

REPUBLIC OF RWANDA



MINISTRY OF JUSTICE

**THE 9<sup>th</sup> & 10<sup>th</sup> PERIODIC REPORT OF THE REPUBLIC OF  
RWANDA UNDER THE AFRICAN CHARTER ON HUMAN AND  
PEOPLES' RIGHTS**

PERIOD COVERED BY THE REPORT 2005 – JULY 2009

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## **ACRONYMS**

ADPA	: Action pour le Développement et la Paix en Afrique
AFER	: Association des Femmes Entrepreneures au Rwanda
Art.	: Article
ARV	: Antiretroviral drugs
CERN	: European Organization for Nuclear Research
CSO	: Civil Society Organization
DHS	: Demographic and Health Survey
DRC	: Democratic Republic of Congo
EDPRS	: Economic Development on Poverty Reduction Strategy
FARG	: Fonds d'Assistance aux Rescapés du Génocide- Genocide Survivors' Assistance Fund
FAWE	: Forum for African Women Educationalists
GoR	: Government of Rwanda
Haguruka	: means "Arise": it is a local NGO defending women and children's rights
HIDA	: Human Resources and Institutional Capacity Development Agency
HSSP	: Health Sector Strategic Plan
ICT	: Information Communication and Technology
ICTR	: International Criminal Tribunal for Rwanda
IDHS	: Intermediate Demographic and Health Survey
ISAR	: Institut des Sciences Agronomiques du Rwanda
KHI	: Kigali Health Institute
LMIS	: Labour Market Information System
MINAGRI	: Ministry of Agriculture and Animal Resources
MINALOC	: Ministry of local administration
MINECOFIN	: Ministry of Finance and Economic Planning
MINISPOC	: Ministry of Sports and Culture
MOH	: Ministry of Health
MTR	: Mid-Term Review
NGO	: Non Government Organization
NCHR	: National Commission of Human Rights
NICI	: National Information and Communication Infrastructure policy
NUR	: National University of Rwanda
NURC	: National Unity and Reconciliation Commission
O.G	: Official Gazette
PDL-HIMO	: Programme de Développement Local à Haute Intensité de Main d'Œuvre / Labour Intensive Public Works- Local Development Programs
PNILP	: Programme National Intégré de Lutte contre le Paludisme/ National Malaria Control Program
PNILT	: National Tuberculosis Control Program
P.O	: Presidential Order
PREPAF	: Program aiming at reducing women's poverty
RAMA	: Rwandaise d'Assurance Maladies (i.e. Rwandan medical insurance)
REMA	: Rwanda Environment Management Authority
RIAM	: Rwanda Institute Administration and Management
RITA	: Rwanda Information & Technology Agency
RSSP	: Rural Sector Support Project
SFAR	: Student Financing Agency of Rwanda
SSFR	: Social Security Fund of Rwanda
TOKTEN	: Transfer of Knowledge through Expatriate Nationals
TVET	: Technical and Vocational Education Training
VAT	: Anti-Tetanus Vaccine
VCT	: Voluntary Counseling Test
WDA	: Workforce Development Authority

## INTRODUCTION

This is the combined ninth and tenth periodic report submitted by the Government of Rwanda on the current implementation status of the African Charter on Human and Peoples' Rights (ACHPR).

Committed to total protection and promotion of human rights and parting with the previous obnoxious legacy, Rwanda values the importance of timely submitting its reports. This is done amidst competing challenges and financial constraints though.

As requested by the Commission on ACHPR, the present report also incorporates and addresses in particular the issues raised in the concluding observations that the Committee adopted after considering the seventh periodic report of Rwanda in Brazzaville – Congo. In addition, the report includes further information on recent legislation and measures taken in order to protect and promote human rights.

The present report has been prepared by government's ministries and institutions in close collaboration with different stakeholders.<sup>1</sup> Non-governmental organizations and various other bodies were consulted and where necessary issued written statements for incorporation in the report. In addition, the report benefited from an open hearing that took place in January 2009 for public authorities/institutions, non-governmental organizations (NGOs), labour market organizations and advisory boards. Indeed, the opportunity was hailed as a platform for stakeholders to present their views and comments on the report. All the comments were seriously considered.

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<sup>1</sup> The Ministries included: Ministry of Foreign Affairs and Cooperation (MINAFFET), Prime Minister's Office (PRIMATURE), Ministry of Internal Security (MININTER), Ministry of Local Government (MINALOC), Ministry of Internal Security. Other stakeholders included: The Supreme Court, The National Commission for Human Rights (NCHR), National Commission for the Fight against AIDS, The National Commission for Unity and Reconciliation (NURC), The National Commission for the Fight against Genocide (NCFG), Gender Monitoring Office, Rwanda Bar Association, Rwanda National Council for Examination, National Police (NP), the Ombudsman office, the National Parliament, Genocide Survivors' Fund etc. Also, NGOs and CSOs included: Fact – Rwanda, Legal Aid Forum, Association des Jeunesse Pour la Promotion des droits de l'Homme (AJPRODHO), Ligue des Droits de la Personne dan la Region des Grands Lacs (LDGL), Collectif des Ligues et Associations de Defence de Droits de l'Homme (CLADHO) and Centrale des Syndicats des Travailleurs au Rwanda (CESTRAR).

# INFORMATION CONCERNING THE GENERAL FRAMEWORK WITHIN WHICH CIVIL AND POLITICAL HUMAN RIGHTS THAT ARE RECOGNISED BY THE AFRICAN CHARTER ARE PROTECTED

## PART I: GENERAL

### (i) Legal and institutional framework

#### a. Legal framework

##### 1. The Constitution

1. The 2003 Constitution of Rwanda, as amended to date, is a basic and foundational instrument for the protection of human rights in Rwanda, civil and political rights included. The supreme law of the land deals with all civil and political rights provided by the African Charter in its articles 2-13, particularly under the title II regarding fundamental human rights and the rights and duties of the citizen.<sup>2</sup> They include among others:

- Legal rights: right to life and personal integrity (art. 10, 12, 15, 16 & 18); right to dignity (art.15); right to liberty and freedom from arbitrary detention and arrest (art.18, 21); right not to be subject to cruel, inhuman or degrading treatment or punishment (art.15); right to a fair trial (art.19 & 20);
- Equality rights: equal treatment before the law and equal benefit of the law (art.11, 16, 24, 29, 30, 37, 40, 49);
- Democratic rights: right to participate in political activities (art.2, 8, 45, 47);
- Fundamental freedoms: namely freedom of thought, opinion, conscience, religion, freedom of the press, freedom of association and peaceful assembly (art.33 to 36);
- Mobility rights: right to settle and freely move anywhere in the country (art.23);

2. In addition, the constitution in its article 190 makes reference to inspiration and immediate effect of international human rights signed and ratified by Rwanda. Certainly, such reference invokes the same protection as the one offered by domestic legislation. In another twist, it reiterates the government's commitment towards respect of human rights in general.

##### Other laws

3. While the constitution provides the foundational framework for protection of human rights in a more generic form, a number of other laws have been elaborated to deal with specific civil and political rights in a more particular and profound manner.

4. A handful of legislations/instruments are useful in the realization of the right to equality as enshrined in the Charter - articles 2&3. They include the law on repression of crimes of discrimination and sectarianism<sup>3</sup>, the law on political parties, the law against the ideology of genocide, the law on media, the law on repression of corruption and other related offences<sup>4</sup>,

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<sup>2</sup> See especially Title II (Fundamental human rights and the rights and duties of the citizen) of the Constitution of the Republic of Rwanda, *O.G.* of 4 June 2003 as amended to date.

<sup>3</sup> Law N° 47/2001 on prevention, suppression and punishment of the crime of discrimination and sectarianism, *O.G.* of 2001.

<sup>4</sup> Law N° 23/2003 of 07/08/2003 on repression of corruption and other related offences, *O.G.* of 2003.

These are tools used to eliminate any source of discrimination. All these legislations make categorical condemnation of inequality practices.

**5.** The Criminal Code stipulates sound and clear legal provisions that strongly protect life and personal integrity, dignity, freedom from cruel, inhuman or degrading treatment or punishment, rights for due process concerning arrest and detention. The provisions repress any kind of physical attempts to human life and integrity.<sup>5</sup> In 2007, death penalty was abolished and replaced with life imprisonment.<sup>6</sup>

**6.** Aware of the country's past history, a particular law that represses the crime of genocide, crimes against humanity and war crimes was adopted with a view to better protect human life and integrity.<sup>7</sup> Indeed, this has among other things inspired recent judgments condemning the acts of genocide or attempts to spread genocide ideology.

**7.** Further, civil and political rights are protected and guaranteed under the law establishing the Code of Criminal Procedure. The law broadly protects human freedoms and security by banning any form of illegal arrest and detention.<sup>8</sup> Bearing in mind the history of our country, the law has not only acted as a check and balance both on police and judicial personnel, but has also given a foundational basis for any possible challenge of such prohibited acts.

**8.** Torture is also in additional outlawed in the law on evidence and its production in its articles 5-6 on the administration of proof which prohibit torture and other similar practices as means of collection of proof.<sup>9</sup> Where it is proven that such concession was made under the coercion of torture, the same law renders null and invalid such testimony.

**9.** In respect to article 8 of the Charter, Rwanda has adopted the law on functioning of religious associations<sup>10</sup> which allows their free operation within the territory of the country. Similarly, the law on media as another sensitive institution has been put in place. The law recognizes the right to information, the right to expression of opinion and the right to freedom of press.<sup>11</sup> To date however, a more comprehensive law on media is under parliamentary review despite country wide criticisms it has attracted in some of its sections. Particular provisions that have been suggested for revision include restriction to professionalism and high capital for the start of a newspaper or a radio station among others.

**10.** With respect to article 13 of the Charter, several laws have been adopted with the aim to give effect to the right to free participation in public affairs. The law determining the administrative entities of the Republic of Rwanda<sup>12</sup> was enacted aiming especially to lay emphasis on the decentralization policy. In this context, new boundaries were established for delimiting Sectors, Districts and Provinces. This law is equally aimed at emphasizing and concretizing citizen's right to participation in the country's governance and elaboration of district development plans by putting in place transparent leadership that values self-advancement of its citizens.

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<sup>5</sup> See especially articles 310-338 of the Criminal Code of the Republic of Rwanda.

<sup>6</sup> Organic law N° 31/2007 of 25/07/2007 relating to abolition of death penalty. Arts. 2 and 3.

<sup>7</sup> Law cited above.

<sup>8</sup> Law N° 13/2004 of 17/05/2004 establishing the Code of Criminal Procedure, *O.G.* special N° of 27 may 2006.

<sup>9</sup> Law N° 15/2004 relating to evidence and its production, *O.G.* special N° of 19/07/2004.

<sup>10</sup> Law N° 20/2000 of 26/07/2007 relating to the functioning of religious associations.

<sup>11</sup> Law N° 18/2002 of 11/05/2002 regulating to the media, *O.G.* N° of 13/05/2002.

<sup>12</sup> Law N° 29/2005 of 23/12/2005 determining the administrative entities of the Republic of Rwanda.

**11.** Another cornerstone civil liberty is the right to vote. As a matter of reminder, this right is one of the cardinal rights provided in the Rwandan constitution.<sup>13</sup> In addition, the law governing presidential and parliamentary elections and the Law governing elections of local government leaders give effect to the right. Besides, the laws provide for free participation in public affairs – an expression that is inherent in the right to vote. The same laws have provided a firm ground for the implementation of the decentralization policy through emphasis on the role of the citizens in the election of their leaders. In addition, through the right to elect and to be elected, the right to participate in public service<sup>14</sup> is manifestly and clearly guaranteed.<sup>15</sup>

### **3. International instruments**

**12.** Rwanda's commitment to international standards is expressed in its ambitious quest to attain vision 2020 as well as the Millennium Development Goals (MDGs). The post genocide situation has not only witnessed an internal paradigm shift from the legacy of human rights violations but has also made remarkable progress in bringing Rwanda on the international scene. Rwanda has entrusted to various international agreements as a way of harmonization and commitment to international standards.

**13.** As earlier indicated, Rwanda has ratified or adhered to several international instruments of human rights, particularly, those relating to civil and political rights. International human rights instruments ratified by Rwanda in general have been presented in the previous country reports on the Charter submitted to the African Commission. However, the present report will only shortlist recent ratified international instruments that do not appear anywhere in the previous reports.

**14.** They include the following international instruments duly ratified by the government of Rwanda since 2005:

- African Nuclear-Weapon-Free Zone Treaty (Ratified by the Presidential order, Official Gazette of the Republic of Rwanda N<sup>o</sup>6 of 15<sup>th</sup> March 2005);
- Supplementary convention on the abolition of slavery, the slave trade and institutions and practices similar to slavery (Ratified by the Presidential order N<sup>o</sup>64/01 of 28/12/2005, Official Gazette of the Republic of Rwanda N<sup>o</sup>9 of 1<sup>st</sup> May 2006);
- Convention of 28<sup>th</sup> September 1954 relating to the status of statelessness persons (Ratified by the Presidential order N<sup>o</sup>63/01 of 28/12/2005, Official Gazette of the Republic of Rwanda N<sup>o</sup>9 of 1<sup>st</sup> May 2006);
- Convention of 30<sup>th</sup> August 1961 on the reduction of statelessness (Ratified by the Presidential order N<sup>o</sup>62/01 of 28/12/2005, Official Gazette of the Republic of Rwanda N<sup>o</sup>9 of 1<sup>st</sup> May 2006);
- Bamako convention of 30<sup>th</sup> January 1991 interdicting dumping poisonous wastes into Africa and aimed at monitoring transportation of these wastes and how transportation in Africa could be better controlled (Ratification authorized by the Law N<sup>o</sup>2/205 of 21<sup>st</sup> October 2005, Official Gazette of the Republic of Rwanda special N<sup>o</sup>9 of 3<sup>rd</sup> March 2006);
- Protocol against illicit manufacturing of and trafficking in firearms, their parts and components and ammunitions, supplementing the United Nations Convention against transnational organized crime adopted in New York on 31<sup>st</sup> May 2001 (Ratified by the

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<sup>13</sup> Rwandan Constitution of the 4<sup>th</sup> June 2003, Art. 8.

<sup>14</sup> Law N<sup>o</sup> 22/2002 of 09/07/2002 on general statutes for Rwanda Public Service, *O.G.*, N<sup>o</sup> of 13/2002

<sup>15</sup> Rwandan Constitution (n 13 above), art. 45.



Presidential order N°54/01 of 27/12/2005, Official Gazette of the Republic of Rwanda N°9 of 1<sup>st</sup> May 2006);

- United Nations Convention against corruption, adopted in New York on 31<sup>st</sup> October 2003 (Ratified by the Presidential order N°56/01 of 27/12/2005, Official Gazette of the Republic of Rwanda N°9 of 1<sup>st</sup> May 2006);
- Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against transnational organized crime, adopted in New York on 15<sup>th</sup> November 2000 (Ratified by the Presidential order N°55/01 of 27/12/2005, Official Gazette of the Republic of Rwanda N°9 of 1<sup>st</sup> May 2006);
- Memorandum of Agreement on the Great Lakes Region and the Horn of Africa Disaster Management Center of Excellence, signed in Nairobi (Kenya) on 15<sup>th</sup> August 2005 (Ratification authorized by the Law in the Official Gazette of the Republic of Rwanda special N°8 of 18/9/2006);
- Agreement establishing the African Institution of Re-adaptation, adopted in Addis Abeba (Ethiopia) on 15<sup>th</sup> July 1985 (Ratification authorized by the Law N°41/2007 of 10 October 2007);
- Agreement on security, stability and development in the Great Lakes Region, signed in Nairobi (Kenya) on 15<sup>th</sup> December 2006 (Ratification authorized by the Law N°47/2007 of 11 November 2007);
- Treaty on the creation of East African Community, signed in Arusha (Tanzania) on 20<sup>th</sup> August 2007 (Ratification authorized by the Law N°54/2007 of 20 November 2007);
- Treaty of adhesion of the Republic of Rwanda to East African Community, signed in Kampala (Uganda) on 18 June 2007 (Ratification authorized by the Law N°29/2007 of 27 June 2007);
- African Charter on Youth (Ratified by the Presidential order N°21/01 of 14 June 2007);
- Convention against torture and other cruel, inhuman and degrading sanctions and treatments, adopted in New York in 1984 (Ratified by a Presidential order in 2007);
- Protocol relating to the International Covenant on Civil and Political Rights aiming at abolishing capital punishment (death penalty), adopted in New York on 15<sup>th</sup> December 1989 (Ratified by a Presidential order in 2007);
- Protocol relating to Convention on the elimination of all forms of discrimination against women, adopted in New York on 6<sup>th</sup> October 1999 (Ratified by a Presidential order in 2008);
- Convention on prohibition or limitation of use of certain classic arms considered as producing traumatizing effects, adopted at Geneva on 10<sup>th</sup> October 1980 (Ratified by a Presidential order in 2007);
- Convention of the protection of children and cooperation in international adoption, adopted at Hague on 29<sup>th</sup> May 1993 (Ratified by a Presidential order in 2007).

## **b. Institutional framework**

**15.** The work of protection and promotion of human rights is indeed a complex task. Like any other undertaking, Rwanda looks at realization of rights as the main end result. To that regard, a clear institutional framework has been designed to give effect to the rights enshrined in the various legal instruments i.e. either national or international instruments legislations.

**16.** Particularly, various institutions in the country have been established with the mandate to participate in the quest of human rights protection, and hence thereafter give effect to enjoyment of civil and political rights. Such set-up has been entrenched in the Constitution as a cardinal facet that gives shape and precedent to the functioning and organization of the government day



to day activities. Much of these institutions were detailed in the previous report.<sup>16</sup> The recent changes are:

- The National Commission for Public Service: an independent public organ responsible for organizing conditions for accessing the Public Service on equal chances to all citizens.<sup>17</sup>
- The Gender Monitoring Service: an independent public organ responsible for organizing permanent monitoring and evaluation actions aiming at promoting equal chances to all.<sup>18</sup>
- The National Council for Youth: established as a forum through which youth issues can be debated and advocated for.<sup>19</sup>
- The National Commission for the Fight against Genocide: an independent national organ that coordinates a permanent framework to fight against genocide.<sup>20</sup>

**17.** Apart from specialized organs, the government works hand in hand with a number of civil society organizations that have in their attribution the mandate of protection and promotion of human rights. Indeed, such endeavour has witnessed a complementary partnership – that has not only reinvigorated public-private partnership but also better enjoyment of human rights and civil and political rights in particular. The GoR has participated in financing some of the CSO's projects.<sup>21</sup>

#### **(ii). Invocation of the African Charter before the courts of law or other administrative authorities.**

**18.** In respect to its article 63 of the African Charter, the entering into force and subsequent application of the Charter is subjected to ratification. The immediate implication of this precondition is that the instrument is not 'self-executing' – and thus requiring an implementing legislation.

**19.** According to article 190 of the Constitution of the Republic of Rwanda, if an international instrument is ratified and published in the official gazette, it automatically becomes a binding legislation albeit the law hierarchy that has to be observed in the application of these laws.

**20.** To that effect, since the African Charter was ratified by Rwanda<sup>22</sup>, it has become integrated within Rwandan domestic legislation, and thereby enabling individuals to seek enforcement of their rights before national courts and tribunals or other administrative authorities.

**21.** In effect, it has become a custom for advocates and judges to make reference to the international human rights instruments before national courts and tribunals. It is nonetheless observed that the practice is still in its infancy stage as most of both practicing advocates and

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<sup>16</sup> See: 8ème rapport périodique du Rwanda à la Commission Africaine des droits de l'homme et des peuples (pages 9-11 ; 17-24)

<sup>17</sup> Article 181 of the Constitution of Rwanda.

<sup>18</sup> Article 185 of the Constitution of Rwanda.

<sup>19</sup> Law N°24/2003 determining the organization, attributions and functions of the National Youth Council, *O.G.*, special N° bis of 03/09/2003.

<sup>20</sup> Article 179 of the Constitution of Rwanda.

<sup>21</sup> Ministry of Justice, Planning Section: In 2008, the GoR funded 5 NGOs (Avega with 15,000,000 Frw; Ajprodhro with 3,600,000 Frw; Ibuka with 15,000,000 Frw; Haguruka with 12,000,000 Frw and NUR law clinic with 6,647,000 Frw

<sup>22</sup> The African Charter on Human and People's Rights (ACHPR) adopted 27/7/1981, entered into force 21/10/1986 and signed on 11/11/1981 and ratified by law No 10/83 of 17/5/1983, *O.G.* 1983, P. 343.

judges do not regularly invoke the charter. This is attributed to either ignorance of judges and advocates or the general indifference of the civil law set-up to embrace such international legislation. This is however changing with the integration in the East African Community and the increasing use of English in the country's system.

**(iii). The judicial, administrative or other authorities' jurisdiction affecting human rights.**

**22.** The Constitution provides that the judiciary is the principal guardian of rights and freedoms of the public.<sup>23</sup> The courts play a key role in the protection of human rights in general and civil and political rights in particular. While there is no consolidated human rights legislation in Rwanda, citizens whose rights are violated can invoke and base their claims on several international instruments that Rwanda has adhered to including the Universal Declaration of Human Rights (UDHR)<sup>24</sup>, the International Covenant on Civil and Political Rights (ICCPR)<sup>25</sup>, Convention on Elimination of all forms of Racial Discrimination (ICERD)<sup>26</sup>, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>27</sup>, among others, that recognize judicial means (before courts) in such circumstances.

**23.** Indeed, judges are bound to respond to the citizens' claims in a two pronged dimension. The first dimension is the substantive angle where judges can make reference to human rights provisions enshrined in either domestic legislation<sup>28</sup> (the constitution and other laws) or international instruments<sup>29</sup>. The second is the procedural angle. Although domestic legislation does not clearly provide procedural and judicial means, Judges can receive the cases basing on the international instruments providing such means or on the general principle recognized in the Rwandan legal system by which the judge is obliged to render justice basing on all available sources of law at the risk of denial of justice.<sup>30</sup>

**24.** The administrative authorities at different levels of administrative structures have thus in their daily attributions the role of protection of citizens they represent. In this area, a two-fold mission binds the administrative authorities. On one hand, as leaders informed on human rights, they are called to avoid in participation of human rights violation of their citizens. On the other hand, they have an obligation to play the role of advocacy for the citizens that they represent for prevention and the repression of violations of human rights.

**25.** The specialized institutions put in place including the Ombudsman office, the National Human Rights Commission, the National Unity and Reconciliation Commission, the National Commission for the Fight against Genocide, the General Auditor's Office, The Commission on Gender, The National Youth Council, the High Council of Media, all aim at realization of a free and equal society where human rights are respected.

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<sup>23</sup> Article 44 of the Constitution of Rwanda.

<sup>24</sup> Art. 8 of the Universal Declaration of Human Rights.

<sup>25</sup> The ICCPR was adhered and ratified by the Decree-Law N° 8/75 of 12 February 1975, *O.G.*, N°5 of 01/03/1975, p. 230.

<sup>26</sup> Art. 6 of the Convention on elimination of all forms of racial discrimination adopted by the resolution 2106 A (XX) of the UN General Assembly in its session of 21 December 1965 and entered into force on 4 January 1969.

<sup>27</sup> Art. 14 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment adopted by General Assembly in its 39th session 10 December 1984 and entered into force on 26 July 1987.

<sup>28</sup> As mentioned above on the part of the legal framework for the protection of civil and political rights.

<sup>29</sup> As mentioned on the previous paragraph.

<sup>30</sup> Criminal law procedure which requires that justice dispensation should be expedited. The law provides the maximum pre-detention trial of seventy-two (72) hours and two weeks for judges to issue a judgment.

**(iv). What remedies are available to an individual whose rights are violated.**

**26.** Rwanda recognizes the African Charter and thereof commits to its realization through various ways. Among other responses to give effect to the Charter, Rwanda has adopted numerous legislations that offer remedies to individuals whose rights have been violated.

**27.** Several international legal instruments bind States to provide domestic remedies to victims of human right violations.<sup>31</sup> In its quest for a free and democratic State, Rwanda has reaffirmed its commitment in its preamble of the current Constitution which entrusts and reaffirms to human rights principles enshrined in the international instruments.<sup>32</sup> Further, constitution makes an express application of these instruments upon their ratification by Rwanda. Arguably, the international human rights instruments become binding in Rwanda upon their publication in the official gazette<sup>33</sup> – giving an opportunity for the judicial personnel or institutions and advocates to make use of them through their invocation.

**28.** In addition, there is no doubt under customary international law on the right to remedies in case of violation of human rights.<sup>34</sup> Consequently, Rwanda is duty bound to avail remedies even in the absence of the written legal instrument. A more relevant case in point is the resort to the *gacaca* courts as a means to deal with the overwhelming caseloads that ensued after the 1994 genocide. Arguably, in falling back on *gacaca*, Rwanda by and large was driven by one cardinal argue – to administer justice to the victims of the 1994 human rights violations. Even when *gacaca* was not formal in the eyes of many, especially foreigners, the initiative demonstrated the ability to expedite justice both to the victims and suspects. To date, the results are self-evident of the profound success that has been achieved.

**29.** The requirement to exhaust domestic remedies (article 50 of the Charter) before submission of communications/complaints to the African Commission reinforces the primacy of national remedies in this respect. The national courts in that way understand that their failure to timely and appropriately render justice; recourse to either quasi-judicial or judicial bodies becomes eminent as an alternative to remedy the situation.

**30.** The violations of the Charter are remedied by laws of general application including especially judicial and administrative remedies. The right to an effective remedy need not be interpreted as always requiring a judicial remedy. Administrative remedies will, in many cases, be adequate because they are not so costing, delaying and complex. Hence proper coordination and complementarity between the two remedies is always paramount in the quest for respect of human rights.

**(v). What other measures have been taken to implement the provisions of the Charter**  
**Judicial reforms**

**31.** Rwanda fully understands the value and gains of an objectively administered justice system. To achieve such human rights record, Rwanda realizes the need to fully implement the contents of the instrument. To this endeavour, the Rwandan government has made notable progress in

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<sup>31</sup> See Universal Declaration of Human Rights, article 8, the International Covenants on Human Rights, article 3 (a); the International Convention on the Elimination of All Forms of Racial Discrimination, article 6; etc.

<sup>32</sup> Paragraph 9 of the preamble of the Constitution binds Rwanda to international human rights ratified instruments.

<sup>33</sup> Article 190 of the Constitution of Rwanda.

<sup>34</sup> The right to remedies is provided in Universal Declaration of Human Rights, under the International Covenant on Civil and Political rights, and in other several international instruments which obtained the authority of customary international law.

reforming its judicial system since 2004. Changes in the judicial system have been adopted over the past four year for the realization of its efficiency and effectiveness.

**32.** Within the framework of judicial decentralization, structures of prosecution departments, courts and tribunals were reformed to bring justice closer to the citizens.<sup>35</sup>

**33.** Mediation committees have been established with the mandate to settle and mediate between parties on certain disputes involving matters determined by law before submission to courts of law. Given the contribution of these committees, caseloads in classical courts have been eased and conflicts substantially subsided.

**34.** The Constitution provides for greater autonomy of State organs and a set of educational criteria for judicial personnel. The judicial system enjoys its independence and separation from other organs of the State, i.e. the Legislative and the Executive. Courts and tribunals are administered through the established Superior Council of the Judiciary.<sup>36</sup>

**35.** The courts procedures have also been revised with two-fold emphasis i.e. to speed up prosecutions and judicial proceedings and the strengthening of human rights. With clear legislations, the process of justice administration has been expedited and rights of the accused have been enforced.

**36.** The judicial reform has also abolished capital punishment and replaced it with life imprisonment.<sup>37</sup> The same law bars extradition of suspects to other countries especially where death penalty is applicable. Nevertheless, the applying state may be granted extradition on upon formal guarantees not to apply death penalty. In effect, this has not only improved the image of Rwanda but has also enhanced the culture of human rights respect.

**37.** With the 1994 Tutsi massacres, the post-genocide government has also sought to expedite justice by launching *gacaca* traditional courts - a form of participative justice modelled on past customary conflict-resolution practices, to judge genocide cases. Hundreds of thousands of elected judges, chosen on the basis of their integrity rather than for their formal education, were authorized and entrusted with the mission to try the piled cases in the name of local community. To that effect, a significant number of suspects have either been convicted or acquitted to the satisfaction of the concerned party. In particular, it is noted that since their inception up to October 2008, 1,127,706 cases have so far been received, out of which 1,123,027 have already been tried and only 4,679 are pending completion.<sup>38</sup> Besides, *gacaca* traditional courts have pre-empted the ugly situation where the projected delays in justice administration would tantamount to justice denied.

**38.** The 2004 and 2005 judicial reform led to judicial recruitment in judicial positions of young and competent personnel in the system. As a result, the sector of justice has undergone profound transformation with impressive impact on the record of human rights in Rwanda. The implementation of the judicial reform was practically effected in 2005 whereby a vast number of

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<sup>35</sup> See the Organic Law N° 01/2004 of 29<sup>th</sup> April 2004 determining the organization, functioning and jurisdiction of the Supreme Courts as amended in 2005; the Organic Law N° 07/2004 of 25<sup>th</sup> April 2004 determining the organization, functioning and jurisdiction of Courts as amended in 2005; the Organic Law N° 03/2004 of 20<sup>th</sup> March 2004 determining the organization, functioning and competence of Prosecution Service as amended in 2005.

<sup>36</sup> See art. 157 of the Constitution of the Republic of Rwanda of 4 July 2003; Organic Law N° 02/2004 of 20<sup>th</sup> March 2004 determining the organization, functioning and jurisdiction of the Superior Council of the Judiciary as amended to date.

<sup>37</sup> Organic Law No. 31/2007 of 25/07/2007, Relating to the Abolition of Death Penalty, Article 3.

<sup>38</sup> National Services of Gacaca Courts, Rwanda 2008.

relevant laws had almost been adopted and the corresponding human and material resources availed.

### **Opening of free political space**

**39.** Article 52 of the constitution guarantees political pluralism in Rwanda. An organic law regulating political organizations and politicians as amended to date warrants political space in Rwanda.<sup>39</sup> Apparently, this was hailed as an important shift in the democratic dispensation of the Rwanda's political history where participation was strictly reserved for the ruling party. Indeed, the post-genocide political landscape has been levelled for multi-party democracy allowing Rwandans from different political parties to participate in the government. This set-up has allowed and encouraged free political space to different political parties to express their views and participate in the development of their country. This has opened the political space and contributed to the creation of better framework for protection of human rights – in particular, civil and political rights.

### **Peace and security initiatives**

**40.** Rwanda recognizes that peace and security are prime foundations of sustainable development. Indeed, Peace and security initiatives in Rwanda and in the region contribute to the better promotion and protection of human rights. While the prevalence of the two is prerequisite for human life growth, it also minimizes risks of human rights violations.

**41.** Apparently, there has been development of both private and public initiatives that promote peace and security in Rwanda. They include the Centre for conflict management (CCM), IRDP, community policing, disaster and preparedness management centre, Rwanda national focal point on proliferation of small arms among others.

**42.** In addition, Rwanda enjoys internal peace as a result of stepped up security initiatives that have out-weighed insurgences. Both military and negotiation techniques have contributed to the current stability.

**43.** On the international scene, the Rwandan government has spared no effort to achieve long-lasting peace and security in the region - a prerequisite for protection of human rights and realization of socio-economic development. Notable accomplishments include the signing of regional peace pact under the aegis of International Conference for Great Lakes Region (ICGLR), contribution of troops in the AU-UN hybrid peace mission in Darfur-Sudan, forming part of the East African Community stand-by brigade and participation in the recent successful *Umoja-wetu* joint operation that has been very instrumental in amending the Democratic Republic of Congo-Rwanda relations.

### **Improvement of socio-economic development**

**44.** The realization of socio-economic development requires improvement and respect for civil and political rights and the vice versa. Socio-economic development cannot fully be realized in a weak and poor governance environment.

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<sup>39</sup> Organic Law No 16/2003 of 27/06/2003, Governing the organisation of Political parties and Politicians as amended to date.



**45.** In response to socio-economic needs, Rwanda has developed general policy programs that target and embrace socio-economic transformation of the whole population. These programs include Economic Development and Poverty Reduction Strategy (EDPRS), Millennium Development Goals (MDGs), Vision 2020-Umurenge and Vision 2020 among others.

**46.** Since 2000, the GoR started moving away from ad-hoc, humanitarian approach interventions that had characterised the emergency period, to more coherent and coordinated planning framework focussing on long term socio-economic development. This followed the approval by the International Monetary Fund (IMF) in 1998 that Rwanda qualified for credit consideration under HIPC (Heavily indebted poor countries) as it had succeeded in stabilising its macroeconomic framework including inflation. Countrywide, citizens have been encouraged or facilitated to start small income generating activities (IGAs) as a strategy to socio-economically empower and benefit the population on long-term basis. Through these programs, the social welfare of many citizens has been improved.

**47.** Also, particular programs such universal primary and secondary education, shelter development for the most vulnerable, improved health care for all - are some of the initiatives intended to boost socio-economic welfare of Rwandans. Besides, these interventions have been identified as essential pre-requisites for any necessary sustainable development and better protection of human rights.

## **PART II: INFORMATION CONCERNING EACH OF THE RIGHTS, DUTIES AND FREEDOMS IN RELATION TO APPROPRIATE INDIVIDUAL ARTICLES OF THE CHARTER**

**(i). Information as to measures taking into account questions raised in the Commission upon the examination of the previous report as to questions not previously answered or not fully answered.**

**48.** Following the presentation of the Rwandan 8<sup>th</sup> periodic report, a number of general comments were made particularly on the four issues - viz: The conception of indigenous peoples in Rwandan context; the treatment of refugees in Rwanda; The fairness and equity of *Gacaca* trials; and the conception of term divisionism in Rwanda. Below is a profound elucidation that has been carefully articulated in response. Rwanda has endeavoured a detailed response on each point to allow and facilitate good comprehension.

### **1 The perception of who are the indigenous peoples in the Rwandan context**

#### **1.1 Introduction**

**49.** The current trend of unity and reconciliation spearheaded by the Government of national unity considers identifying its citizens as Rwandans more unifying and responsible than apportioning or affiliating them to any of the superficially and colonial fuelled ethnic identifications. The history of our country reveals justification of this articulation. The 1994 genocide is ideally a product of century fuelled ethnicism, where some groups of people were made to believe that they were superior to others. This took the form of favouritism and allocation of common resources to the only few and darling ones – indeed those closely identified with the ruling click/ group. This nature of discrimination was manifest in political, economic and social spheres of the country’s life. The post colonial independence leadership openly practiced regional and ethnic politics. The palpable exclusions that marked these regimes were responsible for the ultimate tensions that culminated in worst barbaric genocide of the 21<sup>st</sup>



century. Conscious of this inhuman and shaming history of violation of the fundamental rights to Rwandans, the present leadership is committed to general interests of Rwandans not a particular group or ethnic. Admittedly, such ethnic manipulations seemed to have been institutionalised and gained general acceptance countrywide. The 1994 is a testimony to it where citizens responded to the calls of the leadership and massacred over a million people of Tutsi ethnic and Hutu moderates.

## **1.2 Conception of indigenous peoples in Rwanda**

**50.** It is difficult if not impossible to define indigenous peoples in the context of Rwanda. This is because in our history and knowledge, no group of Rwandans is considered to have preferential ownership of Rwanda based on the indigenous concept or any other form of ownership. All Rwandans are historically considered indigenous to Rwanda – sharing resources, opportunities and socio-cultural values. True however to our history, is the fact that, Rwanda experienced groups of people who were historically marginalized people (HMP). This was a direct result of self-centred politics that were practiced by pre-genocide regimes. Presently, such artificial divisions have been outlawed as inhuman and barbaric practices of the past.

**51.** Article 6 of the Constitution provides that every person has a right to nationality. The constitution does not attempt to make any distinction or preference to ethnic group. Discrimination based on origin and ethnic group was the order of the day in the pre-genocide era. The previous regimes had made ethnic discrimination a political tool for consolidation of their power and winning loyalty. To depart from such legacy and create a new Rwanda free from ethnic politics, efforts have been undertaken to encourage and enable citizens find and appreciate their citizenship as Rwandans as opposed to the artificial and divisive identification. It is in this context that the historically marginalized groups are perceived like any other Rwandese with equal access and rights to enjoy their civil and political rights, social and economic rights and solidarity rights. Article 11 of the 2003 Constitution provides that “*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*”. Indeed, this reaffirms Rwanda’s commitment in the preamble of its constitution – paragraph 2 where reference is made to international human rights instruments that Rwanda is a party. For purposes of giving effect to these guarantees, various measures have been put in place to enable every citizen to enjoy his or her right irrespective of who she or he is and not paying attention to indigenous qualification. Such measures include policy, legal and institutional measures which benefit a cross spectrum of all Rwandans.

## **1.3 The post-genocide Rwanda**

**52.** Rwandan genocide was not an accident of history, but rather a calculated plan of political extremists and instilled hatred among Rwandans – over a period of time. Throughout history, Rwanda’s people were united by their rich and admirable culture that formed bedrock of fundamental values and norms - promoting peaceful coexistence and human rights among Rwandans both at family and community levels. However, this was short-lived as conflicts were to characterize the post independence period until 1994 where genocide became the pinnacle. To revive unity and confidence among Rwandans, it needed a paradigm shift both in thinking and working. More importantly, Rwandans needed a new bondage that would identify and rally them towards a common purpose of rebuilding their shattered country as well as breed trust and

brotherhood. The option was practicing the opposite of what the previous regimes had done - reconciliation and unity among Rwandans. This was built on the foundation of non-ethnic identities, equality and fairness. Measures have been devised to this end which includes: policy, legal and institutional. Indeed, this was a holistic approach/process that sought to depart from the legacy of discrimination and usher in a new chapter of equal treatment for all.

### 1.3.1 Policy Measures

**53.** Rwanda acknowledges the unfortunate plight of some historically marginalized groups. It is a reckon fact that such marginalized groups benefit from special attention as opposed to the rest of the population. The Rwandan Constitution specifically addresses itself to victims of unfair discrimination, encouraging measures aimed at improving the plight of the most disadvantaged members of the society.<sup>40</sup> Rwanda has general policy programs that target social and economic transformation of the whole population such as Economic Development and Poverty Reduction Strategy (EDPRS) and Vision 2020. Besides that, particular programmes targeting vulnerable groups – including the historically marginalized groups have been put in place. The following are some of the government programmes that target to improve the welfare of the disadvantaged communities.

- The local collective action called “*Ubudehe mu kurwanya ubukene*”. This is a participatory approach aimed at crafting poverty reduction strategies. This program targets helping financially vulnerable families in villages (Imidugudu). The local communities identify those in dire need and help them with some resources in order to finance a project for their benefit. The principles of *Kugabira* and *Kwitura* are applied, so that the benefits are later applied to other needy families.
- In a related development, the government has embraced the “one cow per family programme”. This programme aims at the distribution of cows to families with less than 0,75 ha of land. As a result, the disadvantaged have been primary beneficiaries of the programme and indeed contributed to their welfare.
- Establishment of a fund for genocide survivors (FARG). The government has created a fund that helps victims of the genocide. The fund covers the tuition fees of beneficiaries up to the higher learning institution. Since 1998 to date, FARG has helped 3, 006 students graduate from high school and 1,500 from universities. The school year 2007/08 saw the last wave of pupils’ school fees covered by FARG. Equally, the fund takes care of housing of vulnerable persons/ families such as widows, children heads of families, people with disabilities. The funds allocated to housing are diverted to the Ministry in charge of Local Government (MINALOC). FARG provides also health cards (*mutuelles de santé*) destined to assist vulnerable families. It does also provide subsidies for qualified individuals (such as young people, widows, and capable people living with disabilities) to create income generating projects.
- Labour Intensive Local Development Program – popularly known as HIMO (*Haute Intensité de la Main-d’Oeuvre*) is another program that intervenes in the plight of the vulnerable. It is a vast rural program and it supports the establishment and rehabilitation of infrastructures that form socio-economic, creating employment opportunities for the most of the disadvantaged individuals. The beneficiaries are normally the un-employed

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<sup>40</sup> Article 14 of the Constitution of Rwanda.

and under-employed in the rural areas, to which other vulnerable groups can be integrated in the program.

- Education programs. Tuition fees have been abolished since 2003 in primary school and replaced with “capitation grants” - a program that is entirely funded by the government. Currently, the free basic education (6 year primary school and 3 year secondary common-core education) has been established as of school year 2009-10. This is believed to benefit most of the vulnerable groups in Rwanda.
- Housing programs<sup>41</sup>. New settlements (Imidugudu) have been constructed for refugees, returnees from Tanzania, displaced people or other poor or vulnerable people. For instance, between 2003-08, 107,000 refugees were reintegrated in their previous homes, new dwellings were built, their children were sent to schools (fees paid by government) and their medicare (mutuelles de santé) taken care of.
- Health Program Medical insurance (mutuelles de santé) is provided to vulnerable people (be widows, children head of the family, disabled, etc...) to access health facilities. Beneficiaries of medical insurance went from 7% of the population in 2003 to 85% in 2008.<sup>42</sup> Different programs for improving the population (including vulnerable ones) lives as free access and gratuity of VIH/AIDS treatment, Prevention Mother to Child Transmission (PMTCT); the Anti-malaria policy (indoor spraying campaign, free distribution of Long Lasting Insecticide Treated Nets to children below 5 years and distribution of Coartem) – are all programs that have helped to improve the welfare of all vulnerable groups – including highly marginalized people.

### 1.3.2 Legal measures

**54.** The Constitution provides for equal and fair treatment of all Rwandans (art.16). Any attempt to discriminate based on whatever basis is regarded as a violation in terms of article 11 of the same constitution.

- Apart from the constitution, numerous legislations<sup>43</sup> have been passed with the purpose of giving effect to equality and fair treatment for all Rwandans.
- Equally, Rwanda is a party to the Convention on Elimination of all forms of Racial Discrimination – an instrument that reiterates the principles of dignity and equality inherent to all human beings.
- The legal norms said above set the framework in which every Rwandan legally benefits from equal treatment of the law irrespective of her or his background, ethnicity, sex, religion etc. Special attention should be drawn to the fact that Rwanda proclaims itself a secular and democratic republic as enshrined in article 1 of the Constitution. This guarantees individual freedom to participate as a Rwandan not on the basis of any ethnic grounds. Impliedly, any discrimination treatment of Rwandans argued on the basis of ethnicity will be contrary to the spirit of the law and will be understood as discrimination and therefore punishable under the law. As such, the Abatwa are seen and perceived as ordinary Rwandans with full entitlement to all rights in terms of law.

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<sup>41</sup> MINALOC report of 2003 - 1<sup>st</sup> quarter 2008.

<sup>42</sup> Ministry of Health (MoH): Mini DHS 2007/08.

<sup>43</sup> Law on prevention, suppression and punishment of the crime of discrimination and sectarianism, *supra*; Law on general statutes for Rwanda Public Service, *supra*; Law n°50/2006 establishing and determining the responsibilities, organization and functioning of Student Financing Agency (SFAR) in charge of managing and administrating scholarships and student loans

### **1.3.3 Institutional measures**

**55.** Aware of the implementation role of institutions in realization of human rights, Rwanda has put in place various institutional systems<sup>44</sup> that respond and provide the general framework that enhance and promote human rights among Rwandans. To this end, various institutions have been created with the noble purpose of creating a free and egalitarian society for all Rwandans. Though with different but yet complementary attributions, these institutions' general aim is the realization of a free and equal society. Indeed, human rights are at the heart of every institution. In addition, the role of civil society has been decisive in promotion and protection of human rights thanks to the conducive environment provided by the government.

## **1.4 Conclusion**

**56.** The government of Rwanda is committed to the cause of creating a Rwanda where the present and future generations will live and co-habit in harmony and peace. This certainly requires a paradigm shift from the past discriminatory tendencies that have only served to cost the country thousands of lives of its innocent citizens. Aware of this, Rwanda has strongly committed to realization of several human rights instruments including the African Charter on Human and People's rights (ACHPR) and Convention on Elimination on all Forms of Discrimination (CERD) among others. The two categorically denounce all forms of discrimination. Besides, Rwanda has explicitly shown its commitment by enacting laws and establishing institutions that give effect to the contents of the aforementioned instruments. This way, all Rwandans have been able to benefit from equal and fair treatment from their institutions and the law.

## **2 Refugees in Rwanda**

### **2.1 Introduction and legal context**

**57.** Rwanda has an elaborate law on refugees (Law n° 34/2001 of 05/07/2001 on Refugees, O.G. N° 24 ter of 15 December 2001 as modified and completed by Law N° 29/2006 of 20/07/2006, OG. N° 15 of 1<sup>st</sup> August 2006) that define who is a refugee and puts in place a national council for refugees that is responsible for attending to the problems of refugees both in Rwanda and abroad (Article 3).

**58.** Article 22 of the same law guarantees rights and obligations of refugees contained in international human rights instruments relevant to refugees ratified by Rwanda. Among others, the law expressly provides that refugees are free from any form of discrimination. In addition, Rwanda is a party to the Convention governing the specific aspects of refugee problems in Africa of 1969 - whose preamble encourages a pan-African solution to dealing with the refugee problems of the continent. The Preamble also explicitly recognizes the need for an essentially humanitarian approach towards solving the problems of refugees. Also, Rwanda is a party to other international refugees' instruments such as the protocol relating refugees' status, the convention relating to the status of stateless persons and the convention on the reduction of statelessness. Indeed, the commitment of Rwanda towards these international standards is by and large a manifestation of recognition of refugee rights.

### **2.2 The current situation of refugees in Rwanda**

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<sup>44</sup> Reference made to paragraph 15-17 under the subsection of institutional framework.

**59.** According to official reports, Rwanda is currently a home to a total of 54,039 refugees, all of whom are Congolese. The female refugees population is 29,721(55%), children aged between 0-4 are 11,267 (20.85%), while those between 5-11 are 6,998 (12.94%) with those between 12-17 years estimated to be 6,058 (11.21%). However, these figures are changing as more refugees are returning back home in DRC following cessation of hostilities in the Eastern DRC. Besides, this explains the large numbers of Congolese refugees in Rwanda since 1997. Despite the current peace and stability in DRC, occasional incidents have made the situation in DRC more unpredictable and less convincing for refugees to voluntarily return. The same conflicts had resulted in thousands of Burundians take refuge in Rwanda. The situation has however largely stabilized – encouraging voluntary repatriation and settlement of all Burundians. As a matter of principle, all refugees remain hopeful to return in their homeland provided the original reasons that led to their departure cease to exist.

**60.** Rwanda has two main refugee camps i.e. the Gihembe camp in Bicumbi, Kiziba Camp in Karongi both in the Northern Province (both largely accommodating refugees from DRC) and the Nyabiheke camp in Gatsibo, Eastern Province. Note also that there is Nkamira camp in Musanze district which serves as a transit centre for refugees. Rwanda has also urban refugees. For Internally Displaced Persons (IDPs), Rwanda is largely free from IDPs following the resettlement of earthquake victims in Nyamasheke District - Western Province.

**61.** Generally, the refugees in camps are well attended to by both the Government of Rwanda (GoR) and various Non-governmental Organisations (NGOs). The support offered to refugees includes provision of food, health, education, shelter, security and other relevant infrastructures for their wellbeing. Further, Rwanda understands and honours its obligations with respect to refugees. This is witnessed by both its commitment to international obligations and local initiatives to improve the lives of refugees. UNHCR role still remains decisive especially in the refugee camps of Nkamira, Gihembe and Kirehe. Probably, this relates largely to their principal mission which is to intervene in the plight of international refugees. While for the IDPs, it is largely the government that attends to their needs.

## **2.3 Conclusion**

**62.** The experience of Rwandans makes them more sensitive to the plight of refugees - a situation that many have been victim. This is illustrated by the unwavering commitment on the part of the government to ratify relevant international conventions as well as enacting domestic refugee laws that seek total protection and promotion from any possible violation of refugees rights as a vulnerable category/group. Besides, the past years have witnessed a drastic reduction in the number of refugees as peace and security has taken root in the region. Nevertheless, the current civil war outbreak in the Eastern DRC means that there is a likelihood of more refugees crossing to Rwanda for their life.

## **3 The fairness and equity of *Gacaca* trials**

### **3.1 Introduction and rationale of *Gacaca***

**63.** The revival of a traditional model of dispute resolution to deal with the over one hundred thousand (100.000) genocide suspects awaiting trial became inevitable in the post-genocide era. With the judicial infrastructure destroyed and most prosecutors and judges killed in 1994, there was no chance that the national court system could prosecute all those responsible for such



crimes. Even now, after 15 years post-genocide, the national courts cannot expeditiously handle such a high volume of cases – the reason that the organic law on *Gacaca* has been amended to allow *Gacaca* courts to try category one formerly tried by conventional courts.

**64.** *Gacaca*, meaning “judgment on the grass,” offers a pragmatic and community based solution. It was adopted in anticipation to relieve the congestion in Rwandan prisons that would otherwise be the source of many human rights violations. Additionally, the reintegration of suspects back into the community and the truth-telling nature of confessions offer hope for reconciliation. *Gacaca*’s positive attributes lie in its characterisation as a model of restorative justice by focusing on the healing of victims and perpetrators, confessions, plea-bargains, and reintegration. It is these characteristics that render it a radically different approach from the retributive and punitive nature of justice at the ICTR and national courts. Great hope has been placed in the ability of restorative justice to contribute to reconciliation at both the individual and community level.

**65.** This involves community-level councils adjudicating cases and allowing the guilty to serve most of their sentence by community service. More importantly, *gacaca* gives individuals and the society in general a chance to openly own and mend what went wrong and therefore to go through a healing process. In kinyarwanda, it is the dispensation of justice that heals (*Ubutabera bwunga*).

### **3.2 The guarantee of fair trial and equity under *Gacaca* trials/process**

**66.** Like any other justice system, the guarantee of fairness and equality of arms is at the heart of *gacaca* trials. Rwanda recognises the need for a system of justice that inspires confidence and offers impartial judgments to its subjects with credible and basic fair trial rights. *Gacaca* as a method of traditional justice dispensation offers Rwandans a perfect mode of administering justice which is communally owned and reconciliatory based. The system of *gacaca* builds from benchmarks of fairness and equitability as reflected in the following principles presented below. Note however that this presentation will only be limited to key guarantees as the list is endless.

- The right to equality before the law. The guarantee of equality in the context of fair trial process is multi-faceted. The *gacaca* system prohibits discriminatory laws and includes the right to equal treatment by the courts. This right under *gacaca* further means that laws are not discriminatory, and that judges (the *inyangamugayo*) and officials must not act in a discriminatory fashion in enforcing the law.
- The right to be tried within a reasonable time. *Gacaca* underscores the need for everyone charged with criminal offence the right to be tried without undue delay. The length of time judged reasonable depends often on the circumstances of the case. This right does not depend on the accused requesting the bench of *inyangamugayo* to expedite the proceedings. To date, *Gacaca* has adjudicated more cases compared to the ICTR and national classical courts. Indeed, *Gacaca* has effectively responded to the issue of genocide cases that were anticipated to last more than 100 years should the trials have taken the classical court proceedings discourse.
- The defense counsel system. *Gacaca* like any other classical court system offers a very effective defense opportunity to its defense party in terms of article 29 of the Organic Law which obliges every Rwandan to participate in the process of court hearing by testifying against or testifying for. In other words, the masses/population participates in the hearing process by helping the bench of judges with relevant information on the case at issue. By and large, the information got from the population either incriminating or



discharging the suspect is much likely to influence and largely inform the decision of the bench. More than the classical defense system where only an individual witness for a suspect, *Gacaca* offers a model where the population voice can be relied on to inspire the decision of the judges than that one of a single witness as is the case with classical courts.

- The presumption of innocence. A fundamental principle of the right to a fair trial is the right of every person charged with a criminal offence to be presumed innocent until and unless proved guilty by and according to law - and after a fair trial. Under *Gacaca* proceedings, all suspects accused of the crime of genocide are presumed innocent until the guilt is established by the courts of *Gacaca*. Suspects are presumed innocent not only during treatment in *Gacaca* court and evaluation of evidence, but also during treatment before trial.
- Motivation of the court decision. *Gacaca* system is built on a rational system which believes that any decision has to be found on general acceptance and reason. Judges are under obligation to motivate their decisions and make public their judgments. Besides, the judges (*inyangamugayo*) through legal coordinators always have recourse and consultations at the *Gacaca* secretariat where they exchange ideas with experienced practitioners. Regular trainings are also offered to better equip the *inyangamugayo* with requisite skills. This way people have been able to question and express their discontent or satisfaction. By and large, this has helped *Gacaca* court officials to review their methods of working.
- The right to defense. Every one accused in *Gacaca* court has a right to defend himself or herself from the allegations charged. This allows the accused fair treatment and equality of arms before the traditional system. Both the parties are guaranteed the right to defense. Naturally, the population is expected to testify for or against in the case proceedings. Notably, the defense has been instrumental in *Gacaca* where discharging evidence is mostly relied on in determination of guilt and innocence. The nature of trial conduct and the mass participation in adducing evidence is hailed as one of the relevant aspects of the traditional system.
- The impartiality of judges (*inyangamugayo*). One of the profound prerequisite conditions/requirement for someone to be a judge in *Gacaca* courts is the aspect of integrity. This condition as a result interrogates the moral, criminal and societal responsiveness track record of the person in question towards fulfilling his obligations. Unlike conventional judges, the judges in *Gacaca* are voted and scrutinised by the society to which they will in turn serve and be accountable.
- The right to a fair hearing. *Gacaca* like any other conventional justice system operates under a set of defined framework and procedures that ensure the best respect of the rights of complainants and defendants. The right to a fair hearing encompasses all the procedural and other guarantees of fair trial laid down in the *Gacaca* organic law as well as other international standards that Rwanda is a party to.
- The right to a public hearing. *Gacaca* hearings observe public hearing as a fundamental right. The right to public hearing mean that not only the parties in the case, but also the general public, have the right to be present in the trial. Indeed, this right has ensured the best guarantee to people's rights in the course of trial. By doing that, the public are part of the process, knowledgeable about justice administration and what decisions are reached by the *Gacaca* courts. The only exception in this case has only been rape cases where ad hoc trials have been conducted as provided by the law.

- The right to appeal/ Review. Everyone convicted of a criminal offence under the *Gacaca* courts has the right to have the conviction and the sentence reviewed by a higher court irrespective of the grounds of the decision.
- Prohibition of double jeopardy. In *Gacaca* courts, the prohibition against double jeopardy applies after final judgment of conviction or acquittal according to the law and procedure as provided by the law. *Gacaca* courts are legally constituted tribunals with powers to pass valid and binding judgments. Thus, verdicts passed by *Gacaca* courts are only appealed to higher instances of *Gacaca* courts in form of review as is the case with conventional courts. Impliedly, *Gacaca* law prohibits a person from being tried or punished more than once in the same jurisdiction for the same crime.
- Punishments based on the law. The punishments provided under *Gacaca* upon conviction following a fair trial are lawful, proportionate to the gravity of the crime and circumstances of the offender. The *Gacaca* courts may never impose a heavier penalty than the one stipulated by the organic law.

### **3.4 Conclusion**

**67.** Equality and fairness is at the heart of any credible justice dispensation. It is a basic human right. The *Gacaca* system puts in place a system that reflects treatment of suspects with dignity and fair trial procedures. While the system endeavours Rwandans to own their problems through locally developed solutions, it also allows the society to heal, unify and reconcile for its betterment. The legacy of Genocide certainly makes *Gacaca* the ideal mode of justice administration. It is no doubt that *Gacaca* presents one of the fitting aftermaths approach to rebuild the nearly shattered society. In its totality form, *Gacaca* presents a fair and equal mode of justice for the people and by the people.

## **4 Divisionism in Rwandan**

### **4.1 The divisionism – conflict background in Rwanda**

**68.** The divisionisms which have devastated Rwanda over the past decades are among others identity-based divisionism. Normally, such identity-based divisionism and conflict were fueled to wrongly threaten another group – usually perceived as enemy to the extent of disappearing or of being reduced physically or politically. The period between the 1950's and early 1990's were the climax of divisions between communities which were formerly living together for a long time. In 1994, Rwanda witnessed the seeds of such divisionism. The frontlines were set-up along identity distinctions, whether material or not. The identity-based divisionism became therefore a basis on which collective narcissisms confront each other. They were crystallized on the basis of the sense of belonging to a particular ethnic group, region, sectarianism etc. This could also have been based on history, ideological constructions and political affiliations. The latter elements are specifically typical to the conflict in Rwanda.

**69.** Identity mechanisms did not arise *ex nihilo* in Rwanda. They have an origin, an evolution which marks out the itinerary of their forming. During the genesis process of divisionism, there was an existential fear and negation of history and the carrying out of a sort of timeless reasoning which determines community history in a kind of an eternal essence.

**70.** The Rwandan identity crisis was a result of long-lasting phenomena. To this regard, 3 elements should be combined for the sense of identity to take form: the socio-economic crisis, the state crisis and the internal or proximity heterogeneity.

- The socio-economic crisis dooms such or such other group to exclusion and toughens collective identifying perceptions of groups around ontological needs.
- The state crisis results in its incapability of properly assuming its duties and the state places itself in the service of a minority of the privileged by giving its backing to injustices and frustrations against other groups. Those two aspects have characterized Rwanda under the first two Republics, without sparing the neighbouring countries, including DRC.
- The heterogeneity factor has also played a significant role. In the case of Rwanda, the sense of distinction has been the result of ideological constructions and has relied on parameters which are a little rational but functional: height, big or small nostrils, the shape of the face, etc...

#### **4.2 The Post-Genocide Rwanda and divisionism**

**71.** Rwanda is 15 years down the road rebuilding itself from the legacy of 1994 genocide. A system of governance and public administration that had created the values and forces that resulted in the genocide evidently could not be the system that could provide the solutions to the multitude of problems resulting from the war and the genocide. There had to be another way that springs from beliefs, fears and values and a new vision of the future. This was the challenge faced by the new administration. Understandably, the past divisions and their role in the outbreak of the Rwandan mayhem is an established factor. Aware of this, the government has decided to institute various measures that have helped to combat such divisive propaganda in the mindset of many Rwandans.

#### **4.3 Establishing the meaning of divisionism in Rwanda**

**72.** Rwanda does not have a particular law defining the term divisionism. The term however, is closely linked to discrimination and sectarianism – whose definitions are found in the Law No 47/2001 on 18/12/2001 on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism. Divisionism is though generally understood as the use of any speech, written statement or action that is likely to divide people or spark conflicts among people, or cause an uprising which might degenerate into strife among people based on discrimination. It is thus considered illegal to do anything that is tantamount to divisionism based on race, tribal, ethnic, religion or region in Rwanda. The background to this prohibition largely derives from the history of divisionism that culminated in the 1994 Genocide.

#### **4.4 The law and divisionism in Rwanda**

**73.** The preamble of the Constitution also expressly condemns ideology of genocide and all its manifestations and commits to eradicate ethnic, regional and any other form of divisions in its second paragraph as well as does article 9. Rwanda is also bound by signed and ratified international human rights instruments that denounce all forms of discrimination and divisive tendencies. This way, the government has not only been obligation to protect and promote equality amongst Rwandans, but also to respect and honour its international obligations.

**74.** Divisionism under the Rwandan law is prohibited as a crime and its commission attracts the application of the above mentioned law. The Law No 47/2001 of December 2001 instituting punishment for offences of discrimination and sectarianism has specifically been put in place with penalties to be imposed on people legally convicted for divisionism. Categorical scenarios of divisionism (discrimination and sectarianism) are defined by the law and penalties that apply thereafter are provided (art.1 &3).

**75.** It is in the same spirit that domestic legislations as well as institutions have been put in place to give effect to equality aspirations.

#### **4.5 Conclusion**

**76.** Rwanda understands the implications of divisions probably than anyone else. Indeed, it is acknowledged that the benefits of a free and equally shared Rwanda would work for Rwandans themselves. This has been witnessed in several dimensions where social cohesion has been taken root in communities. Apparently, the preoccupation of the government is to create opportunities for its people to prosper without any distinction of any form. Social infrastructure and capital for all have been made top priority. Equally, the law acknowledges and embodies such tenets as vital in combating mischievous ends of divisionism. The institutions established speak a lot on the level of commitment shown by the government to combat divisionism. This sums up the society in creation – the one where all Rwandans see themselves on an equal platform.

#### **(ii). Information taking into account general comments made by the Commission**

**77.** The information pertaining to general comments has been given in the aforementioned paragraphs – under the questions raised by the Commission upon examination of the previous report. The response gives a detailed account of the country's position.

#### **(iii). Information on changes made or proposed to be made in laws and practices relevant to the Charter**

**78.** Although Rwanda ratified the ACHPR on 11<sup>th</sup> May 1983, it was not actively employed in domestic law until the adoption of the Constitution of 2003 and the subsequent move to democracy. The Constitution entrenches Rwanda's attachment to the principles of human rights contained in the ACHPR, as well as those found within the Charter of the United Nations, the Universal Declaration of Human Rights and the International Bill of Human Rights. Our democratic system of governance works to ensure that these instruments are enforced by allowing the voice of every Rwandan to be heard. The following are some of the relevant changes to the Charter.

**79.** An organic law allowing double nationality was adopted in 2004.<sup>45</sup> The law confirms the right to double nationality, to a foreign wife or husband to take on the nationality of his/her Rwandan partner among others.

**80.** In view to improving the rights of prisoners and ease congestion in prisons that ensued in the aftermath of 1994 genocide, Rwanda devised a community service program which allows

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<sup>45</sup>The organic Law N°29/2004 of 3/12/ 2004 on Rwandan nationality code, O.G., No 1 of 1/1/2005.

prisoners to serve part of their sentence through community works. To do this, a law was adopted to give a clear framework of implementation.<sup>46</sup> More than anything else, this alternative penalty to imprisonment contributes to improvement of prisoners' life and reintegration in the society that they wronged.

**81.** With the increasing international condemnation of the death penalty as one of the grave violations to human rights, Rwanda responded with an adoption of a law that abolishes capital punishment (death penalty).<sup>47</sup> This law is a tribute to respect of the right to life and dignity. The law in its article 3 replaces death penalty with life imprisonment with special provisions.

**82.** Recently though, there has been a strong critic on the solitary imprisonment as a violation to human rights. Important to note however, is the fact that a bill seeking to overturn the article through an amendment has been tabled before Parliament.<sup>48</sup> It is indeed hoped that the ultimate quash of the article, will provide a great breakthrough in the respect of human rights.

**83.** Rwanda pursues a genuine ownership and participation of its citizens in shaping their future. To realise this strategy, an organic law elaborating decentralisation policy was adopted.<sup>49</sup> In addition, the policy aims at emphasizing the citizen's right to play a crucial role in the country's governance, through decentralisation policy framework.

#### **(iv). Information on action taken as a result of experience gained in cooperation with the Commission**

**84.** Rwanda notes that the Commission has been a reliable partner in the quest for promotion and protection of human rights. Over the years, Rwanda has received compliments, comments and observations from the Commission. Where issues that needed written responses have been transmitted to Rwanda, necessary review and clarifications have been undertaken. In the process, such cooperation has helped Rwanda to do a self-evaluation assessment on the key issues raised by the Commission.<sup>50</sup> For compliments, it has always been a source of motivation to do better.

**85.** Through public institutions such as the National Commission for Human Rights, the National Unity and Reconciliation, the Ombudsman Office, the National Commission for Fight against Genocide, the Judicial Organs including (Police, Prosecution and Courts), Rwanda has made remarkable progress in the protection and promotion of human rights. Notable duties undertaken by these institutions include investigation and sensitisation of human rights in Rwanda.

**86.** The cooperation with human rights international bodies - the African Commission included has helped to keep Rwanda alert – especially towards fulfilling its reporting obligations. Rwanda understands that such cooperation provides an opportunity to give an update on current developments as well as engage in constructive dialogue with the Commission.

#### **(v). Information on factors affecting and difficulties experienced in the implementation of the Charter**

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<sup>46</sup> Presidential order N°10/01 of 7/3/2005 determining the modalities of implementation of community service.

<sup>47</sup> Law N° 31/2007 of 25/07/2007 relating to the abolition of the death penalty, *O.G.*, special N° of 25/7/2007.

<sup>48</sup> Report from the Ministry of Justice of the Republic of Rwanda, 2009 – workshop held on the solitary imprisonment.

<sup>49</sup> Organic Law N° 29/2005 of 23/12/ 2005 determining the administrative entities of Rwanda.

<sup>50</sup> Reference is made to responses contained in the present report that were raised in the presentation of the 8<sup>th</sup> period report.



**87.** Notwithstanding the realized progress in the protection and promotion of human rights in general and civil and political rights in particular, some challenges still remain such as poverty which implies limited resources; ignorance; analphabetic/illiteracy; genocide ideology, the effects of genocide such as erratic harassment of genocide survivors have been among the notable disturbances in realisation of the Charter. We note that most these challenges were highlighted in the previous report.

**(vi). Information on progress made since the last report of fulfilment of the Charter**

**88.** Generally, profound changes have been registered since the submission of the previous report. Existing systems have either been strengthened or consolidated with the purpose to better serve the cause of human rights. Remarkable among improvements are new legislations or amendments on laws giving effect to human rights. For particular details on improvements in legislation, we refer to the information presented on changes made or proposed to be made in laws and practices relevant to the Charter in section II (iii) above.

**89.** In the field of freedom of press and access to information, following the adoption of the current Press Law, several news papers (Focus, Isimbi, L'Entrepreneur, Tribune of Sport, Umuvugizi, Regards croisés, Police Magazine - Umutekano, Media, Umusanzu Urukwiriye, Impamo, Iriba, Umusingi, Viva Magazine, Buracyeye and Inyenyeri, Umuganda, Izuba and Isangano) were authorized to operate in Rwanda. These are additional to other 13 operational newspapers – including even those that started before the adoption of the above law. Equally, several radio stations were authorised to operate. They have been detailed in the previous report.

**90.** The High Council of Media was established to regulate and oversee the media and reinforce its independence in Rwanda. Formerly known the High Council of Press, it has currently changed to High Council of Media to coordinate and cover both the radio and the press.

**91.** Despite such appealing changes, it is worthwhile to consider the future of press freedom in Rwanda. It is in that context that we note and encourage that necessary incorporations be made in the new press bill currently under parliamentary review. With an appropriate press legislation, a cross generation of rights will be promoted and protected.

**92.** With regard to participation in public affairs, the population of Rwanda has successfully elected their leaders at different administrative levels - notably at parliament and local government level in recent re-known fair and transparent elections. By and large, this has served as a benchmark for consolidation of democratic transformation process in Rwanda. Linked to this achievement, is how the practice has changed the political landscape in the country that was formerly marred by sheer despotism and dictatorship.

## **INFORMATION ON ECONOMIC AND SOCIAL RIGHTS**

### **A) The right to work (Article 15)**

#### **A.1 New legal and institutional framework**

**93.** Since the submission of the last report to the African Commission in 2005, the country has continued on its pace of enacting new laws and creating new institutions for greater enjoyment of the right to work guaranteed under the Charter. In particular, Rwanda accessed in 2008 to the following International Conventions:



- ✓ The Convention on the rights of persons with disabilities and its Optional Protocol.
- ✓ The Convention on the protection of the rights of all migrant workers and members of their families.

**94.** In addition, new national legislations have been enacted to facilitate realisation of the right to work which include the following:

- The new piece of legislation on use and management of land which guarantees equal right to land and has bans all forms of discrimination in use of land.<sup>51</sup>
- A Code of investments was passed by parliament in 2005 to facilitate and encourage the promotion of local and foreign investments with some tax incentives, thus increasing the creation of job opportunities.
- The law related to protection of disabled persons<sup>52</sup> has a special provision that protect the disabled while seeking employment. A disabled person is given priority when competing with someone not disabled, especially if their skills are the same.
- A presidential order has been in force since June 2007 regarding job classification in Rwanda's public service.<sup>53</sup> It applies to public servants and ensures equal treatment and opportunity for promotion in employment.
- The Public service commission is now in full operation. As an independent agency, it handles the recruitment and management of human resources.
- In order to empower its population with employable skills and entrepreneurship capacity, the GoR has created an institutional framework to respond to skills' challenges - the Workforce Development Authority (WDA). Its mission is to guide the development and upgrading of skills and competencies of the national workforce in order to enhance competitiveness and employability. One of its pillars is the implementation of the Labour Market Information System (LMIS) in order to connect employers and job seekers. The WDA will also be in charge of harmonizing vocational and professional training programs.
- Another public agency in charge of spearheading capacity building of human resources in the country is the Human Resources and Institutional Capacity Development Agency (HIDA). It has been fully operational since April, 2005. It provides mechanisms to develop skills and capacity of Rwandan workforce in the public, private sector and civil society organizations.
- Another is Rwanda Institute of Administration & Management (RIAM) also in charge of providing capacity building to staff from various public and private institutions. Since 2006 to 2008, a total of 2,907 individuals from public, private and NGOs institutions underwent capacity building trainings (1,512 individuals in 2008, 72% were from the public or local administrative sector).<sup>54</sup>

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<sup>51</sup> Organic law n°08/2005 determining the use and management of land in Rwanda (O.G. n°18/2005 of 15/9/2005)

<sup>52</sup> Law n°01/2007 of 20/01/2007 related to protection of disabled persons in general

<sup>53</sup> Presidential order n° 20/01 of 31/05/2007 establishing the job classification in Rwanda's public service

<sup>54</sup> RIAM report of 2008: More information is available at: <http://www.riam.ac.rw/> (as accessed 20/5/2009).

- In order to address labour issues and give advice in matters related to labour, a National Labour Council<sup>55</sup> was created in 2006. Some of its functions include: giving advice on preliminary bills and draft regulations concerning labour and social security; assisting in the correct application of laws and regulations; identifying all the shortcomings in the field of labour and employment and propose appropriate measures; studying all the problems related to labour, employment, vocational training, social security, occupational health and safety as well as the working and living condition of workers.

- A gender monitoring office has been put in place since 2007 to enhance and promote gender equality and equity, and enable women to participate in and benefit equally from development efforts.

**95.** Apart from legal measures, Rwanda has adopted a number of new policies that complement legal framework. They include:

- A national employment policy has been adopted in 2006 to implement such measures and in ensuring work for all.

- Also, a five year action plan for the promotion of women and one on youth employment have been put in place since 2007.

- In relation to technical and vocational training, a new policy to merge the two programs has been approved in 2008. This integration saw the creation of Integrated Polytechnic Regional Centres. So far, two centres have been opened out of the total six (6) expected, one in each province and Kigali city.

## **A.2 Progress made in achieving observance of the right to work**

**93.** Some of the government spheres of intervention involve the rural sector. It is noted that two-thirds (2/3) of the population live in rural areas and are mainly employed in the agriculture and related activities.

**94.** In agriculture, the goals are the modernization; the diversification and intensification of crops, diversification of source of incomes in rural areas; organization, mobilization and reinforcement of capacities of producers and professional organizations; promotion of gender approach and reduction of vulnerability of the underprivileged groups. In line with these goals, there were:

- Creation of cooperatives for savings and credit purposes. In 2008, labour and entrepreneurship development has been promoted through the creation of cooperatives. For instance<sup>56</sup>, there were 532 created cooperatives in Kigali City, 115 cooperatives for women and 38 for youth in the Eastern province;

- Private sector promotion;

- Rural populations are encouraged to remain active in the farming activities by rewarding them with incentives/bonuses; and

- The land policy advocates for consolidation of land as a strategy for optimal exploitation and promotion of proper land allocation.

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<sup>55</sup> Created by Ministerial order n°62/03 of 01/02/2006 establishing creation and functioning of the National Labor Council.

<sup>56</sup> MINECOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: Available at: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (accessed 24/2/2009).

**95.** In addition to that, there have been other initiatives for empowering young people. They include:

- Increase in training centres for youth (Centre de Formation des Jeunes) in order to empower school dropouts with technical skills and access labour market or be able to start their own enterprises.
- In respect to vocational and training programs, these centres were 163 in 2008 - offering a variety of programs ranging from sewing, mechanics, plumbing, steel work and others.
- New cooperatives such as youth cooperatives for self-employment and development (Coopératives de la jeunesse pour l’auto-emploi et le développement - COOJAD), have emerged for youth empowerment and to allow them to access credit and fund their projects. There are 7 youth cooperative banks so far with a membership of 4,336 young individuals.

**Total amount of financing received by COOJAD from the National Youth Council:**

Year	Amount
2007	27,000.000
2008	57,726.998
2009	50,780.000

**Tableau 1: Source: COOJAD**

- A new “Youth Employment Fund” will soon be available to enable youth access credit; and
- Internship programs help students gain hands-on experience in their study field (both in public and private sectors).

**96.** Micro-credit schemes have improved lives of many women, empowering them by setting up income generating activities and becoming key contributors to the development process of the country.

- A credit fund scheme has been set up at the district level to enable rural women access credit.

**97.** Assistance including micro-finance and specialized trainings are also available and are offered to people with disabilities.

**98.** The decentralization process plays a vital role in facilitating workers’ rights access their permits and various required documents. Also at the cell level, strategies to improve work are promoted by trainers called “*abakangurira murimo*”.

**99.** Different workers organize themselves in cooperatives and associations (drivers, motorcyclists, cleaning staff, etc.). The new structure allows them to better enjoy their right to work and voice their common concerns when needed.

**100.** The partnership and regular consultations between the government, the trade unions and the federation of the private sector have increased ways of improving the right of workers in general.

**101.** Notable also is that the the majority of informal sector workers are agriculturalists and farmers working on family land as indicated in the table below.<sup>57</sup>

<sup>57</sup> National Institute of Statistics of Rwanda: The analysis of l’EICV 1<sup>st</sup> and 2<sup>nd</sup> on market and employment trends on economic activities in Rwanda, August 2007.

	Men				Women				Total			
	EICVI 1		EICV 2		EICV 1		EICV 2		EICV1		EICV2	
Salaried agriculture	81000	5,0	201000	10,2	53000	2,6	159000	6,6	134000	3,7	360000	8,2
Subsistence agriculture	1268000	78,8	1201000	61,1	1858000	89,7	1919000	76,6	3126000	84,9	3119000	71,3
None salaried agriculture	185000	11,5	342000	17,4	91000	4,4	136000	5,6	276000	7,5	478000	10,9
Non agriculture Independent workers	71000	4,4	205000	10,4	57000	2,8	143000	5,9	128000	3,5	348000	8,0
None monetary Labour Not agriculture	5000	0,3	18000	0,9	13000	0,6	54000	2,2	18000	0,5	72000	1,6
<b>Total</b>	<b>1610000</b>	<b>100</b>	<b>1967000</b>	<b>100</b>	<b>2072000</b>	<b>100</b>	<b>2411000</b>	<b>100</b>	<b>3683000</b>	<b>100</b>	<b>4377000</b>	<b>100</b>

### Statistical data on general employment status:

Field/type of employment/ Region	2007	
Agriculture	68.1%	
	Women <sup>58</sup>	Men
	97,18%	90,19%
Self employed	5.1%	
Salaried workers	7.5%	
Domestic workers	15.2%	
Other workers (did not declare their type of employment at time of survey)	4.1%	
Informal sector <sup>59</sup>	93,8% of the working population	
Formal sector	6,2% of the working population	

Table 2: Source: Social Security Fund: Annual statistical bulletin 2007, October 2008

### Majority of the workers in the informal sector are farmers working on family fields as illustrated in the following table:

Categories	Year	
	2005/2006	2000/2001
Independent workers	76,81%	86%
Aids	15,22%	
Salaried farming workers	6%	

Table 3: Source : MIFOTRA

### The unemployment rate per region was as follow in 2005/06:

Region	Unemployment rate
Kigali City	6,6%

<sup>58</sup> MIFOTRA: National Employment Policy, 2007, p.20

<sup>59</sup> The Law regulating labor in Rwanda, Law n°13/2009 of 27/05/2009 (O.G. n° special of 27/05/2009) defines a worker of the informal sector as “a worker who performs informal activities and who works for a company or an individual that is not registered as employer in the commercial register or with authorities”; EICV2.

Other urban cities	3%
Rural regions	0,5%

**Table 4: Source: EICV2 (2005-2006 Data)**

- Amongst the working population<sup>60</sup> (estimated at 4.484.000) in 2005/06; 4.5% of it were aged over 65 years.
- During the same period, the young population (aged 15-29 years) were estimated at 52% and those below 20 years of age were 25.6%.
- The majority of women work in the informal sector, activities requiring no professional qualifications such as farming, crafting, weaving and others. In the rural regions, 60% of women are workers, 15% of them are salaried while the number of salaried women is 33% in urban regions.<sup>61</sup>

## **B) Right to just and favourable conditions of work (art.15)**

### **B.1. Remuneration**

**102.** For the private sector, the law regulating labour in Rwanda in its article 76 states that the minimum guaranteed wage per categories of work shall be determined by an order of the Minister in charge of labour. Such an order is currently under drafting process.

**103.** For the public sector, the law on general statutes for Rwanda public service stipulates that “the salary is made up of a basic salary calculated following the position of each work post on the salary grid in conformity with annex”. The basic salary constitutes at least 70% of the growth salary. The basic salary hinges on a grade related scale. The latter derives from the grid of job classification, with 20 levels structure (corresponding to 20 job classification levels) with 5 grades per each level.

**Table 5: Comparative statistical data showing levels of remuneration in the public and private sectors (amount x Rwf 1,000).**

Field of activity	Code/Level	Public sector	Private sector
Accounting	2	562	540
	5	1,244	2,100
Administration	4	281	250
	9	808	750
Information, Communication and Technology	2	562	540
	5	1,244	2,100
Legal	2	337	450
	4	880	700
Medical	2	233	549
	5	1,097	1,640

Source: MIFOTRA, October 2007

**104.** Both sectors offer relatively comparable wages. The difference lies mainly in non-

<sup>60</sup> EICV2; Labor Market and economic trends in Rwanda, Analysis of the EICV2; National Employment Policy

<sup>61</sup> EICV2; Labor Market and economic trends in Rwanda, Analysis of the EICV2

monetary elements such as vacation, car, housing, fuel allowance, retirement and pension schemes.

**105.** Workers in the administration, legal fields have their salary somewhat comparable, whereas those in the accounting, medical and ICT fields have a substantial gap in the two sectors as one is climbing the corporate ladder

## **B.2 Safe and healthy working conditions**

**106.** In matters related to safe and healthy working conditions, the Law regulating labour provides for the protection and safety of workers. While detailed information was attempted in the previous report, the present report gives an update as follows:

- Creation of the office of the labour inspection in every district to advise, monitor and reinforce the implementation of labour laws regulating health and safety in the workplace;
- Introduction of emergency box (first aid) in event of accident by the employer (art.96); and
- Establishment of committees on health and safety in the workplace (art.95);

**107.** Other administrative undertakings to ensure safe and healthy working conditions include:

- ✓ The continued capacity building trainings for labour inspectors;
- ✓ An assessment of companies and their health and security related problems is currently undergoing by labour inspectors across the country. When the task is completed, the report will help in drawing a national policy on health and security in the workplace.
- ✓ The list of all professional diseases and occupational hazards is undergoing.
- ✓ In health centres, protective measures exist to dispose waste off;
- ✓ In companies with high exposure to heat (for instance tea factories) workers receive milk regularly throughout their shift.

**108.** The law on general statutes for Rwanda public service also protects public servants (arts.77&78).

**109.** The informal sector is covered by the new law regulating labour. The law provides that employees in the informal and rural sector, those in family labour attached to agricultural, commercial company or industrial activities shall be covered by the provisions of law in matters related to health and security in the workplace (art.3).

**110.** Some data on the number and nature of occupational hazards<sup>62</sup> (accidents and diseases) are as follows. Note that a great number of occupational hazards are unlikely to be reported to the Social Security Fund:

**Table 6: Social Security Fund, Occupational Hazards statistics (5-year overview)**

<b>Year</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Occupational accident</b>	218	149	137	117	132

<sup>62</sup> Source: Social Security Fund of Rwanda- Planning Section



<b>Occupational disease</b>	5	3	4	3	1
<b>Total</b>	<b>223</b>	<b>152</b>	<b>141</b>	<b>120</b>	<b>133</b>

Source: Social Security Fund, Unit of Planning and Statistics-2009.

### B.3 Equal opportunity for promotion

**111.** The GoR continues striving to create an environment that enhances promotion of gender equality. Much of the laws and organizations promoting gender equality have been detailed in the previous report. New laws include:

- The Convention on the protection of the rights of all migrant workers and members of their families
- The law on general statutes for Rwanda public service. It provides for competition in the recruitment of public servants which allows equal opportunity for both men and women. Performance contracts are signed to ensure proper appraisal of the work done - along with proper recourse if one feels that his/her rights have been violated.

**112.** Factors and difficulties affecting the degree of realization of this right:

- Rampant unemployment of the majority of the population aged between 21-30 years;
- Low level of professional qualifications, lack of technical skills and entrepreneurial spirit;
- Limited access to financial services and lack of funds to start up own business;
- Budgetary constraints;
- The majority of the population (especially women) works in the informal sector, thus not covered by the protection of the Law regulating labour.

**113.** With regards to employment promotion, 900 women and 300 youth were trained in entrepreneurship.<sup>63</sup> 158 retrenched civil servants received training in entrepreneurship and another 178 were accepted in different higher learning institutions through the Student financing Agency (SFAR) funds in 2008.

#### Progress made

**114.** Besides the progress that was noted under the previous report<sup>64</sup>, other improvements registered in the recent years involve the following:

- Ratification of the convention C156 on equal opportunities and equal treatment for men & women workers is in the process of being ratified.
- The reduction on fees payable by foreign workers for their work permit<sup>65</sup>; workers from the East African Community<sup>66</sup> (since 2009) along with workers with a refugee status are exempted from any fees.

<sup>63</sup> MINECOFIN Annual report on the implementation of the EDPRS, May 2009, available at: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (accessed on 12/4/2009).

<sup>64</sup> See Rwanda Report (from period 2002-2004) submitted in 2005, Section 1.2.5.b/ under Protection de la femme.

<sup>65</sup> It decreased from Rwf 200,000 to Rwf 50,000 for workers of category A (with a monthly gross salary of at least Rwf 500,000) and from Rwf 200,000 to Rwf 10,000 for workers of category B (with a monthly gross salary below Rwf 500,000)

- The national employment policy has series of measures to promote women’s employment such as:
  - ✓ Encouraging women to create enterprises in various sectors of the formal economy;
  - ✓ Integrating women through development of formal vocational training or on the job training adapted to the needs of the labour market.
- The five year action plan for the promotion of women employment came to reinforce the national employment policy. Various projects and programs have been adopted, such as:
  - ✓ Sensitizing women;
  - ✓ Developing women’s skills. Agencies such as WDA were created to boost skills development;
  - ✓ Financing their initiatives: Micro-credit schemes have improved lives of many women, empowered them in setting up income generating activities and becoming key contributors to the development process of the country;
  - ✓ Creating projects for the creation of direct employment (with the help of HIMO, RSSP, PREPAF, all programs striving to reduce poverty through jobs’ creation);
  - ✓ Since the beginning of HIMO programs<sup>67</sup>, more than 43,000 individuals with 39% being women, gained employment;
  - ✓ Gender employment promotion received boost and assistance from ILO along with UNIFEM;
  - ✓ Special programs were also designed for ex-combatants for their reintegration in the community.
- The policy on promotion of the girl’s education and encouragement to girls to enrol in science and technology fields;
- The decentralization process favoured the representation of women at various administrative levels;
  - ✓ At the district level, a new position of vice-mayor in charge of gender has been created;
  - ✓ Also there was creation of women’s council at cell and sector levels of the local administration. These councils serve in promoting gender equality from the grassroots.
- At the district level, a funding for small loans for women’s small enterprises has been set up.

## **C. Rest, leisure, limitation of working hours, and holiday with pay**

### **C.1 Rest**

**115.** The current pieces of legislation that provide for leisure and particularly - rest are:

- The Law regulating labour has provisions for rest; the weekly rest is for at least twenty four (24) consecutive hours per week (art.52).
- The ministerial order n°05/19<sup>68</sup> complements the Law regulating labour and sets the same duration of rest.
- In the public sector<sup>69</sup>, the rest is for 48 hours and it occurs Saturday and Sunday.

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<sup>66</sup> Ministerial order n°01/19.19 of 25/02/2009 determining the recruitment procedures of foreign workers (O.G. n°10 of 09/03/2009)

<sup>67</sup> MINALOC, PDL-HIMO Section, 2009

<sup>68</sup> Ministerial order specifying modalities for enforcing a forty (40) hours working week and salary rates for overtime work (O.G. n°1 01/06/2003): art.2: “The weekly rest shall be a minimum of 24 consecutive hours and take place, as a rule, on Sunday”.

<sup>69</sup> Ministerial order n°15/19 of 13/6/2003 concerning weekly duration of working hours within the public service (O.G. n°12 ter 15/6/2003):art.5

## **C.2 Leisure**

**116.** The State is the one defining the general policy in regards to sports and leisure<sup>70</sup>.

**117.** The government promotes leisure and sports activities by allowing its employees to participate in recreational activities on Friday afternoons. Subsidies have been offered to employees desiring to join fitness clubs.

## **C.3 Limitation of working hours**

**118.** In regards to limitation of working hours, article 49 of the new law on labour provides for a duration not exceeding forty five hours (45) a week.

## **C.4 Holiday with pay**

**119.** Under the labour code, it is provided that workers are entitled to holiday with pay on annual basis. Details are provided in article 53 of the labour code.

### **Difficulties affecting the degree of realization of the above rights**

**120.** It has been noticed that employees working in the informal economy (such as family labour attached to agricultural or commercial company, rural workers or any other type of employment in the informal sector) are not really enjoying the benefit of the above mentioned rights, since they are not covered by labour law.

## **D. Trade union rights**

### **D.1. Right to form and join trade unions**

**121.** The right to form trade unions is guaranteed under article 38 of the Constitution as previously reported. The law on labour grants every worker or employer the right to freely join a trade union or an employer's professional organization of his/her choice (art.101). Trade union's rights are however exercised in compliance with the law (art.106).

### **D.2 Right of trade unions to federate**

**122.** Among other rights, trade unions have the right to federate, to join other national or international union organizations (arts.115 & 116 of the law on labour).

### **D.3 Right of trade unions to function freely**

**123.** Trade unions and employer's professional organizations can freely operate in the limits set out by the law. There are no other restrictions imposed to the right to trade unions or employer's professional organizations to freely function.

- A trade union or an employer's professional organization with legal status (art.104) has all the rights, such as the right to go to court, to represent workers and employers, acquire movable or immovable property, and enter into agreements with corporate bodies, companies or individuals (art.103).

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<sup>70</sup> Loi n°05/1987 sur l'organisation des sports et loisirs au Rwanda, O.G., 1987, p.349 (art.6)

- Collective bargains and negotiations are very much encouraged by the GoR. Art.121 of the law provides when necessary for a joint commission made up by the ministry in charge of labour as a consultative party and representatives of workers and employer for a collective negotiation.
- The government promotes the social dialogue as a platform for permanent meeting and accord between social partners (trade unions and employer's professional organizations), civil society organizations (comprising of women, disabled and youth's organizations) along with the government, thus avoiding potential conflicts.

#### **D.4 Right to strike**

**124.** Besides the Constitution that has enshrined the right to strike (art.39), the law on labour also makes room to the workers' right to strike (art.151).

**125.** Some restrictions to the right to strike exist in case of employees occupying positions necessary and qualifying as essential services (art.155 of the law on labour).

#### **Trade Union Rights among members of the armed forces and police**

**126.** The two categories are not permitted to participate in strike movements.<sup>71</sup>

**127.** As for their right to form and join trade unions, they are permitted to do so as their constitutional right.

**128.** The ministerial order establishing rules relating to disciplinary conduct, disciplinary sanctions and procedure in the national police states that "a police officer can be a member of associations with the aim of promoting national development. [...] (art.12).

#### **Trade union Rights among members of the administration of the state**

**129.** Members of the administration of the state enjoy rights guaranteed under trade unions. These are found in the following legislations:

- The Constitution allows all categories of workers to strike, form and join trade unions (arts.38 &39)
- The law on general statutes for Rwanda public service in its art. 73 recognizes these rights through its guarantee to government employees to enjoy all the rights recognized to every citizen.

#### **Factors and difficulties affecting the degree of realization of trade union rights**

**130.** Factors affecting the degree of realization of these rights are:

- The workers enjoying the right to trade unions are only those in the formal sector. The majority of workers of the informal economy (those working for companies not register in the commercial register or with a local authority), the rural sector or the family labour attached to agriculture do not enjoy these rights.
- Some progress have been noticed: domestic workers, though in the informal sector, are organized in trade unions for their advocacy.
- There are no other difficulties affecting the realization of the trade union rights.

### **E. RIGHT TO SOCIAL SECURITY (ARTICLE 16.2)**

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<sup>71</sup> Art.32 (2) of the presidential order n°72/01 of 08/07/2002 establishing army general statutes (O.G. n°16 of 15/8/2002) and art.30(2) of the presidential order n°155/01 of 31/12/2002 on statutes governing national police

## E.1 New legislation and administrative measures

### Legislative measures:

**131.** Since submitting the last report to the African Commission on Human and People's Rights, new legislative measures are:

**132.** The health insurance for military: The Military Medical Insurance (MMI)<sup>72</sup> has the same features as the public insurance coverage (RAMA) for the State's agents. This latter coverage and its features have been detailed in the previous report.<sup>73</sup>

- The military health insurance provides medical insurance to personnel in the armed forces and their eligible family members. It does also apply to employers from the private sector who have requested it along with their employees.
- Financing of the MMI comes from members' contributions, interests from investments and others as stated in the law (art.34).
- Medical coverage of the MMI scheme is also prescribed under art.23.

**133.** In addition to social insurance schemes (such as RAMA and private insurance systems), that target population groups in the formal sector of the economy, the Community Based Health Insurance (CBHI), known as "mutuelle de santé" scheme targets rural communities and the informal sector.

- The new law<sup>74</sup> on "mutuelles de santé" was passed in 2008. It aims at providing health insurance to the whole population.
- Its article 33 states the obligation for every person residing in Rwanda to hold a health insurance. This coverage has tremendously helped vulnerable families and those who would have not otherwise accessed health care.
- The basic premium per year is 2,000 FRW, the government subsidies for half of the price, leaving the individual to make an annual contribution of 1,000 FRW. The subscription is individual though coverage is for the whole household/ family.

**134.** As of May 2009, the law on labour provides that the informal sector workers are subject to the provisions of the law in matters related to social security (art.3)

**135.** The law on social security has been amended. Some of its features are:

- Limitation period for filing social security claims. It has been increased from a 5 to 10 year period;
- Compensation is adjusted and indexed to the current cost of living;
- Adoptive parents are entitled to benefits as dependents.

### Administrative measures

**136.** The GoR assist indigents by providing free mutuelles de santé. Also there has been increased sensitization to adherence to the "mutuelles de santé" and to the social security scheme in general.

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<sup>72</sup> Law n°23/2005 of 12/12/2005 (O.G. n°6/2006): see annex for details on relevant articles

<sup>73</sup> See Rwanda Report, March 2005: page 36; heading 1.2.3

<sup>74</sup> Law n°62/2007 establishing and determining the organization, functioning and management of the mutual health insurance scheme (O.G. n° special, 20/3/2008)

- The number of adherents to the *mutuelles de santé* has grown from 7% of the population in 2003 to 85% in 2008.<sup>75</sup> This scheme has ensured financial access to healthcare to the people of Rwanda.
- The government does assist the indigents who cannot otherwise access the medical care by providing them with *mutuelles de santé* cards. Every year, around 700,000 to 800,000 indigents benefit from free *mutuelles de santé* cards. In 2006, the number of beneficiaries was 803,500 and in 2007/08 they were 714,250 beneficiaries of free health cards. In addition, several NGOs provide aid to orphans, people living with HIV/Aids and vulnerable communities through mutual health insurance subscription.

**137.** A policy on national social security<sup>76</sup> was developed and defined in 2009. Some of its projected benefits by 2020 include:

- Pension branch. Under this branch, it is expected that every resident in Rwanda must have pension coverage, through public or private scheme.
  - ✓ Public pension. This is a first pillar based on “defined benefits” scheme. The pension will remain mandatory for the formal sector with 100% coverage;
  - ✓ Provident fund. It is composed of complementary pension scheme on a “defined contribution” model and schemes for pre-retirement benefits namely housing and education. It will also be mandatory for the formal sector;
  - ✓ Private pension. For the rest of the population, subscription to pension scheme will also be mandatory, with free choice to adhere either to private scheme or to the pension scheme managed by the public provident fund.
- Occupational hazards branch remains mandatory to the formal sector with 100% coverage. It allows adherence of workers in organized groups such as cooperatives, with a target of at least 70% coverage.
- Healthcare branch. The vision of Rwanda is to attain access to healthcare for all through universal healthcare insurance.
- Maternity and sickness branches are mandatory for the formal sector. Similar to occupational hazards, intensive sensitization programs and appropriate incentives contribute to promotion of voluntary subscription of at least 70% for urban and rural through organized groups;
- Unemployment benefits. This scheme is pending introduction depending on economic conditions of the country.

**138.** The formation of Rwanda Social Security Board as a result of the merger of RAMA and Social Security Fund. The merger has facilitated and enhanced coordination of service delivery.

### **Factors and difficulties affecting the degree of realization of the right to social security**

**139.** Before the adoption in May 2009 of the new law regulating labour in Rwanda, some of the challenges were:

- The social security scheme was only mandatory to workers in the formal sector (those subject to the law regulating labour in Rwanda, and government officials and political appointees).
- Some groups of workers (such as small traders, those working as family labour in agricultural and farming activities) were not covered by the mandatory scheme.
- But voluntary contributions were and are still strongly encouraged and accepted.

<sup>75</sup> Source: MOH: Mini DHS 2007/08 and MOH 2008 report. There was 27% adherents to CBHI in 2004; 44% in 2005; 73% in 2006 and 75% in 2007

<sup>76</sup> Source : Social Security Fund of Rwanda :National Social Security Policy, February 2009: for more information, please visit: [http://www.csr.gov.rw/pdf/Social\\_Security\\_Policy.pdf](http://www.csr.gov.rw/pdf/Social_Security_Policy.pdf) (as accessed 10/05/2009).



- The majority of workers in the informal sector are women; thus rendering them unable to access the available social security schemes before the labour law amendment. In 2005, only 14% of the workers covered by the social security scheme were women against 86% of men<sup>77</sup>.

**140.** The government of Rwanda is mindful of the current situation. In collaboration with the Social Security Fund of Rwanda, sensitization campaigns are run, so populations are taught the benefits of adhering to the social security funds.

## **F. RIGHTS RELATED TO THE FAMILY, ADEQUATE STANDARD OF LIFE AND TO THE HIGHEST ATTAINABLE LEVEL OF HEALTH (ARTs.16 &18)**

### **F.1 Protection of the family, Mothers and Children**

As mentioned in the previous report, the protection of the family is enshrined in the Constitution. The legislative measures have been detailed in that report.<sup>78</sup> The present report though presents some of the new laws and measures for greater protection of mothers, children, and family in general.

#### **Protection of the family**

##### **Legislative measures**

**141.** New legislative measures<sup>79</sup> have been adopted. They include:

- The Constitution's amendment in 2008 provided that "a civil monogamous marriage between a man and a woman contracted outside of Rwanda in accordance with the law of the country of celebration of the marriage shall be recognized" (art.26);
- The labour law provide for works prohibited for children, pregnant and breastfeeding women (art. 74)
- Also, the labour law provides for a ministerial order that recognises and determines the list of worst forms of child labour, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms (72-73);
- The law establishing the source of revenue for districts and towns allows districts to waive taxes that would have been otherwise paid by an individual on his/ her property due to his indigence;
- The law relating to protection of disabled persons in general; and
- The law on prevention and punishment of gender-based violence.

##### **Administrative measures**

**142.** The GoR has put in place various programs, policies and strategies to reduce poverty with particular emphasis of the vulnerable groups as well as promoting the family in general:

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<sup>77</sup> Source: Social Security Fund of Rwanda, Planning, Research & Statistics Department and MIFOTRA: Étude sur le statut des travailleurs et travailleuses au Rwanda, Août/2005, p.19

<sup>78</sup> See March 2005 Rwanda report: page 38 to 42

<sup>79</sup> Law n°17/2002 establishing the source of revenue for districts and towns and its management; art.9: "Indigent people are exempted from the fixed asset tax upon approval by the District or Town Council". The law n°01/2007 of 20/01/2007 relating to protection of disabled persons in general and the Law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence

- The Economic Development for Poverty Reduction Strategy - EDPRS, (2008/12) provides a framework for the country's long term development aspirations as embodied in Rwanda's Vision 2020 and the Millennium Development Goals. The three flagship programs of the EDPRS are:
  - ✓ Sustainable Growth for Jobs and Exports: the emphasis will be the creation of jobs for young people since 2/3 of Rwanda's population is aged less than twenty-five (25) years.
  - ✓ Vision 2020 Umurenge is a decentralized integrated rural development program designed to reduce poverty; and
  - ✓ Good governance which seeks to build a nation with zero tolerance of corruption and initiate home-based mechanisms for conflict resolution, unity and reconciliation.
- The policy on social assistance: An estimate of 7 to 10% of the national budget is allocated to social programs such as funds for genocide survivors, people with disabilities or in general vulnerable groups in Rwandan society. Among other things, the following programs/policies have been established. They include:
  - The national policy for orphans and other vulnerable children and its strategic plan along with a National Program for children;
  - The street children strategic plan;
  - The national gender policy and national policy on promotion of the family;
  - The national population policy for sustainable development;
  - The policy for elderly and for disabled persons;
  - A child rights unit has been created in the office of the National Human Rights Commission.

### **Establishment, maintenance and protection of a family**

**143.** Men and women are equally guaranteed the right to freely and fully enter into marriage. The only restriction to that freedom of choice is set out in the prohibitions listed in the law<sup>80</sup> by reason of the parties to the marriage being related.

**144.** In order to give effect to the many laws protecting and ensuring assistance to the family, here are some of the measures the GoR and its various partners, local and international NGOs undertook:

- Since Rwanda's economy is based on agriculture with over 80% of the population engaged in subsistence agriculture, livestock plays an important role in the social economic wellbeing of the population. There is an initiative undertaken by the GoR, called "One cow per family". This project exists since 2006 and it had been in place to assist families with children at high risk of malnutrition. A cow is distributed to poor and indigent families, those owning less than 0, 75 hectare of land. By the first quarter of 2008, 30,000 families benefited from this program.<sup>81</sup>
- The other initiative is "Ubudehe mu kurwanya ubukene<sup>82</sup>", a local collective action program by which local communities self-diagnose problems and design solutions. Local communities are called to pick two less fortunate and poor families. The chosen households receive resources to pursue livelihood strategies of their own choosing and start up an income generating project. The beneficiaries will in turn extend that benefit to other families in need. In 2006, that initiative financed 8,459 small projects in 21 different fields of activities. This

<sup>80</sup> Civil Code Book One (1): art. 172, 173, 174

<sup>81</sup> MINAGRI: Agricultural Sector Performance, July 2008. In the year 2008, a total of 234,339 cows were distributed in Kigali, the Eastern, Southern and Western provinces: For more info, please visit: MINECOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241)

<sup>82</sup> Source: Minecofin: "Ubudehe mu kurwanya ubukene" is defined as the traditional Rwandan practice and cultural value of working together to solve problems

collective action enables local communities to take part in the decentralized government and creates experiences of self-governance. It addresses poverty directly by financing needed activities identified; this strengthens the society and helps achieve national reconciliation. The number of beneficiaries<sup>83</sup> of this project was 29,674 in 2007/08.

- In addition to the Ubudehe project is the “Vision Umurenge Program<sup>84</sup>” (VUP) launched in 2008. It is currently operational in 30 sectors of Rwanda - targeting the most vulnerable population. However, the 2009-2010 Budget envisions VUP to cover 60 sectors of the country. It aims at reduction of poverty through direct assistance to some of the most vulnerable populations and development of income generating projects to others. 19,626 individuals found work through this project. Projects financed included but were not limited to road and terrace construction.

- Development of cooperatives schemes: families can access small loans for their economic activity growth and overall reduction of poverty;

- The medical assistance provided to indigent and other vulnerable families with free “mutuelles de santé” cards.

- The promotion of breastfeeding;

- Education funds are available at district levels to assist indigent parents send their kids to school;

- Other initiatives involve building houses for disadvantaged and vulnerable populations. One project is of FARG for genocide survivors. Since 2006, coordination of efforts and funds is done through the MINALOC. The construction of houses is done by the local communities themselves; other constructions are performed by convicts doing community work. Equipments and tools are provided out of the budget sent by the central government to the districts.

- Another national priority is to build houses for returnees and expelled Rwandan population from Tanzania, historically marginalized and other vulnerable populations.<sup>85</sup>

- Data on construction of houses for the vulnerable population is as follow<sup>86</sup>:

Region	Construction activity in 2008
Kigali City	359 houses were constructed
Southern Province	1028 houses have been finished 3273 were about to be finished – 799 were under construction
Northern Province	940 houses have been finished 2241 were about to be finished – 3248 were under construction
Eastern Province	1396 households of returnees from Tanzania were settled, with 865 houses constructed for them 1299 households for vulnerable groups were constructed houses- 757 houses are under the finishing level 181 houses have been constructed for marginalized groups- 73 houses are under the finishing level

<sup>83</sup> Minaloc: Ubudehe section: the number of beneficiaries was 20,000 in year 2005/06

<sup>84</sup> Minaloc, *Ibid*: a cell is a local administrative unit

<sup>85</sup> Source: Minaloc: From 2003 to 1<sup>st</sup> quarter of 2008: approximately 107,000 refugees have been resettled in their former houses, otherwise new ones were built, their children were able to attend schools, and they received free health cards “mutuelles de santé” and more than 5,800 houses were built for genocide survivors. Between 2003 & 2007, FARG paid tuition fees for 36,000 high school students & 1,500 higher institutions’ students

<sup>86</sup> Minecofin: Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241)

Western Province	327 houses constructed for displaced population due to catastrophes in Rubavu and Nyabihu districts 255 houses completed for vulnerable people – 5662 are due to be finalized
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**Table 7: Data on construction of houses for the vulnerable population**

- In order to protect families, couples living in a common-law relationship are encouraged to regularize their union. In addition, payable fees are waived by district for indigent couples.
- Various policies in the health sector are in place to strengthen and improve health care in families. Such programs are for instance the Prevention of Mother to Child Transmission, National Malaria Control Program or HIV control program among others. Further details are provided in the section related to the “Right to physical and mental health”.
- There was social protection coverage of 530,086 vulnerable people and public works which benefited around 187,604 in 2008.<sup>87</sup>

**145.** In regards to people with disabilities, their special needs are taken care of by the GoR along with its partners: NGOs and other international organizations.

- Some initiatives are done by partners in the health sector. For instance, Handicap International and the European Union created a fund to allow people with disabilities access their medical equipments<sup>88</sup>.
- The government had also integrated mental health program in the primary and secondary health care. Centers to service psychosocial consultations were opened; a support team of psychologists and counsellors assist visitors of genocide memorial sites when needed.
- People with disabilities along with elderly may also qualify as vulnerable groups, thus triggering all the government’s mechanisms in place to assist vulnerable and indigent groups.
- Besides measures previously stated, we can add a social assistance fund available at the district level.

**146.** Other measures for strengthening the family are:

- *Itorero*, the traditional cultural education program designed to build national unity. Attendees discuss various subjects ranging from unity and reconciliation to social problems affecting their communities and the country as a whole and solutions to them. In 2008, 78,878 persons underwent civic education through *Itorero* program. These include teachers, local leaders, sector executives and students.
- Meetings and gatherings held after community services. Different topics of current interest are discussed. They may range from health issues such as nutrition, family planning to existing developmental issues and programs.
- Various associations are created for youth (Youth Clubs) and serve to exchange topics on Rwandan culture, customs and other family values.
- Reinforcement of the home-based mechanisms of conflicts resolution, in particularly involving women and the elders in the mediation.

## **Maternity protection**

### **Legislative measure**

**147.** The new law regulating labour in Rwanda carry fundamental for maternity protection. Though this piece of legislation does not apply to workers of the informal sector save in few

<sup>87</sup> MINECOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (As accessed in 10/4/2009).

<sup>88</sup> Ministry of Health (MINISANTE): Annual Report, 2007

instances, it does protect pregnant and breastfeeding women in the informal sector of the economy. Article 74 of the labour law provides that pregnant or breastfeeding women may not be employed in activities which may be harmful to their lives or that of their babies. The exceptions are provided in article 3 of the law.

**148.** The working mothers are protected during maternity leave. The law regulating labour in Rwanda (art.66) prescribes a period of maternity leave of twelve (12) weeks, of which at least two (2) weeks before the presumed date of delivery. The mother, with no maternity insurance coverage, during the first six (6) weeks of her maternity leave, has the right to her entire salary. During the last six (6) weeks, this mother may resume service and receive her full salary or else, have the right to twenty percent (20%) of her salary. She can also benefit for an extended period if she had encountered complications due to delivery (art.69). Her employment cannot be terminated while she is on maternity leave (art.67).

**149.** When the employee is back to work, she is entitled to one (1) hour of rest, to allow her to go home for breastfeeding for a period of 12 months from the date the child was born. This rest is for two (2) hours if she had resumed work after six (6) weeks from the date of delivery (art.65).

**150.** The working mothers are also protected by law from performing tasks that could be harmful to their lives and that of the baby (art.74).

### **Administrative measures**

**151.** Apart from legislative measures, administrative initiatives have been undertaken. That way, the following has been done:

- MoH has reinforced the number of skilled personnel attending patients before and after birth;
- Mothers benefit from pre-natal and post-natal healthcare and assistance:
- sensitization to deliver in a health centre facility;
- Rwanda has adopted the integrated management of Childhood Illness (IMCI), the Reproductive Health and Family Planning and the Expanded Program on Immunization ;
- Sensitization and promotion of breastfeeding;
- Vaccination campaigns are run across the country;
- The community based nutrition program; mass distribution of vitamin A, folic acid and mebendazole; expansion of kitchen gardens;
- Financial access to medicare with the funding of “mutuelles de santé” to indigent mothers;
- Geographical access due to increase number of health centres and hospitals;
- Availability of community health workers and a maternity health animator in all districts;
- Disease control programs: Prevention of Mother to Child Transmission (PMTCT), or others such as malaria, tuberculosis);
- Emergency transportation and referral system;
- Improvement in auditing maternal and child deaths in health centres.

**152.** There is commitment on the part of the GoR to assist in whatever possible ways vulnerable parents especially the widows and the disabled to raise their children. More important though, is the fact that all measures related to family in the aforementioned paragraphs do take into consideration the wellbeing of children.

### **Protection of children and young persons**



## **New legislative measures**

**153.** The law regulating labour in Rwanda deals in length about the child's work and restrictions. Forced labour is prohibited; the child cannot be employed in work involving too much strength or harmful to his health. Labour inspectors are there to monitor and intervene when needed for the safety of the child (arts.4-8).

**154.** The draft law on suppressing, prosecuting and punishing trafficking in human beings is under review at the parliamentary level. It does protect children from being illegally adopted, being exploited or being involved in pornographic products or dangerous sports or armed conflicts.

## **Implementing measures**

**155.** A 5 year strategic plan to eliminate children's work is already in place along with the orphans and vulnerable children (OVC) policy and its strategic plan. The OVC policy aims are to put in place a community based structure to ensure services such as protection, follow up and other basic needs like education, healthcare, housing are provided. The general strategies of the OVC policy encompass the following:

- Raise awareness on all matters concerning orphans and other vulnerable children addressing children, parents, caretakers, service providers and the general population;
- Conduct information campaigns on HIV / AIDS and reproductive health;
- Undertake research and identification of orphans and other vulnerable children where necessary for the development of appropriate programs and interventions based on reliable data;
- Develop legislation, procedures and regulations in order to assure consistent and child rights focused programs and services;
- Establish community based support structures for the protection, prevention of separation, follow up and service provision;
- Facilitate the access to basic services for orphans and other vulnerable children, such as education, health, nutrition, housing, extension services, income generation and credit. Promote the establishment of other services such as counselling services.

**156.** The private sector is encouraged to implement projects identified in the National action plan for promoting youth employment.

**157.** Various initiatives exist in the country to promote entrepreneurship and skills training, many of these initiatives are coordinated via youth cooperatives<sup>89</sup>. Young entrepreneurs may access small loans guaranteed by the government for their start-up business activities.

**158.** Other state's measures included the abolition of tuition fees. This measure has reduced the drop-out rate, since students, who would have otherwise dropped school for lack of means, were able to finish at least the primary school.

**159.** Government agencies such as FARG provide funding for genocide survivors to attend educational institutions. The same is done for children from historically marginalized population and other vulnerable children.

**160.** Special programs and institutions exist for children with special needs. These measures have a tremendous impact on preventing children access at an early age the labour market.

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<sup>89</sup> Source: [MINECOFIN](#): EDPRS-Quarterly Report, June 2008: 15 cooperatives are already running; 2 micro-finance & credit cooperatives have been operating in the districts of Bugesera and Kicukiro.



**161.** To prevent children's exploitation in workplace, labour inspections have been decentralized and are in full operation at district level.

**162.** State's partners are also involved in the wellbeing and promotion of children and young persons<sup>90</sup>, especially those working in quarries and mines or as domestic workers. One NGO, ADPA, works since 2001 in partnership with MIFOTRA to remove children from domestic labour and give them vocational training. This NGO runs campaigns to bring up conditions of domestic labour to children. The same NGO has set up a center to help children in distress, especially street children and domestic labour children.

**163.** Programs for delinquent minors exist.<sup>91</sup> The strategic plan for street children (2007). This plan aims at removing children from the streets, protect and reintegrate them into their family or community and prevent children's arrival in the streets.

- One program called "Street School" was launched in 2007 with the coordination of MIGEPROF and its partners. It aims at reintegrating these children into a normal life by providing them various skills.

- Solidarity camp for street children was carried out in 2008<sup>92</sup>, and many of them were oriented to primary schools and 120 retained in their families. Employees of children centers were trained on small bankable projects and protection of children from drugs. At local level, support has been provided to create a transit center for street children in Rubavu District, Western province.

**164.** Other initiatives include awareness campaigns to domestic labour by children and young persons. Clubs for the rights of the child have been created in schools through various local NGOs' initiatives; campaigns run in the whole country to inform children about new laws and policies, like the law relating to rights and protection against violence and the new policy for orphans and vulnerable children.<sup>93</sup>

**165.** At each cell level, there exists a police officer versed in the children's rights and in charge of ensuring that the violations against them are reported.

**166.** On the chapter on human rights promotion, the following are some of the latest interventions in the area:

- A monitoring body on the rights of the child has been set up at the Human rights Commission.

- There is a general increase in sensitization and awareness of human rights issues. In 2008, more than 42,000 members of human rights clubs were sensitized in schools as well as 748 teachers in secondary school.

**Table 8: Statistical data on Labour market and economic activity trends in Rwanda**

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<sup>90</sup> Some partners like ASC-Umurimo. Since 2003, it helped remove 950 children aged 7 to 14 years out of domestic labor and reintegrate them into schools; another NGO, World Vision Kuret allowed 1475 children to attend schools, between 2005/07.

<sup>91</sup> Some NGO, like Muhumurize Association in Kanombe; World Vision in Musanze; Caritas in the northern province and Centers of Help (Centre d'écoute) in Gisenyi, to name the few organizations work towards reintegrating children in their families and educational institutions. In addition, professional training is provided for those over the school going age.

<sup>92</sup> MINECOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (9/3/2009).

<sup>93</sup> Source: MIGEPROF- Campaigns run from Oct.2004 to February 2005 by MIGEPROF in collaboration with UNICEF.

Group of children	Statistics	
Children age below 15 years	5.3% (around 106,000)	Involve in an economic activity, be for a reward or in a family farm or business: 2/3 of these children do so in the agricultural sector
Young people below 21 years of age	900,000	
Children below 10 years of age	These children were working an average of 9 hours per week : domestic work ; girls working longer hours than boys	
Between 11 to 15 years of age	Average working hours are 14 hours per week (3/4 of them they do so in agriculture, fishing and forestry)	

Source: NISR-Analysis of EICV 2 (2005/06)

## G. The right to an adequate standard of living

### The right to adequate food

#### Principal laws

**167.** New legislative measures have been adopted. Environmental and land issues have been among priority concerns of the GoR. International Conventions, new laws and an environmental institution for a greater protection of the environment and land have been adopted.<sup>94</sup>

#### Administrative measures

**168.** In addition, the GoR has initiated policies that enhance greater use and conservation of the land: Notable among them include:

- the environmental policy,
- the agriculture policy,
- the land policy for maintenance of land resources,
- the national wetlands conservation program,
- the marshlands development master plan,
- the water and sanitation policy,
- the national water resources management policy,
- the national biodiversity strategy and action plan.

#### Measures taken to develop or reform the agrarian system

**169.** The reform of the agrarian system is underway. The new law on land management advocates for land consolidation to facilitate optimum exploitation and production of land.

**170.** A new strategic plan for the transformation of agriculture has been adopted in 2004 and in place since 2005. This is an important step since over 80% of population relies on agriculture as a means of survival. This is also an area that suffered tremendous loss with advance

<sup>94</sup> The convention is the 12<sup>th</sup> Bamako Convention on the ban to import hazardous wastes into Africa, the control of their cross-border movement and the management of those produced within Africa, ratified 21/10/2005. The new laws are: Organic law on management and use of land in Rwanda, *supra*; Organic law determining the modalities of protection, conservation and promotion of environment in Rwanda, O.G. 2005; the law related to expropriation in the public interest n°18/2007 of 19/04/2007. There were also creation of the institution, REMA, by Law n°16/2006 determining the organization, functioning and responsibilities of Rwanda Environment Management Authority (O.G. 01/06/2006);

degradation of soils due to erosion coupled with a rising population. Following are some of the measures adopted to improve methods of production:

**171.** The agriculture strategic plan brings innovation in that it stimulates:

- Regional specialization in crops and the Crop Intensification Program. This new program has been implemented throughout the country and it reduced hunger and poverty in various regions.<sup>95</sup> We found for instance products such as Irish potatoes, coffee and tea in the Northern provinces; cassava, coffee, maize and pineapple in the Southern province.
- producer's professionalism,
- Commodity-chains and market-oriented agriculture.

**172.** This plan will help diversify sources of income in the rural areas, protect the environment (soil conservation and water management for instance), and link the production to regional or international markets.

**173.** Other reforms to the agrarian system include:

- government incentives available for the private sector investing in the agriculture and animal resources' industry (tools such as veterinary pharmaceutical products and equipments, livestock equipments, farm machineries and much more are tax exempted when imported).
- Intensification of the use of modern equipments and use of inputs (increase fertilizers' use) in crop and livestock production.

### **Measures to reduce environmental degradation**

**174.** Other initiatives to reduce environmental degradation include:

- the widespread adoption of cooking stoves, in order to reduce domestic firewood consumption;
- the rehabilitation and construction of terraces;
- the promotion of agro-forestry technologies for sustainable land-use;
- the restoration of wetlands to provide water for irrigation and the increase of protected areas for biodiversity preservation.

**175.** All these measures provide new job opportunities through HIMO and an opportunity to establish the agricultural credit and guarantee fund.

**176.** Sensitization is always done to make farmers aware of plans to improve and better manage their land. Farmers and producers are often integrated in the process of disseminating soil conservation and rehabilitation of their fertility.

### **Measures to improve food conservation and distribution**

**177.** Rwanda recognises that food security is a fundamentally linked to social and economic wellbeing of its citizens. Measures undertaken to improve food conservation and distribution include:

- A study conducted by the government on current markets and a trade map has been drawn. It demonstrates all the trading centres and the types of food available. This allows a smooth food distribution;

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<sup>95</sup> MINICOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (As accessed on: 10/5/2009).

- Assisting local producers organized in cooperatives, set up soaking and washing stations and dryers, especially for cassava, green banana and fruits by the government;
- Current initiatives by the government to help producers find storages in distances close to markets;
- Setting various food items by the ministry in charge of trade, which largely explains why in 2008, Rwanda did not encounter or experience strikes as a result of rising food prices and food shortages.

### **Measures to improve food consumption**

**178.** Rwanda values the health of its citizens. As such, no effort is spared to improve the well being of its population through mass campaigns, radio and television nutrition programs, growing vegetable gardens, distribution of food by the World Food Program etc.

### **Measures to ensure quality and safety of food**

**179.** In respect to food inspection, food inspectors in the ministry of health regularly run inspections in food serviced facilities and make notification on products of which have expired.

### **Equitable distribution of food supplies**

**180.** Equitable distribution of food supplies is ensured by the government closely monitoring production of products especially rice, sugar and wheat.

- Imported sugar and rice incur a value added tax, in order to encourage local consumption. In the event of production shortage, the government allows importers with some incentives to import more productions in order to meet the local demand.

### **Promotion of agricultural research**

**181.** The agricultural research system is ongoing and done through ISAR - an institute of Agricultural Sciences in Rwanda.

### **Measures to improve nutrition**

**182.** A national nutrition policy has been adopted in 2007 with a number of the strategies:

- promoting infant and young child feeding;
- food fortification, with coverage of vitamin A, folic acid, increase of breastfeeding mothers receiving iron supplementation;
- scaling up community-based nutrition program;
- communicating for behavior change;
- prevention and management of nutritional deficiency;
- School feeding programs are emerging, especially in regions most affected by food insecurity;
- The “One Cow Program”;
- The political will of GoR is to the effect that nutrition be included in all poverty reduction programs, be EDPRS or Vision 2020. A substantial budget and additional resources have been made available to respond to the urgent need of eradicating malnutrition.

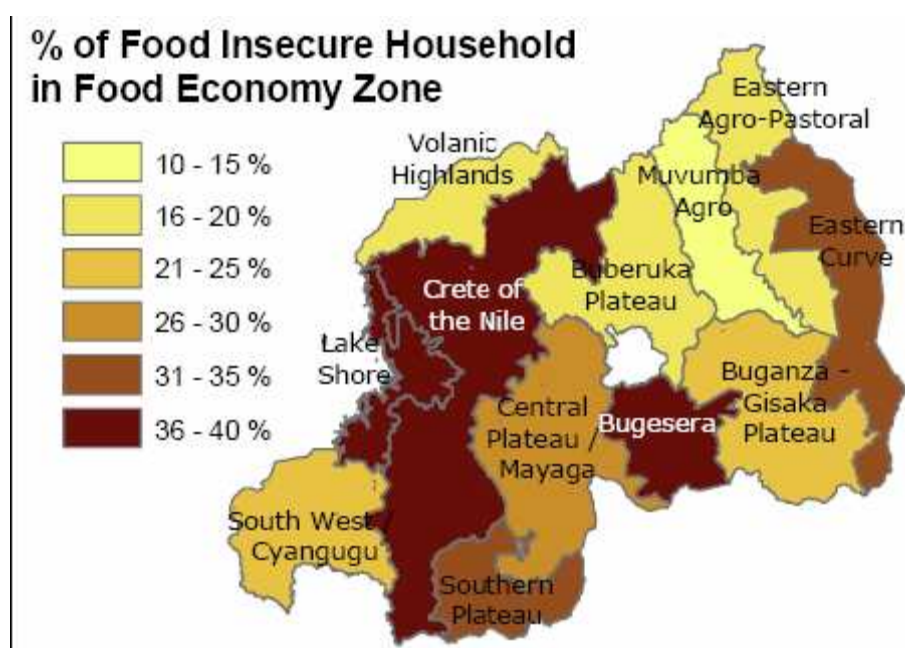
### **Measures to disseminate knowledge of the principle of nutrition**

**183.** Measures to disseminate knowledge of the principle of nutrition are carried out by community health workers *via* the media (radio, television or newspapers or health magazines “Urubuga rw’ubuzima”) and *via* the communication centres locally called “Gira ubuzima”.

- Other awareness sessions on best nutritious practices are done when promoting local foods consumption and through community nutrition programs.
- Local population is encouraged to grow small vegetable and fruit gardens and farming small cattle to prevent malnutrition.

**184.** With all the previous measures being implemented, the agricultural sector<sup>96</sup> registered an impressive growth rate of 15% in 2008 contributing to the estimated national economic growth rate of 11.2%. The increases of 16.4% and 20.3% in food and export crop production respectively can be attributed to GoR's work in the areas of crop intensification, disease prevention and assistance to producers of traditional and non-traditional export crops, as well as good rains.

**185.** Statistical data on the realization of the right to adequate food: Percentage of food insecure household in food economy zone:



Source: NISR - Rwanda CFSVA 2006

Furthermore, food security profiles for households' statistics are as follows:

Type	Households with:	Percent
Food-insecure	Poor or borderline food consumption and very weak food access; or weak or very weak access and poor consumption	28% of rural population
Highly vulnerable to food insecurity	Limited food access and consumption profiles (weak-to-medium access and poor-to-borderline consumption)	24% of rural population

<sup>96</sup> MINECOFIN, Annual report on the implementation of the EDPRS, May 2009, available at: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (accessed 24/2/2009).

Moderately vulnerable to food insecurity	At least one of the two profiles sub-optimal (weak access, borderline consumption) and the other component better (medium access or fairly good consumption)	26% of rural population
Food secure	Fairly good to good food consumption and medium to good food access; includes those with good access but borderline consumption and those with good consumption but weak access	22% of rural population

**Table 9: Source, Rwanda CFSVA- 2006**

- Situation of the vulnerable population:
  - ✓ 96% of food-insecure population lives in rural areas against 4% in urban areas; and
  - ✓ Food-insecure population is heterogeneous.
- Some other demographic and economic factors found to be correlated with food security status are presented below in the table.

**Table 10: Demographic and percentage degree on food insecurity**

Household headed by		Degree of food insecurity (%)
Gender	Women	37
	Men	25
Civil status	Widowed people	37
	Separated or divorced people	35
	Married people	22
Age	Elderly individuals	35
	Younger adults	27

Source: NISR - Rwanda CFSVA 2006

## The right to adequate housing

### Measures undertaken

The right to shelter and decent housing is a cornerstone to realisation of socio-economic rights as embraced by Rwanda under numerous international instruments ratified. Measures to realize the right to housing have been provided and put in place in various forms:

**186.** The national land policy has been in place aiming at enabling population to enjoy a more stable form of land tenure. To make it effective,

- ✓ a master plan for land allocation was drawn;
- ✓ a national land information centre created; and
- ✓ an environment management office, REMA (Rwanda Environment Management Authority) set up to handle all technical aspects of environment protection and a proper land management for a sustainable development.



**187.** The land policy envisages registration of land title, proper urban land distribution procedures and advocates for village grouping in settlements “imidugudu”. These infrastructures will also give the opportunities to create other activities than agriculture (agro-industries, small, medium enterprises).

**188.** There was also a redistribution of lands arising from private and state lands and pastures likely to have a positive impact on poorer populations. For instance in the eastern province, land has been shared in that, 6,062 hectares of land has been distributed in 2008 (2,592 given to crop farmers and 3,470 hectares were given to pastoralists).<sup>97</sup>

**189.** The national habitat policy and the strategic plan of habitat. Both of the guiding documents emphasize on restructuring spontaneous dwellings (slum areas) and settlement groupings (imidugudu) for a greater access to basic infrastructures (such as roads, water, electricity, schools and others).

**190.** A provident fund under the social security policy has been adopted (2009) and recognises the problem of housing and assumes it top on agenda. This is thought to largely address and respond to the crisis of housing.

**191.** Kigali City Council came up with a 50 year strategic plan intended to mapping residential and commercial areas. Let us note for instance that in the city of Kigali for instance, where approximate 83% of the urban population in Kigali is located within informal settlements and indecent housing (slums) that need to be re developed, the issue has been to provide alternative good quality housing with basic amenities to the slum inhabitants. In collaboration with National Social security fund of Rwanda, Kigali City Council built 250 low cost houses in Batsinda with subsidized infrastructure at a cost of 1.9 billion to relocate those displaced from slum areas being re-developed.

### **Measures to solve problems of housing**

**192.** The policy of reintegration consists in finding housing for homeless people. This is mainly the case of orphans, children heads of family, genocide survivors, widows, historically marginalized people and people with disabilities. The GoR has being able to build houses or at least to provide land and equipments to build houses for such categories.<sup>98</sup>

▪ The table 7 (above) gives a clear picture of how the GoR provided for his vulnerable populations in 2008.

**193.** Minimal other subsidies exist from the state to different promoters. They consist in allocating land plots for estate construction.

**194.** Rwanda also receives assistance from various partners in housing projects. “Imidugudu” projects received funding from the UN Habitat, World Bank and the European Union just to name the few. The same partners do offer technical assistance and capacity building in implementing the habitat strategies.

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<sup>97</sup> MINECOFIN: Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) (accessed 24/2/2009).

<sup>98/98</sup> Source: MINALOC: From 2003 to 1<sup>st</sup> quarter of 2008: approximately 107,000 refugees have been resettled in their former houses, otherwise new ones were built; and more than 5,800 houses were built for genocide survivors. At least 3,300 houses were built in 2007; 17,640 were to be completed by end of 2008 and 3,960 were finished in 2008 for the survivors of the genocide across the country.

### **International cooperation for safety measures against natural hazards:**

**195.** Rwanda is now a member of RANET (Radio and internet for the communication of hydro-meteorological information for rural development), an international collaboration with a mission to aid and prepare against weather hazards in sharing and making available climate information to remote populations.

**196.** For the protection of environment, Rwanda has banned the import and use of polythene bags.

### **Measures to promote hygiene and sanitary conditions**

**197.** In order to promote hygiene and sanitary conditions, a national policy and strategic plan have been put in place under the Ministry of Health.

- There has been an increase of population accessing clean water (73% equivalent to 6,9 million, had access to clean drinking water in 2008 compare to 64% in 2007) and 45 % accessing hygienic sanitation in 2008 (compare to 38% in 2007).
- Water quality surveillance systems started in 2 districts and are to be extended to all. Food inspections started in various restaurants and hotels.
- Waste disposal (infectious and sharp waste) is now available in about 60-70% of all households.

### **Other housing programs**

**198.** Other programs to realize the right to housing include:

- Support to habitat financing scheme with the “Habitat Bank”;
- Different commercial banks have developed mortgage loans and they have eased access for facilitation purposes;
- Relocation of dwellers of urban slums. Communities are resettled to better areas.
- Promotion of “Imidugudu” villages and consolidation of rural centres;
- Production of land plots;
- Promotion of production and use of local construction materials.

### **The right to physical and mental health**

#### **New law since submission of the last report**

**199.** The law determining the organization, functioning and management of the mutual health scheme “mutuelles de santé” is in place since 2008. It does make it mandatory to each resident of Rwanda to have a health insurance (art.33).

#### **New administrative measures**

**200.** Different policies have been put in place to support various government initiatives in an effort to make the right to health a reality. They include among others:

- The policy on health sector and its strategic plan. It focuses on priority areas such as:-
  - ✓ availability of human resources; availability of quality drugs and consumables;
  - ✓ geographical and financial accessibility to health services; improvement of quality of services;
  - ✓ improvement of referral hospitals and research institutions; and lastly reinforcement of institutional capacity;
- A child health policy and strategy have been developed in 2008;

- The nutrition policy (above detailed);
- The environmental health policy; and
- The policy on family planning and reproductive health.

### **Measures to reduce the still-birth rate and infant mortality**

**201.** Measures to reduce the birth rate and infant mortality, and ensure healthy development of children are:

- Usage of family planning services has increased (from 10% in 2005 to 27% in 2007). Family planning is a priority program (though the total fertility rate has decreased from 6,1 in 2005 to 5,5 in 2007);
- Sensitization in birth delivery in health centres (in 2007/08, 45% attended deliveries by skilled health workers against 28% in 2005/06); community health workers do accompany mothers for delivery;
- Introduction of the Emergency Obstetrical and Neonatal Care program, implemented in hospitals and health centres. This has significantly reduce the number of infant deaths observed around delivery period (as shown in Table 11);
- Ante natal care (ANC) services have increased (almost 98% of health centres provide ANC)<sup>99</sup> ;
- Health centres have been equipped to provide family planning services;
- Expanded program on immunization and the introduction of Pneumococcal vaccine in 2009;
- Increase in community health workers: they assist patients in various ways;
- Financial access to health services with “mutuelles de santé”, the CBHI; indigents and vulnerable mothers get free cards;
- Integrated Management of Childhood Illness program;
- Following programs for disease control exist. They are:
  - ✓ Programs against malaria (Prevention treatment for malaria for pregnant women; home based malaria treatment for children below age 5, free distribution of long lasting insecticide treated nets, in-house residual spraying with insecticides since 2007 and Coartem intake).
  - ✓ HIV programs (have been dealt in length in the previous report<sup>100</sup>): access to ARVs is now free.
  - ✓ The Prevention Mother-to-Child Transmission program (PMTCT). These activities are integrated into various services at the level of health centres especially in the services of ANC, maternity, infant consultations and the family planning.
- Sensitization on breastfeeding;
- Community based management of the leading causes of childhood deaths (such as malaria, diarrhoea, pneumonia and measles);
- Immunization against measles;
- VAT immunization of pregnant women to prevent neonatal tetanus;
- Quality emergency transportation (with ambulances);
- Introduction of kangaroo mother care to support newborn health in hospitals;
- Community-based nutrition activities, Distribution of vitamin A, Mebendazole;
- The performance based health system, serves as an incentive to the good performance of health workers.

<sup>99</sup> MoH: Rwanda, MTR HSSP I, Final Report, 24/7/2008

<sup>100</sup> See Rwanda report to the African Commission on Human and People’s Rights, under Heading 1.2.6 (Le droit de jouir du meilleur état de santé), pp.42-43

## **Measures related to environmental hygiene**

**202.** Currently, measures related to environmental hygiene have been developed. They include:

- The environmental policy. The policy advocates wearing shoes; washing hands and using of individual straws in drinking traditional beverages; promoting the use of water purification products; campaigns to hand washing promotion are aired on TV and radio and published done through Rwanda Health Communication Centre;
- Hygiene quality of water and food has been improved: national food inspector teams were created and regular inspections carried out in restaurants and hotels. Let us note that 73% of the population had access to safe water supply and 45% had access to hygienic sanitation (compared to 64% and 38% respectively in 2006);
- Sensitization to build improved latrines;
- Waste management improved;
- Sensitization to avoid swamps;
- Sensitization campaigns in schools; and
- In hospitals the following measures have been adopted:
  - ✓ items for infection control increased in health centres;
  - ✓ regular inspections and maintenance of infrastructures conducted in health care centres;
  - ✓ nurses and hygiene technicians were trained on safe injection practices.

## **Measures related to industrial hygiene**

**203.** Measures related to industrial hygiene are:

- Health and Hygiene committees in workplace have been set up;
- Capacity building for labour inspectors has been reinforced;
- Hygiene technicians deployed at the district level.

## **Measures to control epidemic, endemic diseases**

**204.** Measures to control epidemic, endemic diseases are:

- For HIV-Aids, following programs are available:
  - ✓ Prevention of HIV transmission through education, abstinence, faithfulness and condom;
  - ✓ Voluntary Counseling and Testing (VCT) in all health centres and other testing centres;
  - ✓ Free access to ARVs and all the programs available for the mother and child (see above paragraphs);
  - ✓ Care and assistance for people living with HIV Aids expanded and improved;
  - ✓ The setting up of “Youth friendly services” encouraging youth to voluntary use the VCT.
- For malaria (see above paragraph).
- For the child, the management of fever (through the Integrated Management of Childhood Illness) and the Expanded program on Immunization;
- A system of epidemic and disaster prevention, management and response is in place.
- A system of trans-border control for disease prevention is being implemented (between countries of the Great Lakes and those of the East African Community). It is the Disaster and catastrophe Preparedness Program.

- The Great Lake Initiative on Aids (GLIA)<sup>101</sup> is an intergovernmental organization between neighbouring countries aiming at contributing to the reduction of HIV infections and to mitigating the socio-economic impact of the epidemic in the region.

### Measures to control occupational and other diseases

**205.** Measures to control occupational and other diseases:

- Setting up of health committees in workplace;
- Ministerial order on health and safety in workplace;
- Capacity building of labour inspectors has increased;
- The staff representatives, among their mandate, monitor the implementation of rules related to health and safety in the workplace.

### Measures to ensure adequate health services

**206.** Measures to ensure adequate health services are provided:

- Geographical access to health services increased (due to infrastructure construction and rehabilitation);
- Continuing training for health workers;
- Availability of health workers increased;
- Improvement of quality of health services;
- Increase in government's funding in certain diseases;
- The basic package of health services has increased;
- Financial accessibility to health services due to adherence to a health care system (be the government funded mutuelles de santé, RAMA or MMI, or private insurance policies).

**Table 11: Health indicators**

Indicators	Year			
	2005	2006	2007	2008
Doctor/ population ratio	1/50,000	1/42,000	1/37,000	1/ 18,000
Nurse/ population ratio		1/3118	1/700	1/1700
Health professionals in remote areas (doctors only)				62,8%
Number of health staff (all categories (4,222 in 2003)				10,846
HIV prevalence (adult population average rate)			4.8%	3.0%
Malaria morbidity		29,4%	15,01%	11%
Malaria morbidity in health centres		28%	15%	11%
Infant mortality rate/ 1000 births	86 (DHS 2005)			62 (IDHS2007)
Under five mortality rate	152(DHS '05)			103 (IDHS 2007)

<sup>101</sup> GLIA: for more information, please visit: <http://www.greatlakesinitiative.org/> Countries are: Burundi, Democratic Republic of Congo, Kenya, Rwanda, Tanzania and Uganda ( As accessed on 15/3/2009).

Maternal mortality/ 100,000 births	750 (DHS '05)			
Contraceptive prevalence rate	14%		22,54%	
			Rural	Urban
% births attended by skilled health staff	31%	49,4%	55,1%	
% of women receiving ANC (ante-natal consultation) at least one	94%			52%
				Rural
% of population with access to quality water	64%			49,1%
	Rural	urban		69,8%
	55%	69%		
Access to hygienic sanitation	38%			45%
% of 1 year children having received DPT3	2005	2006	2007	2008
	86%	96%	97%	95%
% of those who received VAR vaccine	89%	94%	101%	
% of population residing in a 5km radius from a health centre	60%			
% of population covered by " mutuelle de santé" : Community based health insurance	44,1%	73%	75%	85%

Source : MoH ; IDHS 2007/08; DHS 2005/06; Rwanda, MTR HSSPI, Final report 2008, NISR: RGPH-projection 2008

## Difficulties and challenges

**207.** The key hindrance encountered in the realization of the above mentioned rights include budget constraints which limit the financial capacity of the GoR and impede its ability to fulfil its obligations provided under the right to health.

### In the realization of the right to housing

**208.** In the housing sector, laws related to local professional unions are still missing; draft laws on settlement are still in progress. Construction materials are also expensive due to transportation costs.

### In the realization of the right to adequate nutrition

**209.** In the agricultural sector, progress is slowly recorded in terms of food security, self-sufficiency.

- Climate hazards add to the already existing state of vulnerability amongst many households.
- There is also a weak penetration to regional or international markets;
- rural infrastructures in need of upgrade or repair;
- Weak private sector investment, financial sector not really interested in lending to this type of activities, considering it a high risk loss type of sector.



- The political will to improve agriculture and other related fields does collide with cultural customs and mindsets.

### **In the realization of the right to health**

**210.** In the health sector, the use of family planning and post-natal care services remain limited. The ultimate goal of the GoR is to have 100% of deliveries handled in health centres; this has not been attained, mindsets taking time to follow (so far 62% deliveries occur in health centres).

## **H. RIGHTS TO EDUCATION, TO COMPULSORY PRIMARY EDUCATION**

### **H.1 Right to education (art.17.1)**

#### **New legislative measures**

**211.** Education is one of the sectors that has witnessed a range of improvements both in legal and policy frameworks. Such shifts have allowed broader access to education all Rwandans as opposed to a segregative policy of education. The legal framework has been at the heart of change. With the support of political will, the GoR has removed the reservation on art.13 of the International Covenant on Economic, social and cultural rights.<sup>102</sup>

**212.** Also, an organic law establishing and determining the attributions and functioning of the teacher service commission has been adopted. These laws and other initiatives reinforce others that have been in place for easy realisation of the rights to education.

#### **Other strategies implementing the right to education are:**

**213.** Since submission of the last report, strategies continue to be implemented for a greater equal access and enjoyment of the right to education. They include:

- The education policy and its sector strategic plan. Some of its highlights are:
  - ✓ Universal primary education by 2010 and expand opportunities for all Rwandans to achieve nine years of basic education; and education for all by 2015;
  - ✓ A special attention to development of children with special needs;
  - ✓ A focus on teaching of science, technology and ICT knowledge;
  - ✓ Access to secondary school increased through encouraging local communities build district colleges.
- The girl's education policy: school campaigns run on promotion of girls, sensitization increased to improve girl's enrolment and retention, completion and transition to higher levels of education;
- The policy on special needs' education was developed in 2007;

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<sup>102</sup> Reservation withdrawn by Presidential Decree n°50/01 of 05/09/2008 (O.G. n°19 of 01/10/2008 p.68). The reservation read as follow: "The Rwandese Republic [is] bound, however, in respect of education, only by the provisions of its Constitution.

- The school health policy has been developed;
- The early childhood development (ECD) policy;
- The ICT in education policy and the Teacher Development and Management Policy.
- New autonomous bodies for a greater management of the education system were created: the Student financing Agency (SFAR), the National Curriculum Development Centre and the National Council of Higher Education.

**214.** A TVET (Technical and Vocational Education Training) policy has been adopted in 2009.

### **Right to primary education**

**215.** Free basic education (6 years of primary and 3 years of junior secondary education) was introduced in 2004 and 2006 academic years respectively. Fees were abolished in 2003 and replaced with capitation grant, an amount payable by the government to the various institutions. It is appropriate to note that the acceleration of universal basic education took effect from 2004.

**216.** In 2006<sup>103</sup>, 1,359,760 students benefitted from the capitation grant, against 630,316 who could not have afforded school tuition.

**217.** The adoption of English as the language of instruction since primary school has been in effect since 2009. The integration will be completed in 2011 in all public and private schools.

**218.** Catch-up program is effective to school aged children who missed primary schooling; schools are created every year;

**219.** The double-shifting vacation allows a great number of school aged to access education;

**220.** Special education has made good progress. In 2003, there were 600 pupils with disabilities in primary school; this number went up to 2000 in 2008.

**221.** Teachers have specialized in teaching only one subject;

**222.** The one laptop per child program has been launched since 2008. This is a program that allows all pupils in public primary education to own a laptop. The program is still ongoing. As a result, pupils have increasingly benefited from the program and development of Information and technology in general.

**223.** School aged children who could not otherwise afford to attend schools are provided for via various means such as the Government - District education funds or through other NGOs initiatives.

**Table 12: Primary education indicators**

<b>Indicators</b>	<b>Gender</b>	<b>2003/04</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Net Enrolment Rate (%)	Girls	94.5	94.7	97	96.8	95.1
	Boys	91,5	92,2	92.9	94.7	93.3
Overall Completion Rate %	Girls	44.9	46.7	51.7	52,0	52.5
	Boys					52.5

<sup>103</sup> NISR: 2008, Quarterly Economic Review, January-March 2008, p.10

Drop-out Rate Overall (at primary and junior secondary levels) %	For both girls & boys	14.0	14,6	14.3	13.7	
Repetition rate (%)		18,8	15,8	18,1		
Number of schools		2,262	2,295	2,323	2,370	2,432
Teacher/student ratio		66,9	69,0	70,9	74,0	67

**Table 12: Source: MINEDUC, summary of achievements, 2007- 2008 data obtained from MMINEDUC (Unit: Statistics). School year starts in January since of 2005.**

**224.** Some of the challenges encountered include:

- Budget constraints;
- Shortfalls in financing the capitation grant;
- Drop-out and repetition rate are still high, especially among girls;
- Limited parents' financial resources to access other school materials;
- Quality and retention of teachers are still a problem;
- Teacher deficit: the ratio teacher/ pupils is still high; and
- Teaching and learning materials are still in short number (1 book per 3 pupils).

### **Right to secondary education**

**225.** The 3 years of junior secondary education is free (tronc commun or common core syllabus). However, there is need to have more secondary schools put in place to match the gross enrolment of 22% students in the year 2008.<sup>104</sup>

**226.** There has been increase of ICT programs in both primary and secondary schools. Free computers to schools and internet access have been strongly pursued by the GoR.

**227.** The technical and vocational secondary education has been revamped. Currently though, a new policy has merged the two - professional and vocational training into one integrated program called Technical and Vocational Education Training (TVET). Two integrated Polytechnic regional centres have been introduced and are in full operation as three more are pending set up.

**228.** The older version of vocational and professional education was somewhat accessible, considering 35,7% of students were enrolled in 2007. Tuition fees are paid by the government from its districts' funds or other donors such as local or international NGOs.

**Table 13: Secondary education indicators**

Indicators	Gender	2003/04	2005	2006	2007	2008
Number of children of secondary school age	All	1,319,364	1,313,190	1,302,043	1,303,025	
Number of students attending secondary school	Boys	106,540	115,350	125,857	139,699	150,221
	Girls	97,011	103,167	113,772	126,819	137,815
	% Boys	52,3	52,8	52,5	52,4	52.2
	% Girls	47,7%	47,2%	47,5%	47,6	47.8

<sup>104</sup> MINEDUC statistical data: 2008

Repetition rate					8.4%	
	% Boys	67.04	67.58%	67.87	68.93	57.21
	% Girls	32.96	32.42%	32.13	31.07	42.79
Net enrolment rate	% Girls & Boys	10,6%	9,0%	10,1%	13,1%	
Completion rate (junior secondary education)	% Boys	51.75	58.97	54.72	57.14	53.91
	% Girls	48.25	41.03	45.28	42.86	46.09
Repetition rate		9,8%	8,7%	7,7%		
Completion rate and students receiving secondary 6 certificates					71%	
Number of secondary schools (public and private)		504	553	579	643	689
Teacher/student ratio (public schools)		27,7	29,6	32,0	22,0	18.7
Teacher/ student ratio (public schools)		24,6	27,6	28,9	21,7	16.7
Qualified teacher/student ratio		51,5	55,5	58,7	41,3	49.2
Number of technical schools (in 2007)					39 (13 public & 26 private)	

**Table 13: Source: MINEDUC: summary achievements – 2007, Statistical Data 2008**

**229. Difficulties encountered:**

- Limited financial resources of parents continue to be a hindrance to students accessing secondary education thus the enrolment rate is still low;
- Gender equality remains low;
- Low enrolment of girls and women in science and technology;
- Limited infrastructure and equipments;
- Limited capacity to support costs for all higher secondary going students;
- Retention and quality of teaching staff.

**Right to higher education**

**230.** New legislative measures<sup>105</sup> have been in place. However, higher education remains fairly inaccessible and tuition fees are high.

**231.** The national council for higher education was created in 2007. Along such initiatives, there has been remarkable promotion of inclusive education, with more disabled students

<sup>105</sup> Law n°20/2005 of 20/10/2005 establishing the organization and functioning of higher education; Law n°50/2006 establishing and determining the responsibilities, organization and functioning of Student Financing Agency (SFAR) in charge of managing and administrating scholarships and student loans; Presidential Order determining the criteria for obtaining bursary and obligations of the bursary recipient during and after studies; Ministerial Order determining the criteria for providing loans for higher education, repayment and cost sharing mechanism between the Government on one hand and the beneficiary of the loan on another

accessing higher education (8 blind students admitted to NUR and 5 other disabled students at KHI).<sup>106</sup>

**232.** Equally, a student financial agency has been created to help students cope with tuition fees and provide student loans. Though grants are limited, few are available to students who qualify.

**233.** Various institutions offer evening courses to the benefit of those working during the day. Masters degree programs are available and E-learning has been launched in 2007, with NEPAD's assistance.

**234.** New colleges and higher institutions have been created. The number of higher institutions is 33 in 2008.

**235.** Challenges and difficulties

- Lack of adequate infrastructures (laboratories and other infrastructures);
- Gender equity is still very low (41,6% girls in 2007);
- Heavy dependency on expatriate professors; and
- Lack of qualified professors in technology and other science related fields.

### **Right to fundamental education**

**236.** This literacy and basic education program targets youth from 15 years and above.

**237.** About 6,500 literacy centres were operational in the country by 2005, with approximately 300,000 youth and adult students.<sup>107</sup> The number of monitors and staff in these programs was approximately 6,605 in 2008. In 2008, the number of literacy centres had grown to 4,408 with registered 226,210 adult learners' still undergoing training with 6,605 teachers.<sup>108</sup>

**238.** These programs are funded either by the government or its partners (local and international NGOs, religious organizations).

**239.** Some of the measures to boost these programs are:

- The policy on literacy has been formulated;
- Teachers receive incentives to motivate them, since they mainly work on a volunteer basis;
- The growing number of these centres, with the aim to set-up at least one centre per district;
- The budget has been increased in literacy programs.

**240.** Difficulties encountered are:

- Limited number of these programs across the country;
- There are more partners (NGOs, religious organizations) involved in literacy programs than the government. This creates a dependency on NGOs;
- Lack of qualified instructors: their level of education is generally low and a great number do voluntary work;
- Other difficulties are: traditional mindsets, poverty, ignorance;

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<sup>106</sup> Mineduc: Summary of achievements in 2007

<sup>107</sup> Mineduc: Rwanda: Study of literacy needs and programs for youth and adults, Background Paper prepared for the Education for all global monitoring report 2006: Functional literacy for youth and adults in Rwanda: national policy and strategy, P.10;

<sup>108</sup> As above.

- Many adult literacy centres lack the minimum teaching and learning conditions (infrastructures, materials);
- No measures available for literacy achievement in school;
- Programs post-literacy are still lacking.

### **Development of a system of schools**

**241.** The building of schools continues on a yearly basis. In 2007 for instance, 1646 classes at primary and secondary levels, 39 specialized technical schools and 60 catch-up centres were built. In 2006, 1646 classes and 38 catch-up centres were finished.

**242.** There has been a change in the school system since 2005: the school year commences in January to end in October for all levels of education.

**243.** On a financial note:

- Bursary awards exist for those students performing exceptionally well, as stated in the presidential order determining the criteria for obtaining bursary.
- Other bursary and grant awards come from both the government and its many partners in the education sector, such as SFAR, Imbuto Foundation<sup>109</sup> or FAWE.
- Best performing girls continue to be rewarded on a yearly basis by Imbuto Foundation.
- Special incentives in grant or loans awards are given to those students entering science and technology higher learning institutions.

**244.** Schools of excellence and summer schools for girls have been running.

### **Establishment of an adequate fellowship system**

**245.** A fellowship system exists where students receive bursary awards and pursue education in foreign countries.

**246.** The ministry of health for instance offers scholarships to doctors pursuing specialization. The same happens in various ministries.

### **Improvement of the material conditions of teaching staff**

**247.** The teaching staff continues to benefit from the continuing education. Since 2008, they are trained in the English language.

**248.** They also benefit from a credit saving cooperative (Umwalimu SACCO). This new organization enables them to save but also access speedy credit to support their financial needs.

**249.** Measures are currently underway to review and upgrade teachers' salaries.

**250.** Decentralization process has enabled the management of teachers' salaries at district levels.

### **Liberty to establish and direct educational institutions**

**251.** The establishment of educational institutions is encouraged. The government encourages the private sector to invest in the education sector.

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<sup>109</sup> Imbuto Foundation was created in 2007 by Rwandan First lady, Jeannette KAGAME, to carry forward and build on the work of PACFA, another organization, that, advocated consistently for and implemented pioneering initiatives on health, education and economic empowerment: available at: <http://www.imbutofoundation.org/> (accessed on 11/2/2009).



**252.** A presidential order determining norms and standards for higher institution will soon be passed. It will determine criteria for establishing a higher learning institution. Things such as curriculum, facilities and proper infrastructures (such as libraries, laboratories for a technical institution, recreational facilities, student center etc.) will have to be in place before approval from competent authorities is granted.

### **III. INFORMATION CONCERNING THE ARTICLES 19-24 OF THE CHARTER**

#### **(i) Article 19: All Peoples shall be equal**

**96.** The principles of equality and non-discrimination are entrenched in Rwanda's Constitution.<sup>110</sup> It recognises the need for equality of all peoples. The implication of this provision is that all people have the same respect, value, the same rights and nothing shall justify the domination of a people by another.

**97.** The post-genocide government has taken a hard-line approach in terms of fulfilling the spirit of this provision. Much has been said in previous paragraphs.

**98.** Article 2 of Constitution of Rwanda reads that: "All the power derives from the people. No group of people or individual can vest in themselves the exercise of power". Governance in essence is vested in the hands of people with a recommendation to exercise it without favour.

**99.** In addition, by signing and by ratifying international instruments that champion the equality of the peoples - the African Charter included, Rwanda has undertaken to respect the principle of equality of the peoples, and consequently their sovereignty.<sup>111</sup>

**100.** All policies in Rwanda are adopted in the interest of all people without any form of discrimination or domination.

**101.** Currently, Rwanda is re-known in the regional for its constant quest for peace, security, equality and support to people threaten with the danger of extermination because of their origin, ethnic or any other form of discrimination.<sup>112</sup> Specifically, Rwanda has played a big role in the process of political reconstruction in Burundi, the Democratic Republic of Congo, Kenya and Sudan. The source of motivation in all these initiatives lies in the need to create a favourable political atmosphere through which people can prosper and improve their welfare.

#### **(i) Article 20- Right to self determination**

**102.** Self-determination is defined as free choice of one's own acts without external compulsion, and especially as the freedom of people in a given territory to determine their own political status or independence from their current state.

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<sup>110</sup> Article 11 of the Rwandan Constitution.

<sup>111</sup> These international instruments to which Rwanda is a party include for example, the Universal Declaration of Human Rights; the UN Charter, the International Covenants on Human Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the International Convention on the Elimination of All Forms of Racial Discrimination; the African Charter on Human and People's Rights, etc.

<sup>112</sup> The intervention of the government of Rwanda in Darfur as the first country in the world is probably a manifestation of our resolute commitment towards protecting and promoting human rights – particularly- seeking equal life opportunities for those facing an eminent threat of extinction.

**103.** Article 1 of the Constitution provides that: "The Rwandan State is an independent, sovereign, democratic, social and secular Republic; The principle governing the Republic is "government of the people, by the people and for the people". Understandably, the constitution of Rwanda recognizes the right to self-determination. In *tandem* or orthodoxy with article 20 of the charter, the Rwandan constitution empowers the populace to determine how they want to be governed without the influence of any other foreign country.

**104.** Furthermore article 2 provides that "All the power derives from the people. No group of people or individual can vest in themselves the exercise of power. National sovereignty belongs to the people who shall exercise it directly by way of referendum or through their representatives".

**105.** More importantly, Rwanda continues to pursue a policy of non-interference even in situations where Rwandans of origin living in other countries continue to undergo mistreatments. Dialogue for conflicts resolution instead of interfering in other nations' sovereignty or violating the established territorial borders proves Rwanda's commitment to respect the principle of self determination.

**106.** The right to self determination encourages home grown and needs based initiatives. Inspired by its tradition culture, Rwanda has developed local values and initiatives that seek to strengthen citizenship, development, justice, good governance, rule of law, unity and reconciliation among others. Some of the initiatives include:

- Representation of different communities and categories such as the youth, women, disabled persons and the historically marginalized populations (provided under art.76 & 82 of the Constitution).
- The decentralization policy which facilitates active participation of citizens to fight poverty in planning and managing their own development process.
- Ubudehe (already discussed in previous chapters)
- Gacaca (discussed in previous chapters)
- Community policing: local communities taking care of their own security in establishing security committees.
- Umuganda: traditional custom of working together on community projects.
- Umusanzu: a way of helping and assisting the needy.
- Abunzi (the mediators): mediate conflicts and advocate reconciliation.

**(iii) Article 21-All peoples shall freely dispose of their wealth or national resources**

**107.** Under article 29 of the Constitution, every person has a right to private property, whether personal or owned in association with others; Private property, whether individually or collectively owned, is inviolable. The right to property may be interfered with exception in public interest, in circumstances and procedures determined by law and subject to fair and prior compensation.

**108.** Peoples have right to national resources including land as provided under article 30 of the Constitution. The concept of freedom from discrimination as embodied in the Constitution underlies the idea of equal right to national resources.

**109.** Additionally, the new laws on land and environment make land and other national resources, heritage of the past, present and future generations.<sup>113</sup> These new laws abolish practices of appropriation of national resources by some individuals in the detriment of others.

**110.** National policies for equal re-distribution of land and other national resources have been set up and implemented especially after the 1994. Initially, land appropriation and control was the domain of those in power. Rwandans of Tutsi ethnic both those in exile and in Rwanda were deprived rights to own land like other rights. After 1994 genocide, Rwandans living in exile returned home in their big numbers. The government started a process of settling the returnees; which was successfully and peacefully undertaken despite some few irregularities. The principle was equitable sharing of resources – land in particular - to allow settlement of those who came from exile. The practice was however marred by certain irregularities, some of which were to be settled later through the president intervention. The recent land redistribution that is still on-going in Eastern Province serves to equitably share among Rwandans national resources.

**111.** In cases of expropriation for public interests, the law provides for compensation that is proportional to the object in question.<sup>114</sup> For unlawful dispossession, the law still allows people to use available means such as administrative and judicial to get their property back and seek court remedies where applicable.

#### **(iv) Article 22-Right to development**

**112.** The Constitution of Rwanda clearly defines the role of the citizens and that of the State in socio-economic and cultural development of the community.

**113.** Citizens have not only the right to development but also the duty to participate in their socio-economic and cultural progress. The constitution enshrines the State's obligation to allow the environment for citizens to freely participate in their development and to take the appropriate policies for the peoples' development. Such initiatives are vast and compelling on the part of the state. They range from establishing a conducive atmosphere, peace and security, infrastructure to favourable legal framework that responds to the needs of the masses.

#### **(v) Article 23-Peoples' right to national and international peace and security**

**114.** According to domestic and international legal instruments, the responsibility for ensuring peace and security implicitly lies in the first place within the mandate of the State.<sup>115</sup> However, individual citizens have the right and duty to safeguard peace, democracy, social justice and equality and to participate in the defence of their motherland.<sup>116</sup>

**115.** For Rwanda, this responsibility has practically been shared by both the State and the citizens in the quest for maintenance of peace and security in the country, in the region and in the world.

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<sup>113</sup> Organic law No 8/2005 of 14/07/2005, Determining use and management of land in Rwanda and Organic law N° 04/2005 of April 2005, Determining the modalities of Protection, Conservation and Promotion of Environment in Rwanda.

<sup>114</sup> Law No 18/2007 of 19/04/2007, Relation to expropriation in the public interest.

<sup>115</sup> See for example the UN Charter or the African Charter (art. 23)

<sup>116</sup> See article 47 of the Constitution of Rwanda.

**116.** Internally, Rwandan citizens have several times successfully shown their commitment by cooperating with their Government in maintenance of peace and security in resolving internal civil unrests (1996-1998)<sup>117</sup> and laying strategies for sustainable peace and security in the country including unity and reconciliation programs, Community policing programs, creation of popular security organ (Local defence force) whereby their participation was vital, etc.

**117.** Internationally, Rwanda (the Government with support of the population) has always shown its commitment to pursue peaceful solutions to regional and international conflicts. This is reflected by different negotiations to which Rwanda has played a significant role. The examples include: Arusha for Burundi conflict; Lusaka, Nairobi and Pretoria for DRC conflict; regional initiatives for Kenya post-elections conflict and interventions in peacekeeping missions Darfur in Sudan<sup>118</sup> through sending peacekeeping forces; Liberia<sup>119</sup> through sending forces and training of defence and security forces and last Somalia<sup>120</sup> through training of defence and security forces.

**118.** For the purpose of strengthening peace, solidarity and friendly relations with neighbouring states, Rwanda ensures that individuals accorded asylum from neighbouring countries (Uganda, Burundi, RDC) do not engage in subversive activities against their home countries or use Rwandan territory for such activities. This was reiterated in different regional negotiations and initiatives by the above mentioned countries.

**119.** The government of Rwanda along with its neighbouring counterparts in the Great Lakes region declared their determination to transform their region into a place of sustainable peace and security for all states and peoples.

**120.** In 2006 in Nairobi, was signed a Pact on Security, stability and Development and an International Conference on the Great Lakes Region was born. Rwanda ratified the Pact in February 2008.

**121.** Recently, there has been a joint initiative of the GoR and the Democratic Republic of Congo (DRC) to uproot rebel forces, the ex-FAR/ Interahamwe. The latter are remnant of perpetrators of the 1994 genocide against Tutsi. They sought refuge in DRC where they have been engaging in looting, raping and killing the innocent populations of DRC. This was a potential threat to the security of the region, and Rwanda in particular, where their ultimate objective was to continue genocide of the Tutsi. The operation, called Umoja wetu ('our unity' in swahili) meant to pacify the vast eastern region, has been concluded after two months and hailed as a success by both countries.<sup>121</sup> Indeed this has subsidized the conflict in the Eastern DRC.

#### **(vi) Article 24-Peoples' right to satisfactory environment**

**122.** To fully protect environment, Rwanda has adopted a number of legislations that seek to comprehensively protect the right of people to satisfactory environment. In addition to the

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<sup>117</sup> This period was marked by sporadic attacks on some parts of the country – especially in the north where infiltrators/insurgents largely composed of the former government forces (EX-FAR) were trying to regain control over the country. The cooperation and participation of the citizens was decisive in putting an end to this unrest.

<sup>118</sup> Ministry of Defense of the Republic of Rwanda, 2004-2009.

<sup>119</sup> Since 2006, Rwanda has been asked to participate in Liberia UN Police Mission - Ministry of Internal Security, 2006-2009

<sup>120</sup> Rwanda made an agreement with Somalia Government on training of their members of security organs (Source: Ministry of Defense of the Republic of Rwanda, 2007-2009).

<sup>121</sup> Ministries of Defense and Foreign affairs of the Republic of Rwanda, 2009 as witnessed in both national and international media.

Constitution (art.49), international conventions, organic and ordinary laws on environment were ratified and elaborated respectively. They include:

- The Convention on Wetlands of International Importance especially as Water flow Habitat in 2005;
- Ratified in 2005 the 12<sup>th</sup> Bamako Convention on the ban to import hazardous wastes into Africa, the control of their cross-border movement and the management of those produced within Africa;
- Adopted a new organic law determining the use and management of land and the one determining the modalities of protection, conservation and promotion of environment in Rwanda;
- Adopted a new law on expropriation outlines rights and compensation procedures for land expropriation for public use ;
- Established a new environmental institution called Rwanda Environment Management Authority (REMA) in 2006 for handling all technical aspects of environmental protection;
- Established Rural Sector Support Project (RSSP) that aims at revitalizing the rural economy through rehabilitation of marshland areas and hillsides.

**123.** Furthermore, Rwanda has undertaken several actions including programs and policies that seek to protect environmental diversities which include a biomass energy strategy, electrification with energy, annual reforestation programs, alternative source of firewood<sup>122</sup>, and activities aiming to protect land against soil erosion like terrace cultivation and planting of trees, etc.

**124.** In the joint efforts for better management of water resources, a Master plan for watershed management was developed for 5 wetlands. They include Rugezi, Rweru, Mugesera, Akagera and Kamiranzovu and the rehabilitation of 22 hydrological and limnimetric stations out of 5 planned was conducted while the water information system was updated according to the data from 8 stations among those rehabilitated.

**125.** For the increase of the public awareness in the environmental management a number of activities were implemented through education sector, among others: training of teachers in southern and Northern provinces on the environmental protection, implementation of projects designed by environmental clubs created in 17 schools in 3 districts (Nyabihu, Rubavu and Rutsiro) and a needs assessments for mainstreaming environment into the national curricula was carried out in primary, secondary and tertiary education institutions.

**126.** Regarding implementation of the National Program for adaptation on climate change (NAPA) 5 Experts from the National committee on the climate were trained in the vulnerability and adaptation assessment for the second national communication on climate change.

**127.** However, environmental challenges relating to limited resources and technical knowhow in the field still exist. Besides, it is noted that environment is not something that can be dealt by a single country in isolation. Trans-boundary initiatives need to be born or strengthened where they exist for proper protection of environment. Meaningful change is only possible through international community collective action. To this end, Rwanda hopes regional initiatives such as

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<sup>122</sup> MINECOFIC, Annual report on the implementation of the EDPRS-2008, May 2009: for more info, please visit: [http://www.minecofin.gov.rw/en/inno-download\\_file.php?fileId=241](http://www.minecofin.gov.rw/en/inno-download_file.php?fileId=241) : 244 digesters have been constructed and are operational, 310 are under construction (accessed 24/2/2009).

the East African Community (EAC) protocols on environment and international conventions on environment are necessary measures for sustainable environment.

**(vii) Article 17(2) - Right to take part in cultural life and to enjoy the benefits of scientific progress and the protection of the interest of authors**

**Right to take part in cultural life**

**Legislative measures**

**128.** Among new measures, let us note that the new environmental law aims at the preservation of the mankind cultural heritage and cultural activities.

**Measures promoting cultural life**

**129.** The cultural heritage policy has just been passed by Cabinet in May, 2009.

**130.** The GoR took a step forward to inscribe some of its cultural and natural sites to the UNESCO world heritage list. These sites include the Volcano national park and the Nyungwe national forest along with three genocide memorial sites (they are Gisozi, Murambi and Nyamata sites).

**Institutional infrastructures**

**131.** Some of the national heritage cultural infrastructures for culture promotion are:

- A national museum institute in charge of setting up regional and provincial museums;
- Cultural centres such as “*Itorero*” exist; they are created at the district levels. So far three (3) are functional. Formerly, these centres were traditional schools where national values like patriotism, democracy, good manners were taught. The mission of *Itorero* will be to lay down community based forums that remedy community problems based on the Rwandan positive values and traditions. The Ministry of culture and sports has been inspired by the old setting which is believed to have worked well for our ancestors.
- Libraries exist at different schools; a national library is under construction;
- Theatres’ hall are also available, they are mainly private initiatives.

**Measures aiming at the promotion of cultural identity**

**132.** In implementation of the above provisions, several institutional and policy actions have been taken. Specific measures aiming at the promotion of cultural identity:

- Establishment of associations. One of such set-ups is “Inteko Izirikana”, an association that brings together elderly wise people. These human heritages are bearers of traditional values and the intangible cultural heritage.
- Other associations such as “Umuco” aims at collecting and spreading traditional values through dances, oral traditions and expressions;
- The language and culture academy has been set up and is currently running up;
- Through the continuous performances of various ballets and dance groups.

**Role of mass media**



**133.** Mass media play a fundamental role in broadcasting the Rwandan cultural life. Theatres play, songs and poetry are regularly aired on radio and television.

#### **Measures of preservation and presentation of mankind's heritage:**

**134.** Rwanda has currently embarked on a vigorous campaign and program to preserve and present mankind's heritage. The initiative has been ongoing and good results have apparently been registered. Some of the achievements in this endeavour include:

- The rehabilitation of museums to preserve Rwandan heritage culture. The national museum institute coordinates provincial and regional museums;
- There has been an inventory of cultural heritage all over the country. The outcome has been instrumental in planning future interventions;
- Creation of various museums such as the museum of agriculture, museum of technology, museum of arts, museum of environment, museum of ancient history, museum of war, museum of the Great Lakes;
- A new dictionary Kinyarwanda-French in 2007 was celebrated as the first of its kind. By and large, it is hoped that such modality would increase the use of Kinyarwanda and do away with mysteries of certain words found in French but not in Kinyarwanda;
- Cultural festivals (FESPAD-Festival Pan-Africain de danses). This is a cultural exchange occurrence that takes place after every two year and engage various countries from Africa and around the world;
- Rwanda has established an archaeological research centre that investigates pre-colonial technologies in Rwanda;
- Various associations and UNESCO clubs exist such as the club for unity and reconciliation, the club for the African and Rwandan identity, to name the few.

#### **Difficulties encountered**

**135.** Despite such enterprising initiatives, challenges remain. Some of the challenges encountered include insufficient number of experts in archaeology research, limited editing firm, lack of funds to sponsor some of these activities to mention but a few.

#### **Right to enjoy the benefits of scientific progress and its applications**

**136.** Rwanda views the development of science and technology as a path to sustainable development. Aware of that, Rwanda has undertaken various measures to promote science and technology. To enable its effective adoption and use, policies and programs have been designed with a component of IT in the country's development agenda. They include:

- A national policy on science, technology and innovation;
- Science, technology and environmental sustainability and building infrastructure have been included in the EDPRS and NICI<sup>123</sup> strategic plans.
- Vision 2020 which seeks to transform the country into a regional telecommunication hub.
- Establishment of an IT agency - RITA to oversee implementation of IT plans;
- The inclusion of ICT programs in all school curricula right from the primary school levels;
- Establishment of a management office in charge of geology and mines in 2007 - the Rwanda Geology and Mines Authority. It oversees conducts of surveys and other researches in relation to mining and geology.

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<sup>123</sup> NICI plans: ICT led socio-economic development plans

- Bursary awards at higher institutional levels and increase in grants and bursaries for those students in science fields related;
- Establishment of projects such as e-Rwanda, e-government and e-Soko that allow distribution of information amongst food producers and distributors;
- Development of cyber-café and telecenters all over the country;
- Increased use of solar energy, biogas and others;
- Increased of science and technology in higher institutions and reference laboratories;
- Implementation of telemedicine initiatives;
- The hosting of high level international conferences with focus on IT dissemination;
- All ministries now have their own webpage;
- Electronic national identity and license permits now available;
- The National Police has its own laboratory;
- Methane gas extraction undertaken.

### **Measures to promote the diffusion of information on scientific progress**

**137.** Some measures have been undertaken:

- Regular broadcastings and ICT news reviews (from the Rwanda Information Technology Agency) are made available to the public;
- The proposed initiative to set up a government portal which will provide links to educational and research institutions;
- Promotion and awareness campaigns on environment (multiplication of environment clubs) that promote diffusion of information on scientific progress;

### **Measures to prevent the use of scientific and technical progress for purposes contrary to the enjoyment of human rights**

**138.** Various legislative measures have been adopted. They include:

- The law on intellectual property is currently under parliamentary review;
- The law suppressing, prosecuting and punishing trafficking in human beings is also under parliamentary review. It does prohibit human trafficking of all sorts;
- The ministerial order n°20/37 of 03/10/2008 on the creation of a National Ethics Committee on the research on human beings. This committee is overseen by the Ministry of Health. The order does prescribe that:
  - ✓ A potential research needs to get its approval from the Committee;
  - ✓ Consent form has to be signed by participants to the research;
  - ✓ The committee has the powers to see to the welfare, security, dignity and all the rights of the person participating in the research as well as the protection of the environment are respected;
  - ✓ A free and informed consent must be obtained, in the language he/she can understand; he/she may withdraw at any time if he/she wishes, without prejudice;
  - ✓ Possible risks are adequately taken into consideration by promoters of the project.

### **Protection of moral and material interests of authors**

**139.** The piece of legislation on intellectual property rights is currently under progress.

**140.** The Rwandan legislation protects the rights and interests of authors.<sup>124</sup>

**141.** Some of the challenges encountered are:

- Poverty and ignorance;

<sup>124</sup> Law N° 27/1983 on the rights of the author, *O.G.* of 15 November 1983, 1984, P. 8.

- The narrative culture and
- Research in Rwanda is at its infancy stage.

### **Steps taken for the conservation, development and diffusion of science and culture**

**138.** Most of the steps that have been taken on the national level have been noted above. Notable among others include the following measures:<sup>125</sup>

- Computers in all schools;
- One computer per child program;
- Science corner in all primary schools;
- Fiber access to schools;
- Development of new curriculum content to focus on science and mathematics;
- Establishment of Rwanda Science and Research Council to facilitate co-ordination of scientific activities in Rwanda;
- Government scholarships for University students studying science and technology related subjects;
- Support of TOKTEN scheme and encouragement of Diaspora to return/support scientific growth in Rwanda.

**139.** Other introduced practical steps to promote such conservation, development and diffusion are:

- Establishment of partnerships with key International scientific bodies/agencies/organizations;
- Improved access to training for university lecturers and PhD holders;
- Media coverage of all key scientific events (especially conferences);
- Partnership to create scientific libraries in Rwanda (CERN).

### **Right to the freedom of scientific research and creative activity**

**140.** Currently, a draft bill drawing on international knowledge and best practice is under formulation which is set out to support freedom of scientific research and creative activity.

**141.** There are exchanges of scientific or cultural information to the best of the country's ability. Rwanda Science and Research Council was established as an independent body that supports academics with science orientation – particularly in scientific research and creative activities.

**142.** Nevertheless, some difficulties have been encountered such as:

- Insufficient financial means to undertake vast projects;
- Insufficient number of researchers;
- Limited regional cooperation; and
- Inadequate infrastructures.

### **Encouragement and development of international contacts and cooperation in scientific and cultural fields**

**143.** The GoR has always pursued bilateral, regional (such as EAC and CEPGL) and multilateral agreements featuring cooperation and collaboration in science and technology. To the extent allowed by budgetary constraints, the government helps support regional and international scientific conferences and other gatherings in Rwanda as well support Rwandan participation in similar events outside the country through various ministries and agencies.

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<sup>125</sup> Source: Ministry of science, technology and research

**144.** Despite such well intention agenda, difficulties remain. They include among others budgetary constraints which limit allocation of funds in these fields - rather to other pressing matters.

#### **IV. INFORMATION CONCERNING SPECIFIC DUTIES UNDER THE CHARTER**

##### **Specific duties on States**

##### **(i). Article 25-Duty to promote awareness of the Charter**

**142.** Rwanda has established public institutions/commissions with the special mission of promoting awareness of the Charter. The National Commission of Human Rights (NCHR) ranks among the most effective institutions in the implementation and dissemination of the Charter. It has been mandated with several tasks, one of which is to raise awareness of human rights among the Rwandan population. To achieve this, it organizes relevant training programs designed for different people including administrative leaders, staff of judiciary (Police, Prosecution and Courts), and uses media channels for sensitisation of all members of Rwandan community.<sup>126</sup>

**143.** The National Unity and Reconciliation Commission (NURC) uses the same channels like the NHRC in sensitizing people for unity and reconciliation. NURC aims at protection and promotion of human rights through training and sensitisation programs. Besides, the Commission strongly emphasises on peaceful cohabitation of Rwandans to avoid recurrence of genocide.

**144.** The Ombudsman office regularly organises similar training and sensitisation programs designed for public and administrative leaders.<sup>127</sup> The message passed emphasises the need to promote and protect human rights in such forums.

**145.** Rwanda has created a favourable operational environment for civil society organizations. These also work in partnership with the Government to conduct seminars and trainings for their members or personnel as well as the members of government institutions. The civil society organizations include both the national and international human rights associations and organisations as mentioned above.

**146.** Equally, partners in the judiciary such as the Police, the Prosecution and the Courts arrange numerous training programs for their personnel on regular basis.

**147.** The media has been also another important mode of communication especially through the radios, television and newspapers. Indeed, human rights discussion and sensitisation programs are have been emphasised with an interactive aspect where the masses are allowed to deeply understand most of these values.

**148.** Education programs and curriculum especially in higher learning institutions have made human rights one of the important courses.

##### **(ii). Article 26-Duty to guarantee the independence of the Courts**

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<sup>126</sup> See the reports presented by the National Human Rights Commission every year from 2000-2007.

<sup>127</sup> See the annual reports submitted by the Ombudsman Office.

**149.** Article 60 of the Constitution as amended to date, stipulates that "the three branches are separate and independent from one another but are all complementary".

**150.** Furthermore, article 144 of the Constitution sets out that "The Judiciary is independent and separate from the legislative and executive branches of government". It enjoys financial and administrative autonomy.

**151.** The Laws on the organization, functioning and competence of the Supreme Court, on the organization, functioning and competence of the Courts and Tribunals, on the organization, functioning and competence of the Prosecution department, on the Statute for Judiciary, on the Statute for Prosecution department and on Code of conduct for the Judiciary, all reiterate and establish the principle of independence. In view and consideration of the above, it is logical to observe that that the above principles constitute the necessary foundation for independent judicial system.

**152.** Besides, other organs of the government i.e. the executive and the legislature only serve in the capacity to complement the execution of each organ's mandate but not to interfere. The decisions of the judiciary have a binding and executory force on the territory of Rwanda. Not any of the officials from other organs can change or modify the decisions of the judiciary.

### **(iii). Specific duties of everyone**

**153.** The Rwandan constitution as amended to date - in its chapter II, articles 45-50 provide for a range of rights and duties on the part of Rwandan citizens. They include the duty to participate in government, relate to other persons without discrimination, to respect the constitution and other laws of the country and to protect, safeguard and promote environment.

**154.** From time immemorial, Rwandans have shared the same traditional values and duties that have strengthened their unity. Particular activities with strong traditional connotation were designed for specific purposes. The following are some of the locally inspired activities that have united and bonded Rwandan together – while on the other hand creating obligations and duties for the members of the community.

- Umuganura: the ceremony of sharing the first harvest to express unity and solidarity of local communities. The latter would gather and share the first fruits of their fields.
- Other traditional methods of assisting others (ubudehe, umuganda, umusanzu, community policing) have been discussed in previous paragraphs.
- Practices exist at the lowest administrative level of collecting funds and other items on a regular basis for purposes of serving the disadvantaged in their communities. A recent example is the One Dollar Campaign which seeks to establish decent shelter for the student survivors' of genocide.

**155.** More importantly, the law requires citizens to cooperate and complement each other both in good and bad times. Specifically, the law punishes for omission or inaction especially if the other party is under the threat of death or injury. Also, the *gacaca* law calls on citizens to be proactive and cooperate in the process gathering information and hearing. Indeed, such duties create obligations on the part of every individual in an endeavour to better protect everyone's human rights.

## **V. INFORMATION CONCERNING ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

### **A. General: The policy of elimination of racial discrimination and legal framework within which racial discrimination is prohibited and eliminated**

#### **(i). Description of legal and policy framework of elimination of racial discrimination and the exercise on an equal footing, of human rights and fundamental freedoms are promoted and protected;**

**156.** The freedom from discrimination is protected by the law such as the Constitution of Rwanda (articles 11 and 16); the law on repression of discrimination and sectarianism, the law on repression of genocide and by international instruments on the matter.

**157.** Also, the freedom from discrimination is protected by the administrative authorities, by the courts and by specialised organs as the guardians/custodians of human rights as mentioned above.

#### **(ii). How the provision of the convention on the elimination of racial discrimination can be invoked before the Courts or other administrative authorities**

**158.** According to the article 190 of the Constitution of the Republic of Rwanda, if an international instrument is ratified and published in the official gazette, it becomes binding.

**159.** Since the convention on the elimination of racial discrimination was ratified by Rwanda, it has been integrated in Rwandan domestic legislation, and thereby enabling individuals to seek enforcement of their rights before national courts and tribunals or other administrative authorities.

### **B. Information in relation to articles 2-7 of the Convention**

#### **Article 2: Measures to eliminate discrimination and promote equality**

##### **Paragraph 1 (a): Measures taken to engage in no act or practice of racial discrimination**

##### **Legislative measures**

**160.** A variety of laws have been adopted to give effect to the undertaking of eliminating discrimination in all its forms. These pieces of legislation have extensively been detailed in the above paragraphs. We cite:

- The Constitution
- The Criminal Code;
- The law on prevention, suppression and punishment of the crime of discrimination and sectarianism;
- The law repressing the crime of genocide, crimes against humanity and war crimes;
- The law on general statutes for Rwanda Public Service; and
- The Law regulating labour in Rwanda.



**161.** Discrimination is also banned in justice sector where by justice personnel have a duty to serve the cause of justice with fidelity, integrity, objectivity and impartiality without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion, or social status. Laws governing the functioning of different justice providers such as the Police Act, the Prosecution Act and the Courts Act can be referred to in as far as this matter is concerned.

**162.** Education sector is another area that had been characterised by discriminatory history before 1994 Genocide. Rwanda as member state to the Convention of 1965 against discrimination in education tried to ban and remove where necessary all unfair practices in this sector. This will be discussed later in the next paragraph of administrative measures.

### **Administrative measures**

**163.** Several policy and institutional measures have been put in place by the Post Genocide Government to give effect to the provision of not engaging in acts of racial discrimination.

**164.** One of the major actions taken was to put in place a broad based Government (Government of National Unity) within which all categories of Rwanda are represented. The equitable sharing of powers (Legislative, Executive and Judiciary) has contributed to the eradication of ethnic, regional and other divisions and hence to the promotion of national unity among all people of Rwanda.

**165.** Another great concern has been Unity and Reconciliation. The National Unity and Reconciliation Commission (NURC) was created and mandated to prepare and coordinate all the country's programmes for promoting national unity and reconciliation. The NURC continues to register an impressive record of achievements though other insights are still necessary to move the national unity and reconciliation to a new level<sup>128</sup>.

**166.** The post genocide Government responded to a re-known history of serious human rights violation history by creating a National Commission for Human Rights (NCHR).

**167.** The military and security is another area where the commitment of the State against racism has been witnessed before 1994 Genocide. There had been exclusion of Tutsi group in the National Defence and Security Forces. The Government of Rwanda has responded swiftly to this racial crisis by not only integrating members of the former security organs in the new formed security but also by removing any exclusion in recruitment in the security organs. The present organisation of Security Forces (Army, Police and National Security Service) attests to this<sup>129</sup>.

### **Paragraph 1 (b): Measures taken not to sponsor, defend and support racial discrimination**

**168.** Rwanda's Constitution in its part relating to the formation of political parties and the law on political parties do not allow political parties basing any form of division which may give rise to discrimination (art.52-58).

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<sup>128</sup> It established an innovative approach to restore and consolidate unity among Rwandans through education, mobilization, sensitization and training using reconciliation tools such as Itorero, Ingando, SCUR (Students Clubs for Unity and Reconciliation), Community based Initiatives, National Summit & Home grown approaches.

<sup>129</sup> It is composed of all the so called ethnic group of the people of Rwanda.

169. We find the same requirement in the law governing political organizations and politicians.<sup>130</sup>

170. Furthermore, the Penal Code provides that an association or a society is unlawful if it is formed for, inter alia, disturbing or inciting to the disturbance of peace and order, which is the end result of any form of discrimination.<sup>131</sup>

171. Also, the laws on different organizations provide that the formation of association cannot be founded for an illicit objective, contrary to laws, public order or morality<sup>132</sup>. This automatically makes peremptory the refusal to register organizations (associations, commercial firms, cooperatives, etc) which have, expressly or implicitly, racism and racial discrimination as their objects.

172. The newly adopted law on fight against corruption makes public and private entities liable for corruption and other related acts<sup>133</sup>. It is understood that this law of general application also embraces corruption and other related acts committed for discriminatory reasons as explained in paragraph 62.

### **Paragraph 1 (c): Measures taken to review government policies and laws to eliminate racial discrimination**

#### **Legal measures**

173. A new Constitution has been adopted in 2003 with special emphasis on consolidation of national unity and equality among all the people of Rwanda. It also sets out decentralized entities.

174. In order to remove unfair sharing of national resources, a history that characterised the first discriminatory-based regimes, major reforms have been undertaken by Rwanda after 1994. For example, measures for better management of land have been taken. The new law on land management abolishes practices of appropriation of big lands/firms by some individuals in the detriment of others<sup>134</sup>. For more explanations, see also the re-distribution of land and settlement programs under administrative measures.

175. Review of Political and Administrative Structures has also contributed in the elimination of discrimination. Rwanda used to have a very strict centralized system that was dominated by some ethnic groups. Today, however, a social contract has been made by the people of Rwanda in the adoption of the new Constitution of 2003 which emphasizes on sharing of powers among all Rwandans whereby all categories are represented in the government (in the Legislative, the Executive and the Judiciary). There have been elections in Rwanda since 1999 whereby Rwandans elect their representatives from grass root, in the Parliament, up to the Presidency of the Republic. Rwanda has worldwide been recognised for its free and fair elections whereby no discrimination either to elect or to stand for election is affected.

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<sup>130</sup> Organic law n°16/2003 governing political organizations and politicians, especially in its art.5

<sup>131</sup> Arts 281-283 of the Penal Code of Rwanda.

<sup>132</sup> Law n° 20/2000 of 26/07/2000 relating to non-profit making organizations, O.G. n° 7 of 01/04/2001, art .2. See also the Law N° 06/1988 on organization of commercial societies, *O.G.* of 1988.

<sup>133</sup> Law n° 23/ 2003 of 07/08/2003 related to the punishment of corruption and related offences, O.G. of 2003.

<sup>134</sup> Land management Act.

**176.** Also, former practices where by some regions were given special consideration than others were removed. In response to this, administrative structures (names and territories of Provinces and Districts) were changed in order to remove out, in the minds of people, the culture of giving importance to their origins and all country areas programs are planned in the same way at national level.

**177.** Another area that has undergone reform is about nationality. Before the adoption of the Constitution, some Rwandans could not enjoy Rwandan nationality. This was seen as a kind of discrimination that is directed to a group of people who were forced into exile (art.7). The Constitution and the New Law on Nationality developed a number of remedies. They state that every person has a right to nationality. Dual nationality is also allowed. No person may be deprived of Rwandan nationality of origin. No person shall be arbitrarily deprived of his or her nationality or of the right to change nationality.

**178.** Migration rules have been reviewed with an emphasis of allowing free movement of Rwandan people and making Rwanda an open society to foreigners<sup>135</sup>. The new rules on immigration bring facilitation in the procedures of application for Rwandan visa by foreigners.

### **Administrative measures**

**179.** Vision 2020 was developed to envision the kind of society the country aspires to be by 2020. The plans are concrete and refocus the country's efforts towards breaking down barriers and creating a unified and economically stable society.

**180.** Among the nine 'Pillars' of Vision 2020, the present report will focus on four, among other, which have direct relevance to the elimination of racial discrimination.

**181.** Good Governance and a Capable State: This Pillar contemplates a future where Rwanda will become a modern, united and prosperous nation founded on the positive values of its culture. The nation will be open to the world, including its own Diaspora. Rwandans envisage be a people, sharing the same vision for the future and ready to contribute to social cohesion, equity and equality of opportunity. The country is committed to being a capable state, characterised by the rule of law that supports and protects all its citizens without discrimination. The state is dedicated to the rights, unity and well-being of its people and will ensure the consolidation of the nation and its security.

**182.** Human Resource Development and a Knowledge-based economy: Rwanda considers its population as its fundamental resource and banks on it for its future development. Apart from raising the general welfare of the population, Rwanda expects to make improvements in education and health services for all without any discrimination in order to build a productive and efficient workforce.

**183.** Regional and International Integration: Rwanda considers regional economic integration as one of the crucial elements of achieving Vision 2020. To this end, it will be necessary to pursue an open, liberal trade regime, minimizing barriers to trade as well as implementing policies to encourage foreign direct investment.

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<sup>135</sup> See the Migration Act.

**184.** Gender equality: Until recently, girls were the minority in secondary schools, women had little access to the opportunities available to men and they were poorly represented in decision making positions. In order to achieve gender equality and equity, Rwanda is committed to continuously update and adapt its laws on gender. Rwanda supports education for all, eradication of all forms of discrimination, fight against poverty and practice a positive discrimination policy in favour of women. Gender has been integrated as a cross-cutting issue in all development policies and strategies.<sup>136</sup>

**185.** In addition, there are other several policies taken and others removed or reviewed which are specifically aimed at ending discrimination. Rwanda has undertaken its course to promote tolerance, unity and reconciliation among all Rwandans.

**186.** The new Government formed after 1994 Genocide decided to not support ethnic division ideology and the newly adopted civic education program does not accept ethnic division concepts. Thus, the National Electoral Commission was established and mandated with task of educating the people of Rwanda a new civic education intended to promoting unity among all Rwandans.

**187.** Until 1994, some ethnically division based practices were used. Vehicle plate numbers were allocated on the basis of area of origin of the owner of the car. The registration system was changed to a centralized system which only has a national registration number.

**188.** The same applied to the National Identity Card where by ethnic group of the bearer was mentioned. It is noted that such distinction was decisive in the 1994 genocide. Following a request made by the Arusha Peace Accords<sup>137</sup>, the new Transitional Government effected the removal of ethnicity on the National Identity Card.

**189.** Another significant measure of success has been achieved with regard to education sector. Prior to the period 1994, certification and selection to high levels of learning were based mainly on schools internal assessments which were characterized by subjectivity towards ethnicity, regionalism, nepotism, favouritism and total corruption. A new examination policy based on fair and transparent principles has been established and is implemented by the Rwanda National Examinations Council.

**190.** The Public Service Policy was reviewed in order to abolish provisions that perpetuate the social consequences of past legalized injustices in public employment. This is implemented by the newly established Commission for Public Service.

**191.** Other several specialised public institutions as mentioned above in the institutional framework of the human rights protection were created to eliminate racial discrimination. Generally, all these specialised institutions were created as responses to remove out the past discriminatory based practices, and thus to enhance transparent and fair ones.

**192.** As earlier mentioned, land distribution and settlement policy reforms have also contributed to eliminate discriminations. Initially, land appropriation was not controlled

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<sup>136</sup> For More Details Of 2020 Vision, See Republic of Rwanda, Ministry of Finance and Economic Planning, Rwanda Vision 2020, Kigali, July 2000.

<sup>137</sup> See Article 16 of the August 1993 Arusha Accords made between the then Government of Rwanda and the Rebel group called RPF (Rwanda Patriotic Front).

especially in favour of those in power. Rwandans in exile (who were mainly from one social group) were deprived rights on their former land properties. After 1994 genocide, when a big number of Rwandans in exile returned to their homeland, Rwandans successfully and peacefully started themselves an initiative to equally share one another to allow settlement of those who came from exile. Thereafter, the Government took a policy (which is still underway) whereby Private ownership of land and other rights related to land are granted by the Constitution. A State could this time control land appropriation and effect fair land distribution.

**Paragraph 1 (d): Measures taken to eliminate racial discrimination by any person, group or organization**

**193.** Here again, any activity undertaken under above mentioned paragraphs 1 (a), (b) & (c) is aimed at completely eliminating discrimination by any persons, group or organization. Generally, all the mentioned acts and activities show that Rwanda has started a struggle aiming at leading Rwanda being a State committed itself to eliminate discrimination.

**Paragraph 1 (e): Measures taken to eliminate racial discrimination by encouraging integrationist, multiracial organisations and movements**

**194.** Some community initiatives/ Collective Action Institutions can be taken note in as far as this paragraph is concerned.

**195. Ingando:** Ingando was developed as a tool to build coexistence within communities. Beneficiaries are ex combatants, students at secondary and tertiary levels, informal traders, and other social groups including survivors, prisoners, community leaders, women and youth. Ingando entail residential camps, bringing together between 300–400 people per programme for between 3 weeks to 2 months depending on time available and focus of the sessions. Topics are covered under five central themes: analysis of Rwanda’s problems; history of Rwanda; political and socio-economic issues in Rwanda and Africa, rights, obligations and duties and leadership.

**196. Reconciliation Summit:** This is the flagship programme of the National Unity and Reconciliation Commission (NURC). It is chaired by the President and attended by a cross section of Rwandans and dignitaries from the international community. It has become a prominent and more or less permanent national event that draws considerable international focus on Rwanda. During these summits, issues relating to reconciliation and unity among all Rwandans are discussed and policies thereof related are proposed to the concerned Government Institutions.

**197. Inter–Community Exchanges:** NURC coordinated regular exchange programmes between communities from different regions. The programmes entailed exhaustive analysis and joint solving of problems, and popular activities including sports, cultural celebrations and competitions. They were designed to eradicate the mistrust created by the policies of regional favouritism entrenched by previous administrations.

**198. Reconciliation Clubs:** The idea of forming NURC Clubs in schools and institutions of higher learning was one of the outcomes of the Ingando. Initially, the NURC took the lead in creating them. By now, however, students form reconciliation clubs on their own. The clubs provide a space where students from different backgrounds get together to promote reconciliation in places of learning. In this way, their teaching does not just end at the Ingando but is carried forward constructively.



**199. Gacaca Courts:** Among its objectives, includes reconciliation of Rwandans and building their unity.

**200. TIG (Travaux d'Interet General):** This is a form of alternative sentence to criminals found guilty of genocide crime, whereby they are invited to execute works for general interest outside the prisons (in the community). In the process, they are exposed and confronted to the public and this occasion helps for future integration and reconciliation amongst the population including the victims after liberation from the prisons. Sometimes, these persons are invited to reconstruct what had been destroyed, which also contributes to support genocide victims and enhance unity and reconciliation.

**201. Umuganda:** This is a one day every month get-together of all community members above 18 years in execution of compulsory community service. Umuganda contributes in the promotion of unity and reconciliation by bringing together Rwandans of different backgrounds and share common goals. After umuganda, participants normally discuss on all issues relating to the common community problems (among others include reconciliation and unity) and policies thereof related are proposed.

**202. Ubudehe (Local Collective Action as a National Policy):** Initially, the people of Rwanda especially in rural areas had a tradition of coming together to work in groups and teams. This builds social capital and strengthens relationships of trust and reciprocity. Later, a policy was adopted to extend this approach nationwide. Residents in a given territorial area engage in discussion to prioritise their local problems. Government officials take on the role of enablers and supporters of citizens' efforts to enable citizens to engage in local problem-solving as partners in a decentralised government.

**203. PDL HIMO:** Due to the urgent need to re-absorb the half million of unemployed and the under employed people in the rural areas, to which these would be added the demobilised soldiers and militia as well as the detainees freed by Gacaca Courts, a vast program of infrastructure development and services for rural areas, which would be implemented using Labour Intensive Methods (HIMO) was recommended from 2002 as to supplement other government initiatives in progress. PDL HIMO plays the same role as the Umuganda in as far as the fight against discrimination is concerned.

**204. Itorero (Forum for Cultural and Civic Education)** is a Kinyarwanda word that refers to a traditional Rwandan music and dance troupe. In pre-colonial Rwanda, itorero was the entity where the youth learned martial arts, strategy, oratory and leadership. In recent years, amatorero (plural of itorero) only teach music skills. Nowadays, it has been adopted as a national policy to which every Rwandan should take part so as to participate in debates and training (where necessary) sessions with others on how they can solve their own local problems.

**205. Sports:** Sports were given emphasis. There are practiced from grass root, in every local area, up to the national level where Rwandans of different backgrounds equally participate in the National Sports (Teams). They contribute to bring together all the people and share for promotion of peace, harmony and unity.

**206. Research oriented Centres such as Institut Rwandais de Dialogue pour la Paix (IRDP) and Centre for Conflict Management (CMC) of National University of Rwanda:** Though not all created on government's initiative but with its facilitation, these play a key role in



establishing open dialogue to address previously critical issues. They have significantly contributed to open dialogue amongst Rwandans and encouraged public participation in promoting peace and harmony and in designing national policies. Following the debates organized by these centres, the amendments responding to the needs expressed by the population or the participants in the debates are subsequently made.

**207. Human rights organisations:** Several human rights organizations operating in Rwanda with Government facilitation play a role in the fight against discrimination.

**208. There is a Legal Aid Forum which represents over 30 civil society organisations among others.** They endeavour for equality of justice. By and large, this confirms the Government commitment/support towards development of viable civil society that is instrumental in the discourse of creating an equal society.

**209. Rwanda Genocide Survivors associations:** A genocide women survivors association called AVEGA (Association des Veuves rescapées GAHOZO) and a general genocide survivors association called IBUKA have secured Government recognition and support to operate in Rwanda. They advocate for the elimination of any form of discrimination and especially against genocide survivors.

## **Paragraph 2: Special and concrete measures taken in the social, economic, cultural and other fields to ensuring the adequate development and protection of certain racial groups**

**210.** While the previous regimes have not been keen to promotion of social, economical and cultural rights, the current government has shown its commitment to protect them.

**211.** Thus, the newly adopted Rwanda's Constitution of 2003 provides that: "The State shall, within the limits of its capacity, take special measures for the welfare of the survivors who were rendered destitute by genocide against the Tutsi committed in Rwanda from October 1<sup>st</sup>, 1990 to December 31<sup>st</sup>, 1994, the disabled, the indigent and the elderly as well as other vulnerable groups."

**212.** In giving effect to the undertaking of the protection of genocide survivors, the Government of Rwanda created in 1997 a Public Genocide Survivors Fund (Fonds d'Assistance aux Rescapés de Genocide- FARG).

**213.** The following affirmative actions' directed to the women have been taken: at least 30 % of women representation in the country government; establishment of the National Women Councils at all administrative structures; establishment of the Gender Monitoring Office.

**214.** Another special attention was given to the youth. During the past regimes, the youth was highly involved (as spearheads of different militias) in genocide and massacres and at the same time it was the most affected by the resulting socio-economic problems. That is why special attention must be geared towards them at least for three main reasons: The youth constitutes the majority of the population; It is the poorest group in the society despite its heavy responsibilities; and Improvement of youth living conditions is a prerequisite for the stabilization of the Rwandan society for a future sustainable peace and development.

**215.** To this end, the youth in Rwanda is represented in the Parliament and organized in associations and they have a Council at the national level which is, like for women, a permanent

forum from where youth related issues shall be discussed and oriented for the appropriate taking of policies.

**216.** Special measures were also taken to protect disabled people. Article 14 of the Rwanda Constitution provides for their special protection. In effect, they received the same protection as the youth (Representation in the Parliament, organization in associations and National Council).

**217.** Lastly, the Historically Marginalised People: see in previous paragraphs (p. 15).

### **Article 3: Measures taken to prevent, prohibit and eradicate racial segregation and apartheid**

**218.** All forms of racial segregation and apartheid are condemned by Rwanda in the strongest manner possible. Any such activity is banned by both Rwanda Domestic Laws and International instruments to which Rwanda is a party.

**219.** Although bound by these international instruments, Rwanda experienced the genocide and massacres of 1994. In order to root out the crime of genocide and other racial discriminatory related acts, Rwanda also devoted itself by emphasizing again, in its Constitution, on eradication of such acts. Article 9 reads that "The State of Rwanda commits itself to conform to the following fundamental principles and to promote and enforce the respect thereof:

- fighting the ideology of genocide and all its manifestations;
- eradication of ethnic, regional and other divisions and promotion of national unity;
- equitable sharing of power;
- building a state governed by the rule of law, a pluralistic democratic government, equality of all Rwandans and between women and men reflected by ensuring that women are granted at least thirty per cent of posts in decision making organs;
- building a State committed to promoting social welfare and establishing appropriate mechanisms for ensuring social justice;
- the constant quest for solutions through dialogue and consensus" ;

**220.** Furthermore, article 11 stipulates that "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".

**221.** Rwanda's commitment to eradicated racial discrimination is also expressly stated in the two newly adopted laws; those are the Law on prevention, suppression and punishment of the crime of genocide and the Law on prevention, suppression and punishment of the crime of discrimination and sectarianism. Accordingly, no form of racial discrimination or apartheid is practised in Rwanda by now. The Government of Rwanda strongly believes that there should be no artificial barriers on racial grounds anywhere in Rwanda, or anywhere else in the world. This is reflected by the Rwanda's intervention in Darfur (Soudan). It aims at participation in the protection of victimised groups.

### **Article 4: Measures taken to eliminate all propaganda and organizations which are based on theories of racial discrimination**

#### **Paragraph 4 (a): Measures taken to punish by law all dissemination of ideas based on racial superiority**

**222.** Article 34 paragraph 1 of the Constitution provides for freedom of expression. However, under international human rights law and Rwanda's domestic law, no right or freedom is absolute or ranks over other rights or freedoms. Under article 34 paragraph 2 of the Constitution and articles 10-11 of the Law governing the press, the rights and freedoms of press can be limited by laws of general application to the extent that the limitation is justifiable by reasons of respect of human dignity, equality and freedom.

**223.** The Law on prevention, suppression and punishment of the crime of discrimination and sectarianism aims at punishing any person guilty of the crime of discrimination and sectarianism. The crime of discrimination occurs when the author makes use of any speech, written statement or action based on ethnicity, region or country of origin, colour of the skin, physical features, sex, language, religion or ideas with the aim of denying one or a group of persons their human rights provided by the law. The crime of sectarianism occurs when the author makes use of any speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people.

**224.** Basing on the above mentioned law, a number of pursues to the individuals who practised discrimination on their fellows either verbally or in acts have been undertaken before the courts of law<sup>138</sup>.

**225.** Article 393 (a) of the Criminal Code also makes dissemination of ideas based on discrimination an offence. It is worded as follows: "Any person who, by defamation or public insult, manifests aversion or hatred towards a group of persons or a given race or religion, or commits an act likely to provoke such aversion or hatred, shall be liable to imprisonment for a term of one month to one year and to a fine not exceeding 5,000 francs, or to one of these penalties".

**226.** From administrative point of view, the Rwanda's Parliament conducted an investigation oriented research on genocide ideology in schools. At the end of its funding, it condemned such ideology in schools and recommended a number of measures to be taken, among other include putting in place (in their codes of conduct) mechanisms that prohibit and fight against genocide ideology among teachers and their students and taking necessary legal pursues.

#### **Paragraph 4 (b): Measures taken to declare illegal and as an offence organisations participating in propaganda inciting racial discrimination**

**227.** The Law cited above on fight against discrimination and sectarianism in its article 6 represses any association, political party, or non-profit making organisation found guilty of offences of discrimination with a suspension of between six months and one year and fin between 5.000.000 and 10.000.000 Rwandan Francs. Depending on the seriousness of the consequences of that act of discrimination on the population, the court may double the penalty, or decide to dissolve the concerned association, political party or non-profit making organisation, according to the law governing the dissolution of associations, political parties and non-profit making organisations.

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<sup>138</sup> See MUNYARWERERE v. Prosecution; Prosecution v. NKIZAMACUMU A.; Prosecution v. UWIZEYE E.; Prosecution v. HAVUGIMANA M.; Prosecution v. BAMPORIKI I.

**Paragraph 4 (c): Measures taken to not permit public authorities or public institutions to promote or incite racial discrimination**

**228.** The Law on fight against discrimination and sectarianism punishes any person guilty of the crime of discrimination or sectarianism mentioned in article 3 of this law by sentence of between three months and two years of imprisonment and fined between fifty thousand (50,000) to three hundred thousand (300,000) Rwandan Francs or only one of these sanctions. When the offender of the crime of discrimination or sectarianism is a government official, a former government official, a political party official, an official in the private sector, or an official in non-governmental organisation, he/she is sentenced to between one year and five years of imprisonment and fined between five hundred thousand (500.000) to two million (2.000.000) Rwandan Francs or one of those two sanctions.

**Article 5: Measures taken to promote equality and non discrimination in the enjoyment of civil and political, social, economical and cultural rights and freedoms**

**Paragraph 1 (a): Measures taken to ensure equal treatment before administering justice organs**

**229.** The basic text is naturally article 16 of the Constitution which establishes that all human beings are equal before the law. They enjoy, without any discrimination, equal protection of the law. This is reinforced by the Code of ethics for Judiciary which binds the judge to serve the cause of justice with fidelity, integrity, objectivity and impartiality without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion, or social status.<sup>139</sup>

**230.** In practice, before joining their carrier, all law enforcement officials and judicial officers are first subjected to a specialised training in respect to their duties. Police members are trained in Police Schools where they receive training on serving the people particularly on the basis of the principle of safeguarding the fundamental rights guaranteed by the law. Prosecution and Judiciary members receive their training in academic institutions (Law Schools). The Government also organizes regular trainings on job for capacity building of its public servants, including members of justice sector. Every person involved in administering justice is subjected to supervision and control measures ranging to the extent of allowing any victim of racial discrimination from any member of justice to launch a complaint. Police officers as well as Prosecution and Judiciary members can be pursued before ordinary courts.

**Paragraph 1 (b): Measures taken to ensure security of person and protection by the State against violence or bodily harm by Government official or individual, group or institution**

**231.** Constitutional compliance with the above is expressed under the Constitution that provides as follows: Article 10: The human person is sacred and inviolable. The State and all public administration organs have the absolute obligation to respect protect and defend him or her; Article 12: Every person has the right to life. No person shall be arbitrarily deprived of life; Article 15: Every person has the right to physical and mental integrity. No person shall be subjected to torture, physical abuse or cruel, inhuman or degrading treatment; Article 16: All

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<sup>139</sup> Law n° 09/2004 of 27/04/2004 establishing the code of ethics for judiciary, *O.G.* No. 11 of 1 June 2004, art. 12.

human beings are equal before the law. They shall enjoy, without any discrimination, equal protection of the law.

**232.** It should also be noted that Rwanda is bound by international law as a State party to the following instruments of which it signed and ratified: Universal declaration on Human Rights, International Covenants on Civil and Political Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), etc.

**233.** The Criminal Code of Rwanda, in its articles also punishes for offences involving assaults and battery, intentional acts and causing unlawful harm.<sup>140</sup>

**234.** As regards the information on incidence of racially motivated criminal offences on the ground, Rwanda still handles some cases of genocide survivors' torture and killings by individuals from the Hutu group.

### **Paragraph 1 (c): Measures taken to ensure political rights**

**235.** The Constitution of Rwanda protects all these political rights. Article 8 provides that: "All Rwandan citizens of both sexes who fulfil the requirements provided for by the law have the right to vote and to be elected". The elections are managed by an independent body, the National Electoral Commission.

**236.** Article 45 reads that: "All citizens have the right to participate in the government of the country, whether directly or through freely chosen representatives in accordance with the law. All citizens have the right of equal access to public service in accordance with their competence and abilities.". The Public Service maintains integrity and accountability in performing its duties at all times and loyally executes policies aimed at advancing the delivery of services to everyone. Public servants are expected to serve the public impartially and are not allowed to discriminate unfairly against any member of the public. A Code of Conduct setting ethical standards for public servants was launched in June 2001. Contravention of the Code is dealt with as misconduct.

**237.** Article 53 states: "Rwandans are free to join political organizations of their choice or not to join them. No Rwandan shall be subjected to discrimination by reason of membership to a given political organization or on account of not belonging to any political organization." Article 54 stipulates that: "Political organizations are prohibited from basing themselves on race, ethnic group, tribe, clan, region, sex, religion or any other division which may give rise to discrimination". Hence, these provisions outlaw political parties that discriminate in membership based on the above elements. On the account of the above aspects, parties with such divisionism spirit and ideology are not allowed to register and operate in Rwanda. The basis for such refusal is the need to avoid divisive agenda and opportunism that would ultimately culminate into another genocide.

### **Paragraph 1 (d): Measures taken to ensure civil and political rights**

**238.** Paragraph (d) calls on States parties to protect a long list of civil rights. The Constitution of Rwanda works to protect, in name or in spirit, all the rights listed here: The right to freedom of movement and residence (article 23 paragraph 1); The right to leave any country (article 23

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<sup>140</sup> See articles 310-352 of the Criminal Code.



paragraph 2); The right to nationality (article 7); The right to marriage and choice of spouse ( article 26); The right to own property alone, as well as in association (article 29); The right to inherit is conferred by the newly adopted Law on succession; The rights to freedom of thought, conscience and religion (article 21); The right to freedom of opinion and expression (article 33); The right to freedom of peaceful assembly and association (articles 35&36).

### **Paragraph 1 (e): Measures taken to ensure economic, social and cultural rights**

**239.** Paragraph (e) calls on States parties to protect economic, social and cultural rights. The Constitution of Rwanda protects all the rights listed below: The right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work and to just and favourable remuneration (Article 38); The right to form and join trade unions (articles 38 & 39); The right to housing is indirectly addressed by article 41; The right to public health, medical care, social security (article 41); The right to education and training (article 40); The right to equal participation in cultural activities (article 51) ; and The right to access any place of service intended for use by the general public is included in the right to freedom of movement enshrined in article 23 of the Constitution and the principle of equality enshrined in article 11.

### **Article 6: Measures taken to ensure effective protection and remedies by the competent national tribunals and adequate reparation**

**240.** With regard to effective remedies in the courts and other competent State bodies, article 19, paragraph 2, of the Constitution of 2003 enshrines the absolute right to appear before a competent judge to hear his or her case. For the purpose of implementing this provision, the regulations on judicial procedures make two types of remedy available to the accused, namely; administrative and judicial remedies.

**241. Administrative remedies:** These comprise application to the same administrative authority to reconsider its decision (*recours gracieux*), appeal to a higher administrative authority (*recours hiérarchique*). The first option consists of an application to the same administrative authority to reconsider or amend the original decision. If the matter cannot be settled at that level, it is referred to an administrative court, and as a last resort.

**242. Judicial remedies:** These comprise of ordinary and special remedies. Ordinary remedies include applications to set aside a judgement and appeals. Under an application to set aside a judgement (opposition), a person who has been sentenced by default is entitled to apply for the judgement or decision against him set aside.<sup>141</sup> If the application is upheld, the judgement by default is deemed null and void and the court must retry the case. In the case of an appeal, a plaintiff who is not satisfied with a judgement at first instance may lodge an appeal in a higher court with a view to reversing the said judgement. The judgement may not be enforced until the period for appeal has expired, unless an order annulling the suspensive effect of an appeal has been granted either by the judgement itself or by the appellate court prior to its determination on the merits of the case.<sup>142</sup>

**243.** Special remedies applications to reopen proceedings on grounds of error or fact (*recours en révision*). The remedy is available only in criminal law (the equivalent remedy in private law is

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<sup>141</sup> Law n° 13/2004 of 17/5/2004 relating to the Code of criminal procedure as modified to date.

<sup>142</sup> As above.



retrial pursuant to the reopening of civil proceedings). Appeals for review on points of law may be lodged against decisions and judgements handed down at last instance or in the appropriate jurisdiction which are liable to reversal on account of errors of law.

**244.** Following the 1994 genocide of the Tutsi, special chambers in every court of first instance and Gacaca courts have been created to try perpetrators/suspects of genocide and their accomplices.

**245.** Furthermore, there has been court hearing and judgements following the adoption of the law on fight against discrimination and sectarianism. Particularly, cases related to the genocide ideology have been recurrent and appropriate legal measures have been passed by courts of laws.<sup>143</sup>

**246.** The legal assistance and representation before justice is guaranteed by article 18 (3) of the Constitution which provides that the right to be informed of the nature and cause of charges and the right to defence are absolute at all levels and degrees of proceedings before administrative, judicial and all other decision making organs. In a more emphatic way, legal aid is provided under articles 60-63 of the Bar Law in Rwanda.<sup>144</sup>

**247.** Gacaca Courts offer a more advantage to parties and the bench by allowing either the public to testify for or against the defendant. The right to Reparation is guaranteed under the constitutional principle already cited which provides that everyone has an equal right to seek justice. In addition, article 258 of Civil Code Book III provides reparation for damages caused to others.

**248.** In general, every person involved in administering justice is subjected to supervision and control measures including a possibility for any victim of racial discrimination from any member of justice to launch a complaint. For example, Police officers as well as Prosecution and Judiciary members can be pursued before ordinary courts. In summary, all the above mentioned remedies of general application can also benefit or be used by the victims of discrimination. The Constitution clearly stipulates that in all circumstances, every citizen, whether civilian or military, has the duty to respect the Constitution, other laws and regulations of the country.<sup>145</sup> Moreover, the constitution guarantees citizens the right to defy orders received from his or her superior authority if the orders constitute a serious and manifest violation of human rights and public freedoms.<sup>146</sup> Impliedly, this provision insinuates that justice personnel powers are neither absolute nor above the law.

## **Article 7: Measures to ensure teaching, education, culture and information**

**249.** Article 7 of CERD calls on State parties to ensure effective measures, in the field of teaching, education, culture and information, with a view to combating prejudices and to promote understanding, tolerance and friendship among nations as well racial or ethnic groups. The presentation below indicates how Rwanda has responded to the provision.

**250. Education and teaching:** Education and teaching are regulated by the National law on education in the Republic of Rwanda. The law permits establishment of both public and private

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<sup>143</sup> Reference is made to cases mentioned in note above 93.

<sup>144</sup> Law N° 03/97 of 19/3/1997 Establishing a Bar in Rwanda, O.G. N°8 of 15/04/1997.

<sup>145</sup> Rwandan constitution (n 13 above) art. 48.

<sup>146</sup> As above.

institutions. Public establishments naturally admit candidates without any discrimination whatsoever in accordance to the principle of equality and merit. Normally, the criteria for student admission in learning institutions (both lower and higher learning institutions) is based on attaining admission mark set for public institutions from which selection of candidates by these institutions is done. The same criterion is applied in private establishments where upon setting of admissions marks and other requisite conditions admission proceeds without any discriminatory preferences.

**251.** Equally, Rwanda introduced the education policy and its sector strategic plan. It highlights universal primary education (UPE) by 2010 and opportunities for all Rwandans to achieve nine years of basic education and education for all by 2015. Special attention for development of children with special needs, focus on teaching of science, technology and ICT knowledge and adoption of technical and vocational education training have been attained. More importantly, there has been increased access to secondary school by encouraging local communities to build district colleges. The girl's education policy has intensified through campaigns, sensitisation and promotion of girls' education.

**252.** The national laws on education in the Republic of Rwanda lay down general objectives and specific goals for every category of teaching. The general purpose of national education is to contribute to the development of the moral sense, physical and intellectual capacities of the person being educated and to ensure preparation for the role of an adult citizen. New autonomous bodies for a greater management of the education system have been created. They include the SFAR and the National Curriculum Development Centre. Presently, all past institutionalized discriminatory practices have been removed in education sector to allow Rwandans participate in education, training and cultural activities on an equal footing. Distinction is made between formal and informal education. Formal education comprises pre-school education, special education, primary education, secondary education and higher education while informal education includes continuing education and popular education.

**253. Pre-school education** is offered in nursery schools. Civic, moral, intellectual and physical education is provided in primary schools, which aim to impart basic knowledge. Primary education is free of charge for children from the age of seven and lasts six years.

**254. Special education** is intended for disabled and mentally handicapped children who are unable to attend normal classes. Currently, sight-impaired children are currently being integrated into the normal school system after special training. This experiment is being tried only in a few secondary schools. In general though, special education has made good progress for children with disabilities. In 2003, there were 600 pupils with disabilities in primary school. This number increased to 2000 in 2008. Double-shifting vacation was introduced and helped to increase the number of school aged children to access education.

**255. Primary education.** The basic education (6 years primary and 3 years common – core free education) has started as of school year 2009/10. School fees for pupils were abolished in 2003 and replaced with capitation grant - an amount payable by the government to various institutions. Note for instance that in 2006<sup>147</sup>, 1,359,760 students benefitted from the capitation grant, against 630,316 who could not have afforded self sponsorship. Besides, school aged children who could otherwise not afford to attend schools are supported either through district education funds or through other NGOs initiatives.

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<sup>147</sup> NISR 2008, Quarterly Economic Review, January-March 2008, p.10

**256.** Apparently, there has been emphasis on adoption of English as a medium language of instruction since primary school is in effect since 2009. Full integration is envisioned in 2011 in all public and private schools. The one laptop per child program has been launched since 2008. All pupils in public primary schools have benefited from the one-laptop program. More important, teachers have been encouraged to specialize in teaching one subject which they best understand.

**Table 14: Summary of achievements at primary level**

% of primary net enrolment (2007): overall 95,8%	Girls	Boys
	96,8	94,7
% of completion rate (2008): overall 52%	Girls	Boys
	48,8	49,3
% Drop-out rate (primary and common-core)	14,3	
% Repetition rate (2006)	18,1	
Ratio teacher/ pupils	1:74	

Source: MINEDUC summary of statistical data 2007/2008 Data

**257. Secondary education.** Currently, the first half of 3 year secondary school is free (popularly called in French as tronc-commun or junior secondary education). It is notable that secondary school is not generally accessible to all, since an average of 20% of students enrolled for the year 2008.<sup>148</sup> ICT programs have increased. The new policy has merged professional and vocational training into one integrated program called Technical and Vocational Education Training (TVET). Two integrated Polytechnic regional centres are currently running while three more are underway. The older version of vocational and professional education was averagely accessible, considering 35.7% of students' enrolment in 2007. Fees to access it vary from 5,000 RWF to 20,000 RWF for each student per semester. Some of the fees have been paid or are paid by the government from its districts' funds or other donors such as local or international NGOs.

**Table 15: Summary of achievements at the secondary level**

% Gross enrollment rate (overall 20,5) in 2007	Girls	Boys
	19	22
% Net enrollment rate (overall 13, 1) in 2007		
% Performance & % of diploma recipients at secondary 6 level (2008)	71	
% performance at secondary 3 level (2008)	82	
	Girls	Boys
	57,02	48,98
% Total students in public and subsidized school (2007)	12	
% Total students in private school (2007)	8,5	
Number of technical and vocational schools (2007)	39	
Repetition rate (2006)	7,7	
Teachers / student ratio (2007)	Public	Private
	1/22,2	1/21,7

Source: MINEDUC - summary of statistical data 2008

<sup>148</sup> MINEDUC statistical data:2008

**258. Higher education.** New legislative measures to improve education in Rwanda have been put in place.<sup>149</sup> The national council for higher education was created in 2007. Inclusive education has been promoted, especially with more disabled students accessing higher education<sup>150</sup>. A student financial agency - SFAR has supported students cope with tuition fees and provide student with loans. Grants are also available to students who qualify. Also, to cope with high numbers of student enrolment, various institutions are offering evening courses for a much greater access to those working during the day and masters degree programs. E-learning was launched in 2007 with NEPAD's assistance.

**259.** In general, there has been tremendous improvement in education for all Rwandans. Schools have been built and continue on a yearly basis. In 2007 for instance, 1646 classes at both primary and secondary levels, 39 specialized technical schools and 60 catch-up centres were built. While in 2006, 1646 classes and 38 catch-up centres had been built. Bursaries have been awarded to students with exceptional performances as provided in the presidential order determining the criteria for obtaining bursary. Other bursary and grant awards are offered both by the government and its many partners in the education sector - such as SFAR, Imbutu Foundation or FAWE.

**260.** Despite the impressive performance and progress made, challenges remain. They include limited infrastructures (laboratories and other infrastructures) and gender equity which is still at 41.6% according to 2007 statistics. More so, there is still heavy dependency on expatriate professors and lack of qualified professors in technology and other science related fields.

**261. Continuing education** is designed for persons in employment who wish to keep with technological change and the requirements of their work at every stage of economic, social and cultural development. In this connection, it has been established Rwanda Institute of Administration and Management for Vocational Training and Proficiency, one of whose functions is to coordinate training and proficiency schemes that provide to the public servants a training to the needs of the Public service.

**262. Popular education** is aimed at adults and young people who have never been to school or who have dropped out of school. The objective is to enable them to participate in the process of economic, social and cultural development. Popular education is generally provided by commune-based development and continuing education centre. The Government has set up youth training centre to provide young people outside the school system with basic education and even vocational training.

**263.** Apparently, the National University of Rwanda has added civic and peace education on its curriculum. The component was hailed to help students better understand the gruesome effects of the 1994 genocide<sup>151</sup> – a phenomenon that has earned a lip service from various sections of all walks of people. Peace and civic education are based on the philosophy of non-violence, love, compassion, trust, fairness, cooperation and reverence for human life and all life on our planet. The program enables students to build a sense on nationhood, recognise the importance of

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<sup>149</sup> Law n°20/2005 of 20/10/2005 establishing the organization and functioning of higher education; law n°50/2006 establishing and determining the responsibilities, organization and functioning of Student Financing Agency (SFAR) in charge of managing and administrating scholarships and student loans; presidential order determining the criteria for obtaining bursary and obligations of the bursary recipient during and after studies; the ministerial order determining the criteria for providing loans for higher education, repayment and cost sharing mechanism between the Government on one hand and the beneficiary of the loan on another.

<sup>150</sup> Eight (8) blind students were admitted to NUR and five (5) other disabled students at Kigali Health Institute (KHI).

<sup>151</sup> The new Times, Wednesday, November 26, 2008, Pg 2.

sharing a common vision and subsequently, identify with their country and its problems as a one people.

**264.** In general, following the past experienced difficult situations, Rwanda has decided to include lessons in its national education curriculum intended to all different categories of trainings mentioned above, with an aim to promote peace and harmony as well as respect of human rights, besides the programs set for intellectual and scientific development of people.<sup>152</sup>

**265. Culture:** Everyone may exercise the right to participate in cultural life through the freedoms guaranteed under the Constitution. Under Rwandan law, establishment of cultural associations and groups is guaranteed under the freedom of association.<sup>153</sup> The Government plays an active role in the cultural sphere by fostering and encouraging a whole variety of cultural events initiated by individuals. This function is performed by the Ministry responsible for promoting cultural affairs. Because they bring together all members of Rwandan society, cultural activities contribute in the promotion of harmony and unity among the people of Rwanda. The Ministry of culture and sports has been inspired by the old setting which is believed to have worked well for our ancestors.

**266.** In implementation of the above strategy, several institutional and policy actions have been taken. Specific measures aiming at the promotion of cultural identity include:

- Establishment of associations. One of such set-ups is “Inteko Izirikana”, an association that brings together elderly wise people. These human heritages are bearers of traditional values and the intangible cultural heritage.
- Other associations such as “Umuco” aims at collecting and spreading traditional values through dances, oral traditions and expressions;
- The academy of language and culture has been set up and is currently running up;
- Through the continuous performances of various ballets and dance groups.

**267.** Rwanda has currently embarked on a vigorous campaign and program to preserve and present mankind’s heritage for the benefit of all Rwandans. The initiative has given an opportunity to many Rwandans to participate in their cultural life. The exercise has been ongoing and good results have apparently been registered. Some of the achievements in this endeavour include:

- The rehabilitation of museums to preserve Rwandan heritage culture has been ongoing. The national museum institute coordinates provincial and regional museums;
- There has been an inventory of cultural heritage all over the country. The outcome has been instrumental in planning future interventions;
- Creation of various museums such as the museum of agriculture, museum of technology, museum of arts, museum of environment, museum of ancient history, museum of war, museum of the Great Lakes;
- A new dictionary Kinyarwanda-French in 2007 was celebrated as the first of its kind. By and large, it is hoped that such modality would increase the use of Kinyarwanda and do away with mysteries of certain words not found in French but not in Kinyarwanda;
- Cultural festivals (FESPAD-Festival Panafricain de danses). This is a cultural exchange occurrence that takes place after every two year and engage various countries from Africa;

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<sup>152</sup> For more details, see the National Curriculums in the Ministry of Education of the Republic of Rwanda.

<sup>153</sup> Rwanda constitution (n 13 above) art. 35.



- Rwanda has established an archaeological research centre that investigates pre-colonial technologies in Rwanda;
- Various associations and UNESCO clubs exist such as the club for unity and reconciliation, the club for the African and Rwandan identity, to name the few.
- The Rwandan legislation on intellectual property is very useful for the protection of right to enjoy the benefits of scientific progress and the protection of the interest of authors.<sup>154</sup>

**268. Information:** The Government has launched, in collaboration with the Rwanda Civil Society (Human Rights Organizations), information campaigns on human rights themes. Human rights are being incorporated into the school curriculum. The public is also kept informed of its rights *via* television, press media, radio broadcasts – especially on the judicial system in general and human rights in particular. One of the functions of the post-genocide established institutions like Human Rights Commission, Unity and Reconciliation Commission and the National Commission for fight against Genocide is to raise awareness and provide human rights training among the Rwandan population. The civic education given to Ex-FAR (former genocidal government forces) particularly has also been instrumental in combating the legacy of discrimination.

**269.** Through information dissemination, *modus operandi* to combat racial discrimination have mainly used institutions given their accessibility and community proxy in execution of their mandate. Indeed, the role of these institutions has been instrumental in the campaign against discrimination. Key institutions have included the CCM, IRDP, NUR, NURC, NHRC etc. Among other activities, the following have been undertaken to combat discrimination. They include:

**(a) Educating the public to combat prejudices which lead to racial discrimination**

**270.** The National Commission for Human Rights (NHRC) and the National Unity and Reconciliation Commission (NURC) undertake a wide variety of programmes which include educating the public regarding their rights and the rights of others, combating prejudices and racial discrimination and raising awareness of the Commissions' role in investigating and ruling on alleged violations of fundamental rights. As a reinforcement strategy, other sensitisation forums such as the human rights commission at parliament which questions the government's human rights violations, the Ombudsman office and the National commission for the fight against genocide among others have been instrumental in the struggle against discrimination.

**271.** Furthermore, the contribution of other commissions such as NURC, the programs of Rwanda demobilization and reintegration commission which reintegrates and rehabilitates FDLR and ex-FAR into the community through civic education, radio and television sensitization programs are vital in the campaign against racial discrimination.

**(b) Promoting understanding, tolerance and friendship among nations and racial and ethnic groups**

**272.** This role is largely defined under the mission of NURC. The NURC has played a big role in bringing and encouraging tolerance among Rwandans. As earlier mentioned, different tools have been used including National television, Radio programmes, Community meetings, News

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<sup>154</sup> Law N° 27/1983 on the rights of the author, *O.G.* of 15 November 1983, 1984, P. 8.



papers, conference and seminars, establishment of specialised institutions with specific mandate to promote human rights (such as NCHR, NCFG), human rights clubs among others with the purpose of combating racial discrimination. More importantly, Rwanda recognises that peace and friendship atmosphere with its neighbours is cardinal and indispensable for a free discrimination society. To this regard, pacification campaigns in form of conference on great lakes region, bilateral engagements such as the recently concluded *Umoja Wetu* between Rwanda and DRC, regional structural regulation on conflict resolution and dialogue are key tools that Rwanda embraces. Indeed these have worked and yielded considerable degree of peace and security in the region.

## VII. ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

### New legislative and institutional framework

**273.** Rwanda pursues its quest in ensuring equality of treatment and rights to all its citizens, women and men alike. Institutional frameworks for a greater protection of women's rights have been extensively documented in the previous report. International treaties<sup>155</sup> ratified since then are:

- The Optional protocol to the Convention on the Elimination of all forms of Discrimination against Women.
- Convention related to the status of stateless persons.

**274.** New laws in favour of the promotion of women are:

- The new law on the use and management of land provides for equal access to land (art.4).
- The 1<sup>st</sup> part of section 354 of the Penal Code was ruled by the Supreme Court of Rwanda<sup>156</sup> to be inconsistent with the Constitution and the International Convention on the elimination of all forms of discrimination against women. This section discriminates a woman and man's sentence when convicted of adultery. The first part of section 354 was stricken down and the second part will apply to both man and woman.
- The ministry in charge of gender and family promotion<sup>157</sup> undertook a thorough review of all the current laws and assessed those deemed discriminatory against women. Proposed amendments will soon be reviewed and change in laws should take place in the upcoming months. These are few of the sections to be reviewed and proposed amendments to follow upon:
  - ✓ Art.83 in the Civil Code: the wife has no apparent voice in choosing the legal matrimonial home. The proposed amendment is to the effect of giving equal choice to both spouses.
  - ✓ Art.207: the husband is the head of the family, made of the husband, wife and children: the proposed amendment talks about equality of the spouses in running the family affairs.

**275.** Some implemented policies are:

- The five year action plan for promoting women employment. It aims at improving women's situation in regards to employment. Measures undertaken are:
  - ✓ The reinforcement of the associative movements;

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<sup>155</sup> See pages 6 &7

<sup>156</sup> RS/Inconst/Pén.0001/08/CS (26 September 2008): The first part of the section says that the woman was to get a sentence of one month to year imprisonment, whereas in the second part, the man would only get one to six months imprisonment and a fine of 1,000 FRW or either one of them.

<sup>157</sup> Migeprof: Identification des éléments discriminatoires, lacunes ou vides juridiques dans la législation rwandaise en rapport avec la protection de la famille ; Octobre 2008

- ✓ Launching of training activities directed to the needs of the economy; and
- ✓ The implementation of a productive micro project for women.
- Facilitated the process on mainstreaming gender into the EDPRS, such that it is globally recognized as one of the most gender-sensitive poverty reduction strategies, with gender being one of the four cross cutting issues.
- Creation of women’s council at cell level has increased their level of participation at the lowest administrative level and the position of deputy mayor in charge of social affairs (gender issues being a component) has been created.
- Gender awareness has been generated throughout the country via the media, gender training and a sensitization campaign.
- At the district level, Women credit fund has been established to support rural women who are poor but able to engage in income generating activities;
- Initiation of CAPEC (Caisse Populaire d’Epargne et de Credit) to help both women and men but especially women who live in rural area to manage money and have income generating activities;
- Extensive Training of women in project creation, presentation and management, production of handcrafts, agriculture, etc.
- Sensitization of women to be involved in different governmental programs such as GACACA, HIMO, UBUDEHE, etc.
- Women are community-mobilized to supplement the Justice system, and they are a part of Unity and Reconciliation through the GACACA courts.
- Sensitization of women to their access in decision making places and processes at all levels;
- Women continue ascending in decision making positions. Also there has been an increase participation of women in local governance and socioeconomic activities through the decentralization process: women representation in local councils<sup>158</sup> is overall at 42%.
- Here are some statistics on women representation:

**Table 16: Statistics on women in decision making-positions**

Lower chamber of Parliament (since Sept.2008)	56% of women (with a woman Speaker of the House)
Cabinet	37%
Kigali City and the provinces	40%
Deputy Mayor (in charge of Social affairs)	90%
Office of the Ombudsman	58,8%

Source: National Electoral Commission; Office of the Prime Minister; MINALOC; Office of the Ombudsman

## Conclusion

Rwanda fully understands and owns its national obligation to report and highlight implementation status of the charter not only as an opportunity for self evaluation but also determination of its strengths, weaknesses, opportunities and threats. It is the conviction of the government of Rwanda that a genuine and realistic approach to the human rights challenges confronted can only save the country from future human rights crises. Indeed, such approach has been initiated and efforts are being made to this endeavor. The African charter as a unique

<sup>158</sup> MINALOC: Rwanda decentralization strategic framework- Toward a sector-wide approach for decentralization implementation

human rights document does provide unique opportunity for Rwanda to showcase its traditional values, activities and programs that have been improved for better protection and promotion of human rights. The *abunzi*, *gacaca*, *itorero*, *umuganda* among other local initiatives have provided a framework to further the spirit of the African charter. Besides, the progress made in the three generation rights i.e. civil and political rights; socio-economic rights and solidarity rights remain exceptional. Fifteen years after the worst human tragedy of the 20<sup>th</sup> century have witnessed a cross spectrum of progress in Rwanda- particularly in the field of human rights. It is however noted that challenges still remain – a reason that calls for renewed efforts to consolidate the culture of human rights respect in Rwanda. These (challenges) are either structural challenges or capacity challenges. The need to realize and work towards opening of political space, freedom of press and speech are paramount to cementing human rights progress made.

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