and outlaws torture, physical abuse or cruel, inhuman or degrading treatment.
335. Article 32 of Law N^o 27/2001 of 28 April 2001 relating to rights and protection of the child against violence punishes any person who inflicts on a child cruel treatment, atrocious pain or inhuman or degrading punishments.
336. Therefore, the Government of Rwanda tries its best to protect children against ill-treatment and ensures that victimized children receive compensatory assistance to heal them. However, in some contexts, it may be very difficult to get information or evidence about what happens within families or communities, given that adults very often abuse their right to discipline their children; this often refers to beating mentioned in previous chapters.

9.4.4. Sexual Exploitation and Violence (Article 27)

337. Law N^o 27/2001 of 28 April 2001 relating to rights and protection of the child against violence, in its Article 33, considers as rape committed on a child any sexual relations with a child or any sex-based practice done with a child whatever the means or methods used. It also provides for stronger punishments (including death sentence) in comparison to those laid down by previous laws (Articles 34, 35, 36, and 37).
338. As regards leading the child into sexual activities or prostitution, the law relating to rights and protection of the child against violence is very explicit thereupon.
339. Articles 38, 39 and 40 of the foregoing law provides for the punishments for any person who provides funds to support a child brothel or is given assistance from prostitution of the child, or who will have used children to exploit them in advertising prostitution or as interest arousing means for pornographic publications.
340. Articles 363, 364, 365, 359, 372, 373, and 380 of the Decree-Law N^o 21/1977 of 18/08/1977 establishing the Penal Code provide for fines and imprisonment sentences for those who commit offences in connection with child sexual exploitation.
341. It is also worth noting that the Convention N^o 182, as well as specific provisions of the Civil Code, of the Penal Code and of the Labour Code ensure legal protection conditions.

9.4.5. Other Violence and Exploitation Forms (Article 29 (b))

342. The Rwandan legislation also punishes child abandonment, neglect and exploitation. Thus, Articles 43, 44 and 45 of the Law relating to rights and protection of the child against violence enact imprisonment and fines against parents or guardians, who will have exposed or used someone else to do so or neglected or caused to neglect a child. Death sentence will be inflicted if the negligent treatment of the child or his/her exploitation has caused his/her death. Article 46 of the same law provides for punishments to the parent, guardian or head of child care institution, who will have been found guilty of dereliction of his/her duty to educate and protect the child against violence. Paragraph 2 of the same Article punishes parents, guardians, or heads of childcare institutions who will have led the child into delinquency, received grants knowingly or shared products resulting from child's delinquency. However, in urban centres, there are cases of adults who, accompanied by their children, are involved in delinquency and lead their children into it. Meetings aimed at repressing this phenomenon have been held especially in Kigali City.

9.4.6. Sale, Trafficking and Abduction of Children (Article 29)

343. In its Article 41, Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence provides for imprisonment of between five years and life imprisonment for whoever found guilty of kidnapping, selling or trafficking children.

344. It is quite interesting to note that cases of selling or leading children into slavery are not usually encountered in our country. Known abduction forms are related to forced or premature marriage in some parts of the country, but which are also disappearing as a result of joint work of activists of woman and child's rights, religious denominations, administrative authorities and the National Police. However, a small number of children (10) speaking Rwanda vernacular might have been reported in a West African country, research is under way to identify them.

9.5. Children under Harmful Social and Cultural Practices Affecting their Welfare, Dignity, Normal Growth, and Development

9.5.1. Child Marriage and the Betrothal of Girls and Boys (Article 21.2)

345. According to Article 159 of Law N° 42/1988 of 27 October 1988 establishing the Preliminary Title of First Book of the Civil Code, the betrothals or formal marriage promises consist in the agreement between members of two families that two persons, the bride and groom, belonging to both families, will be married and the commitment of both families to help and support the marriage of the spouses.

346. As to Article 161 of the same law, it stipulates that the betrothals have no effect as long as the bride and groom have not given their consent. It is obvious from the foregoing provisions that the expected betrothals and marriage can only be valid when both spouses are 21 years of age (Article 171).

9.5.2. Premature and Forced Marriages (Article 21.2)

347. Data from the Third General Census of 2002 has revealed a certain number of children, though lower, who enter informal unions. Overall, among children aged between 12 and 17 years of age, there were 8,774 cases of illegally married children, including 2,704 boys and 6,070 girls. Those children who are not sexually mature run many a risk ranging from dropout to infection by STDs and HIV/AIDS, not to speak of premature and unwanted pregnancies.
348. As regards consequences, it should also be pointed out that there are several effects of premature and forced marriage¹² on girls and to a lesser extent on boys. From a legal perspective, there are three major questions, namely the denial of childhood and adolescence, the reduction of individual freedom and lack of possibility of developing an independent personality. In addition, there is the denial of psychological, emotional welfare and chances of education.
349. Premature or forced marriage has also consequences on the welfare of families and society in general. In fact, when girls are not educated and are poorly prepared for their role as mothers, the whole nation suffers the consequences.
350. Concerning the consent to marriage, Law N° 42/1988 of 27 October 1988 stipulates that a boy and girl below 21 years of age cannot be married. The same Article provides for an exception to this provision. The age limit may be waived in serious cases by the Ministry of Justice or its representative.
351. As regards punishment, Article 49 of Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence mentioned above provides that anyone who will have played a role in child's premature or forced marriage shall be sentenced to imprisonment of between 6 months and 5 years and pay a fine of 20,000 francs. In case the person who has played a role in child's premature or forced marriage is a parent or guardian of that child, s/he shall be sentenced to imprisonment of between 1 and 5 years and pay a fine of 40,000 francs (Article 50).

9.5.3. All other Forms of Mutilation of Female Genitals (Article 21.1 (a))

352. Under the terms of Article 33 of the law related to rights and protection of the child against violence, any sexual relations with a child, whatever the means or methods used, are considered as rape committed against the child.
353. All these legal provisions are enough to deter any person who would attempt to commit those practices, especially given that they are not known in our country so far.

¹² For the definition of these terms, see above Chap. 3

9.6. Children Belonging to a Minority Group (Article 26)

354. Given the Rwandan socio-cultural and political situation, there are no peoples that should be considered as a minority or indigenous group.

9.7. Children in Need of Special Protection (Article 26)

9.7.1. Children in Difficult Situation

355. Among the consequences that have been weighing, and continue to weigh heavily on the country, there are children in difficult situation. They are especially orphans, children living in minor-headed households, physically impaired children, children in conflict with the law, child soldiers, children living in CUCs, working children and street children.

356. Since most of the situations have been previously handled, we will only deal with cases of children living in child-headed households, street children and children affected by HIV/AIDS.

- **Children Living in Minor-Headed Households**

357. Among 1,757,426 households in Rwanda at the time of the General Census of the Population and Housing carried out in August 2002, there were 15,052 households headed by children aged below 18 years of age, that is, 0.9%. Table N° 6 below shows gender-disaggregated child-headed households per Province.

Table N°6: **Gender-Disaggregated -18 Children Heads of Household (Source: 3rd GCPH)**

PROVINCES	TOTAL	MALE		FEMALE	
		NUMBER	%	NUMBER	%
Kigali City	952	720	75.6	232	24.4
Kigali Ngali	1293	879	68.0	414	32.0
Gitarama	809	511	63.2	298	36.8
Butare	848	572	67.5	276	32.5
Gikongoro	780	504	64.6	276	35.4
Cyangugu	623	412	66.1	211	33.9
Kibuye	1006	598	59.4	408	40.6
Gisenyi	3008	1579	52.5	1429	47.5
Ruhengeri	2708	1552	57.3	1156	42.7
Byumba	1079	645	59.8	434	40.2
Umutara	742	579	78.0	163	22.0
Kibungo	1204	817	67.9	387	32.1
TOTAL	15052	9368	62.2	5684	37.8

358. As can be seen from table above, child-headed households are mostly headed by boys, that is, 62.2% against 37.8% of households headed by girls. Since it is known

that those children have not enough resources to earn their living, one can easily understand the difficulties they have to confront in their daily life.

359. The Ministry having the protection of the child in its attributions, in collaboration with partners, decentralised structures, supports those minor-headed households according to their specific needs, including housing, clothes, food, psychological follow-up, school fees and equipment, etc.

- **Street Children**

360. In the 80s, the phenomenon of street children was known in Rwanda, but not alarming. It seriously developed in 1994 with the genocide, and increased during the massive repatriation of refugees in 1996 and infiltration in 1997. It is encountered in towns and urban centres. The number of these children can be estimated between 6,000 and 7,000, among whom more than a half are encountered in Kigali City: The General Census of the Population and Housing of 2002 did not identify their exact number because they move continuously.

361. Among those children, there can be distinguished “street children” and “children in the street”. The former live in the streets and the latter work on the streets during the day but go home in the evening.

362. Within street children, 49% are aged between 12 and 14 years, 45% between 15 and 17 years, 25% are orphans of both parents and 75% are orphans of one of the parents; when within the children in the street, 69% are aged between 12 and 14 years, 22% between 15 and 17 years, 25% are orphans of both parents and 75% have one of the parents, 60% are from single woman- or widow-headed households.

363. Efforts have been made in an attempt to make these children leave the streets. One of the strategies used is to organise their training in transit centres for their counselling and preparing their reintegration in the community. When they are interviewed, 50% want to return home on some conditions, 25% want to go to a school or vocational training centre, while 25% want to lead their life in the street. In spite of all these endeavours, the phenomenon of street children persists, given its root causes, which are often related to poverty, domestic violence, second marriage of one of the parents and fascination of the city, especially when a family member or a friend lives there.

364. Indeed, the Rwandan society is faced with major challenges such as the socio-economic situation with higher than 60.29% below the poverty line, the disintegration of traditional family values protecting the children, the consequences of genocide and the problem of coordination of various interventions.

9.7.2. Children Affected by HIV/AIDS (Article 26)

365. In 2005, the number of orphans of one or both parents caused by HIV/AIDS aged below 18 years of age was estimated at 200,000¹³. It is difficult to know their exact number because of the stigma associated with HIV/AIDS.
366. When the parents or guardians of the child are taken ill or die of HIV/AIDS, his/her right to education is often violated because s/he is sometimes compelled to leave the school and, play the adult role of catering for his/her family members. This applies also to his/her right to rest and leisure. HIV/AIDS often increases poverty within the family, and entails for children the risk to be involved in the worst forms of labour and to get themselves exploited.
367. The National Policy for Orphans and other Vulnerable Children (OVC) recommends that assistance for children affected by HIV/AIDS be integrated in OVC programmes to avoid stigmatisation.
368. The projects developed to combat AIDS include in general the cluster of OVC, which puts special emphasis on children affected by HIV/AIDS (those with infected parents/guardians or orphans).
369. Those projects include, inter alia, MAP, PEPFAR Project, and KURET Project "Child Labour, HIV/AIDS, and Education".
370. Each year, decentralised structures allocate funds to assistance of vulnerable children in general, and of children affected by HIV/AIDS in particular. This support is often limited to school fees and subscription to pre-paid health insurance schemes due to budget constraints.

CHAPTER 10: RESPONSIBILITIES OF THE CHILD
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"Ndinda ni kabili...ndinda dawe na ndinda mwana (Protect me is dual...protect me father and protect me son) "

371. Traditionally, the Rwandan child has rights whose enjoyment will not only enable him/her to be useful to him/herself but also to the parents, family and the country. S/he has also duties to fulfil towards the parents who have catered for and educated him/her, towards the family to which s/he belongs and towards the country which provides him/her with facilities and guarantees for his/her life, survival and harmonious development.
372. The Constitution of 4 June 2003, in its Chapter II, articles 45-51, defines the rights and duties of the citizen. In pursuance of the ACRWC, Rwanda has, in Law N°

¹³ Hunter, S. and J. Williamson, *Children on the Brink - Executive Summary: Updated Estimates and Recommendations for Intervention* (PDF version), USAID, 2002

27/2001 of 28/04/2001 relating to rights and protection of the child against violence, devoted one chapter to the duties of the child (Articles 25, 26 and 27).

10.1. Responsibilities of the Child towards his/her Parents, Family, and the Society (Article 31)

373. Under the terms of Article 25, paragraph I of this law, *“a child must respect his/her parents, guardian, teachers, other children and all those older than him/her.”* The child should respect the parents who have moulded him/her for years. This positive value also stems from the Rwandan culture in which a child had to respect fully the parents and those older than him/her, in which a child had to abide by the orders of the parents or guardian. This obedience and respect were and continue to be extended to his/her teachers at school and to other children.

374. As previously seen, family is the core unit of society and natural setting for growth and welfare of all members and, in particular of children. Therefore, under the terms of Article 197 of the Civil Code, both spouses have the obligation to maintain and educate their children. The obligation to maintain a child implies a maintenance order that is performed in cash or in kind (Article 198 of the same Code). Article 200, paragraph I, specifies that the maintenance order prevails between spouses; it also prevails between a father and mother on the one hand, and between them and their children on the other, and vice versa. It thus means that children are also obliged to maintain their parents and provide them with alimony. However, Article 204 of the same Code adds that that alimony is only granted in proportion to the creditor's needs and the debtor's resources. These provisions are thus highlighted by Article 25, paragraph II of Law N° 27/2001 of 28/04/2001 which stipulates that *“s/he (the child) must also help his/her parents and his/her guardians as long as this does not harm his/her health.”* This duty of a child towards his/her parents can be justified, especially when the parents are poor or have grown old or tired. As the Rwandan saying goes *“Urukwavu rukuze rwonka abana barwo”* (An old rabbit is breast-fed by its young), that is, an old person is maintained by his/her children.

10.2. Responsibilities of the Child towards his/her Senior (Article 31)

375. The Rwandan culture conveys positive values that should not be forgotten or given up. Obedience and respect owed by a child towards senior citizens wherever they can be encountered (home, family, school, etc.) are some of these positive values in the Rwandan culture.

376. Obedience and respect of a child towards his/her senior are enshrined in statute law applied in Rwanda. In fact, Law N° 42/1988 of 27/10/1988, in its Article 343, stipulates that *“at every age, a child must honour and respect his/her father and mother”*. This provision is well emphasised by Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence. In its Article 25, paragraph I, it sets forth the principle according to which *“a child must respect his/her parents, guardian, teachers, other children and all those older than him/her.”*

377. In addition to obedience and respect, a child has legal and moral responsibility for providing elderly people with alimony, especially his/her ancestry in need (Article 200, paragraph II of the Civil Code), and it is a mutual responsibility.

10.3. Responsibilities of the Child towards his Country and the Continent (Article 31)

378. Article 47 of the Constitution of 04 June 2003 spells out this principle as follows:
“All citizens have the duty to participate, through work, in the development of the country; to safeguard peace, democracy, social justice and equality and to participate in the defence of the motherland.”

- **Development of the Country:**

379. All task performed by a child can, in terms of its nature, contribute to his/her family welfare and to the development of his/her community. The Rwandan child is educated accordingly. Civic education, which prepares the child for fulfilling his/her duty as a good citizen, is integrated in the school curricula.

- **Safeguarding Peace :**

380. Civic and moral or ethical education received by a child since his/her early childhood whether it is within family or at school gradually prepares him/her for a peaceful life in his/her community and for the avoidance of conflicts with the neighbours.

- **Safeguarding Democracy:**

381. Since his/her early childhood, a child is educated to non-discrimination of whatever kind. Once grown up, the child participates in activities aimed at fostering equality and democracy among Rwandans. One example is the National Children’s Summit organised in April 2004 and which brought together children below 18 years of age. It has been an opportunity for them to air their views on peace and national reconciliation, assistance of all vulnerable children with no discrimination and on building a country fit for them based on liberty and equality of citizens. They were well aware that their contribution was needed by Rwanda and have proposed solutions that have been considered by the leaders. Participants in the summits were the children representatives elected at all levels.

- **Defence of the Motherland :**

382. Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence prohibits military service for children less than 18 years (Article 19). However, in his younger days, a child is educated to love the nation.

383. The principle of responsibility of a child towards his country is set forth in Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against

violence, in its Article 26, which stipulates that *“a child must love his/her nation and serve it depending on his/her ability.”*

CHAPTER 11: FACTORS IN THE CHARTER IMPLEMENTATION

- (1) Rwandan culture that places the child at the heart of family and community concerns;
- (2) Political will to promote the welfare of the child;
- (3) Rwanda is party to the Convention of the United Nations on the Rights of the Child, to the African Charter on the Rights and Welfare of the Child, and to other conventions and protocols, principles and rules in this area such as the Convention N° 182 on the Worst Forms of Child Labour. Rwanda promulgated Law N° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence;
- (4) Existence of an active partnership on the rights and duties of the child between all stakeholders in public services, UN agencies, Diplomatic Corps, as well as the civil society, in public sector and the community;
- (5) Existence of the National Policy for Orphans and other Vulnerable Children;
- (6) On-going process regarding the establishment of youth forums both at central level and decentralised level;
- (7) Active participation of Rwanda in various regional and international forums;
- (8) Existence of various organs, commissions and organisations having in their attributions the promotion and protection of the rights of the child;
- (9) Existence of decentralised structures implementing laws, policies, and programmes related to the welfare of the child;
- (10) The fact that Rwanda was represented in the first African Expert Committee on the Rights and Welfare of the Child.

CHAPTER 12: CONSTRAINTS ON THE CHARTER IMPLEMENTATION

The implementation of the African Charter on the Rights and Welfare of the Child is hindered by various constraints, including the following:

- (1) Difficulties associated with poverty within the country and families that hamper the full implementation of the rights of the child. Indeed, more than 60% of Rwandan population live below the poverty line;
- (2) Consequences of the 1994 Genocide that have shattered the Rwandan social fabric;
- (3) Higher number of children in general and of vulnerable children in particular;
- (4) The infant mortality rate still very high;
- (5) The scourge of HIV/AIDS that is gradually increasing the number of orphans;
- (6) Changes in traditional socio-cultural behaviours due to modernisation, urbanisation and monetisation;
- (7) Lack of enough information within the population about the rights and duties of the child;
- (8) Problems of coordinating the activities of stakeholders in the rights of the child;
- (9) Existence of some loopholes in the Rwandan legal framework;
- (10) The burden of tradition that prevents some parents from respecting fully the child's freedom of expression, right to leisure and make them continue to use the rod as a punishment means;
- (11) Special education has not been up to par as yet;
- (12) Hygiene and sanitation facilities still inadequate;
- (13) Shortage of institutions for preschool education, crèches and nurseries.

CHAPTER 13: CONCLUSION AND RECOMMENDATIONS

The Rwandan child situation described throughout this report calls on each and everybody's attention, notably Authorities at all levels, Donors, the Civil Society, International Community, parents and children themselves included.

The following recommendations are made to everyone of the above stakeholders within their respective jurisdiction:

- (1) Promoting poverty reduction programmes;
- (2) Increasing budget allocated to programmes aimed at the promotion and protection of the child in general and of the vulnerable child in particular both at the national level and decentralised level;
- (3) Raising public awareness regarding family planning;
- (4) Scaling up public awareness raising programmes on combating HIV/AIDS;
- (5) Scaling up public and family education programmes aimed at fostering tolerance and national reconciliation;
- (6) Promoting positive cultural values;
- (7) Raising public awareness regarding the rights and duties of the child, as well as the responsibility of parents towards their children;
- (8) Establishing at the national level an Independent Coordination Service for all interventions in favour of the child;
- (9) Establishing at all levels coordination machinery of activities for children;
- (10) Revising all existing laws to address identified loopholes regarding the child protection;
- (11) Codifying all laws related to child protection into a "Children's Code";
- (12) Raising awareness of the family and the community on the relinquishment of harmful or negative cultural values hampering the respect of some rights of the child such as freedom of expression and opinion or the right to leisure, etc.;
- (13) Raising awareness of parents and teachers on the adoption of corrective measures not prejudicial to the rights of the child;
- (14) Promoting special education for disabled children who cannot be integrated into ordinary education system;
- (15) Promoting hygiene and sanitation facilities in general and school setting in particular;
- (16) Making sustained efforts to reach overall vaccination cover of the children;
- (17) Ensuring to under 5 children free healthcare in public health institutions;
- (18) Promoting preschool education, as well as the establishment of crèches and nurseries;
- (19) Taking measures enabling the population to have access to health care, as well as pre-paid health insurance schemes.

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