
The Embassy of the Republic of Rwanda seizes this opportunity to renew to the Commission of the African Union the assurances of its highest consideration.

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

KIGALI, DECEMBER 2005
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<tr>
<td>ASOFERWA</td>
<td>Rwandan Women Solidarity Association</td>
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<td>CADBE/ACRWC</td>
<td>African Charter on the Rights and Welfare of the Child</td>
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<td>CDE/CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CENA</td>
<td>Centres for Unaccompanied Children</td>
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<td>CICR/ICRC</td>
<td>International Committee of the Red Cross and Red Crescent</td>
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<td>CNDH/P/NHCR</td>
<td>National Human Rights Commission</td>
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<td>CNDP/NCRI</td>
<td>National Commission on the Rights of the Individual</td>
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<td>CNT/NTC</td>
<td>National Traumatism Treatment Centre</td>
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<td>National Unity and Reconciliation Commission</td>
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<td>Unaccompanied Children</td>
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<td>FARG/GSSF</td>
<td>Genocide Survivors Support Fund</td>
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<td>FAWE</td>
<td>Forum for African Women Educationists</td>
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<td>FNUAP/UNFPA</td>
<td>United Nations Population Fund</td>
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<td>FOSA</td>
<td>Hygienic Training</td>
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<td>HAMS/HCSE</td>
<td>Hygiene and Cleaning up in the School Environment</td>
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<td>HCR</td>
<td>United Nations High Commission for Refugees</td>
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<td>IPJ</td>
<td>Inspector of the Criminal Investigation Department</td>
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<td>J.O.</td>
<td>Official Journal/Gazette</td>
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<tr>
<td>KURET</td>
<td>Kenya, Uganda, Rwanda, Ethiopia Together</td>
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<tr>
<td>MAP</td>
<td>Multi-sectoral AIDS Control Programme</td>
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<tr>
<td>MIFOTRA</td>
<td>Ministry of the Public Service, Capacity Building &amp; Employment</td>
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<td>MIGEPROF</td>
<td>Ministry of Gender and Family Affairs</td>
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<td>MIJESPOC</td>
<td>Ministry of Youth, Sports and Culture</td>
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<td>MINALOC</td>
<td>Ministry for Local Government and Good Governance, Community Development and Social Affairs</td>
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<td>MINIJUST</td>
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<td>MININTER</td>
<td>Ministry of the Interior and Security</td>
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<td>MINISANTE</td>
<td>Ministry of Health</td>
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<td>MST/IST/STDs</td>
<td>Sexually Transmitted Diseases/Sexually Transmitted Infections</td>
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<td>OIT/ILO</td>
<td>International Labour Organization</td>
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<td>Acronym</td>
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<tr>
<td>OMS/WHO</td>
<td>World Health Organization</td>
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<td>ONAPO</td>
<td>National Population Office</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>OVC</td>
<td>Orphans and Vulnerable Children</td>
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<td>PACFA</td>
<td>Protection and Care of Families against AIDS</td>
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<td>PEDFAR</td>
<td>President's Emergency Program for AIDS Relief</td>
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<td>PNE</td>
<td>National Programme for the Child</td>
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<td>PNLS</td>
<td>National AIDS Control Programme</td>
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<td>PNUD/UNDP</td>
<td>United Nations Development Programme</td>
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<td>R.G.P.H.</td>
<td>General Population and Housing Census</td>
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<td>RDC/DRC</td>
<td>Democratic Republic of Congo</td>
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<td>SOF</td>
<td>Women's Organizational Structure</td>
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<td>UNICEF</td>
<td>United Nations Children's Fund</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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1. INTRODUCTION


3. Rwanda, which had signed it on the 2nd October 1991, had only succeeded in submitting its instruments of accession on the 17th November 1999 and those of ratification on the 30th May 2000. The troubled history of this period, height of the war and the Genocide, constitutes the only explanation for this gap between the two dates.

4. In conformity with Article 43 of the ACRWC, Rwanda should have submitted its Initial Report two years after the ratification of the Charter. A major delay is therefore to be noted; it is due to the fact that this period had been devoted to the drafting of the Initial Report on the Implementation of the United Nations Convention on the Rights of the Child which had been presented to the Child Rights Commission in Geneva in 2002 and had been approved by the said Commission only in May 2004. Considering that the two Reports are closely linked, we had been compelled to wait for the “final observations and recommendations” from the UN Commission in order to refer to it during the drafting of our Report destined for the African Committee (see Section XI of the Instructions).

5. The preparation and submission process of the Report to the Committee on the Rights and Welfare of the Child constitutes a good opportunity for national introspection and evaluation of the policies and laws of the country, of governmental programmes, of civil society and private sector practices as well as the behaviour and aptitude of the community in general where it pertains to the implementation of the Charter. In effect, the drafting of such a Report involves consultations between partners at all levels, both at the central government and grassroots levels, with state and para-statal institutions, non-governmental and international organizations, religious organizations and United Nations Agencies.

6. Through this process, the State re-affirms its will to respect its commitments in promoting and protecting the rights and responsibilities of the Child as prescribed in the Charter. Like the other countries of the African Union, Rwanda asserts that the future of Africa lies in the welfare of its children and its youth, that investment in the children is our collateral for peace, security, democracy and the sustainable development of tomorrow.

7. Apart from the major International and African legal instruments, this Report will draw its arguments mainly from the following major national documents:
1.1 Geographic Situation of Rwanda

8. Rwanda is located south of the Equator, between 1.04 and 2.51 degrees Latitude South and between the 28.53 and 30.53 degrees Longitude East. Situated in the Great Lakes Region, in the centre of the East African countries, Rwanda has a surface area of 26,338 square kms. It lies between the DRC in the West, Burundi in the South, Tanzania in the East and Uganda in the North. As the crow flies, it lies at 1,200 kms from the Indian Ocean and at 2,000 kms from the Atlantic Ocean.

9. Rwanda is morphologically linked to the highlands of Central and Eastern Africa with a mountainous terrain to the North, which gives way to a hilly terrain (Country of a thousand hills) in the Centre, followed in the East by flat terrain, with an overall variation of between 1,000 and 4,500 metres in altitude.

10. From the climatic perspective, Rwanda enjoys a sub-equatorial climate tempered by the altitude. The average temperature fluctuates around 18.55 degrees C whilst the rainfall is about 1,250 mm in average. The rainfall pattern is alternatively distributed in four seasons: a short dry season followed by an intense rainy season, then a long dry season followed by a short rainy season. However, there are regional climatic variations which generally remain traced on the altitudinal levels.

1.2 Socio-demographic situation

11. According to the General Population and Housing Census of August 2002, Rwanda’s total population stood at 8,128,553 inhabitants. The children aged 0 to 18 represented 52% of the total population, namely 4,223,526. 30% of these children are orphans having lost either a father or a mother or both. Rwanda remains one of the most densely populated countries of Africa with more than 321 inhabitants per sq. km and with a population growth rate of about 3%. The fertility rate was more than 5.8 in 2002. The proportion of households living
below the poverty threshold (1$/person/day) was 70% in 1996 and is estimated at more than 60% from 2002.

12. The poverty linked to the genocide is a special feature of Rwanda. Indeed, the vulnerability of the population increased from 1994, accompanied by the emergence of a new class of individuals living in total destitution and trauma. So many more poor households exist today among those that have women and children as household heads, and are characterised by a non-active population which is far greater than the active population.

13. The unequal population distribution between the towns and the rural areas is one of Rwanda’s features. The urban population represents close to 17% of the total population for more than 83% in the rural areas. Now, the available land for agriculture covers about 18,500 sq. kms; so that the physiological population density, compared to the available agricultural land, amounts to 410 inhabitants per sq. km. The pressure on the land therefore is considerable and is increasing in a manner which makes this phenomenon a major challenge for the country. Nonetheless, proper management of the human capital could constitute a source of riches instead of one of poverty.

14. This demographic situation affects the various categories of the Rwandan population differently. Even where the entire Rwandan population suffers currently from the effects of its excessive growth rate, the children and their mothers, the two most vulnerable groups, are the most affected.

1.3. Socio-economic situation

15. Rwanda is a largely agricultural country. More than 90% of the active population is occupied in the primary sector, dominated by agriculture, mainly subsistence cropping. Agriculture contributes by up to 46% of GDP whereas the industry and services contribute by about 20% and 34% respectively. The main export crops are tea and coffee.

16. After the economic disasters which followed the war and the genocide, measures such as the restructuring of the foreign debt, the support from the IMF and World Bank, the abolition of taxes on exports, the rehabilitation of the banking sector, the liberalisation of trade, of the currency and the salary system, the putting in place of a coherent accounting system, the strengthening of the Central Bank’s autonomy and the privatisation and restructuring of the public institutions, initiated after 1994, made the stabilisation of the economy possible. The result of this was that in 2002, the growth rate went up between 6% and 9.9%, GDP increased by 10% and the rate of inflation stabilised around 3.2%.

17. Apart from its commitment towards achieving good governance, Rwanda has pursued the objectives of regional integration as outlined by the CBI (Cross Border Initiative) and the Common Market for Eastern and Southern Africa (COMESA). The country is resolutely engaged in the process to rejoin the Community of East African States (EAC).
18. Investment incentives are outlined in a law passed in 1998 which promulgates the Investment Code. The Free Economic Zone is oriented towards the production of export and re-exportation products.

19. Rwanda is determined to be part of the objectives of NEPAD (passed on the 11th July 2001 in Lusaka) by agreeing to be among the four member countries to submit to the African Peer Review Mechanism.

20. A “Less Developed Country”, Rwanda enjoys free access with no quotas imposed, to the American and European markets, in accordance with the Act on Growth and Economic Opportunities in Africa (AGOA) as well as the Cotonou Accord.

21. However, the progressive dissipation of household agricultural activities, due largely to the demographic growth in a still open settlement is accompanied by a high rate of rural urban migration. The tertiary sector, with its limited possibilities, cannot also absorb the total surplus of rural labour. With regard to the informal or non-organized sector, it is developing quite rapidly and constitutes an important intermediary for the creation of jobs outside the agricultural sector. Nonetheless, the re-capitalization of the countryside thanks to micro-funding, to the development of Cooperatives and Associations, to Labour Intensive Work (HIMO) and to other traditional forms of community solidarity, are measures which are being used to combat rural unemployment, especially among the youth.

1.4 Social Structure

22. The Family, the principal basis of social relations, has been severely affected by the war and the genocide of 1994. The massacres perpetrated during this period were sometimes carried out within the members of the extended family giving rise to fear and distrust within this grassroots community itself and resulting, most often, in the deterioration of friendly relations within close communities.

23. At the social level, the genocide and the population movements which then followed profoundly changed the profile of the Rwandan population. Households lost several of their members, their assets were destroyed, social behaviour was modified and the social fabric was deeply torn. In this context of war and genocide, several thousands of Rwandan children lost their parents or were separated from them. During this period, almost all the children suffered from traumatic experiences as either executioners or victims, some having been wounded or threatened, others forced or led to kill or torture. Numerous children ended up being heads of households, others had been placed in host families, and others in Centres for unaccompanied children whilst a large number of minors remained in the streets.

24. However, even if the bases of Rwandan society had been demolished, considerable effort was deployed to put things right: repatriated refugees and ex-
combatants had been reintegrated; special emphasis was placed on the restoration of security. An operational judicial system, comprising the Gacaca Courts, the Arbitrators College, the Office of the Ombudsman and the National Commission for the Rights of the Individual had been created with a new legal arsenal; a political framework of participative and democratic governance had been established; constitutional provisions relating to gender and to youth matters had been enacted; all this was done in an environment of a unified language and culture.

1.5. Administrative Structure

25. Rwanda has a well decentralised administrative structure. Law No. 47/2000 of 19th December 2000 governs the mode of government of the decentralised administrative entities. Thus, the territory of the Republic of Rwanda is divided into Provinces, including the City of Kigali which is the capital of the country. The Provinces and the City of Kigali are sub-divided into Districts and Towns. The Districts are sub-divided into Sectors, with these also regrouping basic Units. At the head of the Province is a Coordination Committee led by a Governor whilst activities of the Districts and Towns are planned by the District Council and managed by an Executive Committee headed by a Mayor. These latter three institutions are made up of individuals elected by the people. Major restructuring is currently in the final stages to improve services for the population.

II. GENERAL IMPLEMENTATION MEASURES OF THE ACRWC

26. In conformity with Article 1 of the African Charter on the Rights and Welfare of the Child, the Republic of Rwanda, in accordance with its constitutional procedures and with the provisions of the Charter, took the necessary measures to give effect to the provisions of the Charter.

27. The most important measure is that Rwanda has, at different dates, already deposited the instruments of signature, accession and ratification of the Charter and that it has done the same for the United Nations Convention on the Rights of the Child and other optional protocols accompanying this Convention, such as the Protocol on the Rights of the Child concerning the participation in armed conflicts and the one on the sale, prostitution and pornography of children. It, moreover, has signed the Convention 182 of the ILO for the elimination of the worst forms of child labour.

28. Besides this, the country has taken specific measures to harmonise Rwandan legislation and policy with the contents of the African Charter on the Rights and Welfare of the Child so as to apply the latter in several areas.

2.1. The legislative measures

29. On the 26th May 2003, a new Constitution had been adopted by referendum, promulgated and published in the Official Gazette of the Rwandan Republic on
the 4th June 2003. The latter contains the relevant provisions on Human Rights including the Rights of the Child.


31. Specifically, its Articles 27 and 28 are devoted to the Family and to the Child. To quote Article 28: “Every child has the right, whether from his/her family, from society and from the State, to the special protection measures that his/her condition requires, in conformity with the international and national rights”.

32. Before the promulgation of this Constitution of the 4th June 2003, Rwanda had already passed the Law No. 27/2001 of 28th April 2001 on the Rights and Protection of the Child against violence. This Law goes beyond the Convention by introducing, after the Rights, the notion of responsibilities of the Child as the Charter outlines the offences against the Rights of the Child and determines the punishment provided for each of the said offences.

33. Furthermore, prior to the adoption of these legal instruments, Rwanda had improved its Civil Code in favour of gender equality. It is in this context that Law No. 22/99 of 12th November 1999 had been promulgated completing Book One of the Civil Code and Instituting Section Five on the Matrimonial Systems, Liberalities and Inheritances. Let us quote, among others 43 and 51, notably, Article 50: “All legitimate children of the deceased by virtue of the civil laws inherit equally and with no discrimination whatsoever between the children of the male and female gender”.

34. Besides this addition, by means of the civil code itself (Law No. 42/1988 of the 27th October 1988 establishing the Preliminary Title and Book One of the Civil Code of Individuals and the Family), numerous Articles define various measures which are taken in diverse aspects like the name of the Child (58-62), the residence of the minor (84-85), the declaration and the birth certificates (101, 117-120), the education, upkeep and food requirements (197, 200-203), the filiation (307-317), the adoption (332-342) and the parental authority; and, the latter are always favourable to the Child.

35. Similarly, in Decree-Law No. 21/77 of 18th August 1977 establishing the Penal Code, it can be seen that several Articles are devoted to the interest of the Child pertaining to the conditions of abortion (327), the highest interest of the Child (380), the case of girl-mothers, etc.
36. More recently, the legal reform introduced specialised chambers for children in the Courts at the time when the separation of children from the adults was current practice in the prison system. Let us also note that within the National Police Force a special Unit is in charge of the protection of children.

37. Finally, a draft Children's Code is being conceived: preliminary meetings had already brought together Child Rights practitioners.

38. Only a single note of discord is to be highlighted however: with the just concluded judicial reform, a certain legal vacuum is to be noted. In effect, since, nowadays the public Ministry no longer intervenes in civil matters, the interests of minors without parents or guardians who, formerly were represented in the Courts, as wards of the State, by the Public Prosecutor (see Art. 21 of the Law No. 27/2001 of 28th April 2001), no longer have anybody to defend them and one has to wait for the child concerned to attain adulthood. This means, that meanwhile the rights of these children can be violated. Numerous cases come up and will continue to come up where the assets of the children are robbed with impunity by unscrupulous individuals. Nonetheless the Bar Association has tried to remedy this situation by setting up a system of free defence for the destitute.

2.2. The Political Measures

39. During this last decade, after about half a century of bad governance, which culminated in the 1994 genocide, Rwanda acquired important national policy orientation instruments in which investment in the human person, and in the Child necessarily, occupies a place of priority. Let us examine some elements of these mechanisms: Vision 2020 (initiated in 1998, the document was finalised in 2002), through its third principal objective which is to ensure social cohesion and sustainable human development, concentrates on the population whose principal objectives are women's empowerment and increasing the ratio of the population engaged in non-agricultural activities, on education, with the fundamental objective of providing basic education for all by the year 2010, on health, with two key objectives, namely the reduction of infant mortality by two thirds and the reduction of maternal mortality by two thirds by the year 2015, on food security, with the fundamental dual objectives of first, guaranteeing a minimum acceptable level of calorie intake per person by the year 2005 and, then, guaranteeing a level of calorie intake of international standards by the year 2020, on gender equality, with the crucial objective of equal registration of both sexes at the level of tertiary education, on the environment, with a primary objective of the improved exploitation of the natural resources, to increase productivity and improve the living conditions of the rural populations. It is clear that as these objectives are realised, so will the welfare of the Child be guaranteed and his/her rights respected.

40. The second national document contains the Poverty Reduction Strategy (had been approved in June 2002) which, in fact, outlines the detailed implementation of the former on the basis of the results obtained by using the participative
approach with the population and other partners both at the State, civil society and private sector levels.

41. The other national mechanism document is the Government’s Septennial Programme (proclaimed on the 7th November 2003). Out of its four Chapters, three deal, in some way or the other, with the Rights of the Child: Chapter One on good governance, in its Item 5 on Gender and the Promotion of the Family, underscores the implementation of the Family Policy by favouring the Rights of the Child, the suppression of discriminatory laws in gender issues and in the promotion of gender, on the encouragement of women and the girl-child to register at all the levels of education. Chapter Two on Justice, in its Item 3 on the fight against injustice and corruption, seeks to teach the youth, children included, to say no to injustice and to teach them how to refuse to submit to injustice; in its Item 4 on the rights of the individual, it seeks to teach children, whilst they are still young, about the rights of the individual and to teach them the value of the latter. It is its Chapter Four in particular on Welfare (social affairs) which agrees with the implementation of the Charter by advocating specific measures on employment, health, education, information technology and research, as many fundamental rights of the child which will be dealt with in the final specific Chapters of this Report.

42. Apart from these three major guide documents, the decentralisation policy (adopted in 2000), the fourth national reference instrument, provides a large range of possibilities for the implementation of the Charter by making the community and the grassroots authorities participate in the effort to promote and protect the Rights and Responsibilities of the Child.

43. Let us conclude this section by talking about the various sectoral policies of the Ministries which have, as part of their responsibilities, the areas governed by the Articles of the Charter such as Health, Education, Employment, the Child and the Family, Justice, Defence, the Youth and Culture, Social Affairs, areas to which we will return in due course during this exercise.

44. More particularly, in this latter area, considering the widespread of vulnerability in the country, especially among the children, a specific National Policy on Orphans and other vulnerable children had been adopted in 2003.

45. It defines “the Vulnerable Child as an individual of less than 18 years exposed to conditions under which he/she is unable to enjoy all his/her fundamental rights for harmonious development”. It uses this criterion of vulnerability as basis to arrange the vulnerable children in fifteen (15) categories, namely:

1. Children living in families headed by minors;
2. Children living with host families;
3. Street Children;
4. Children affected by armed conflicts;

1 MINALOC, National Policy for Orphans and other Vulnerable Children, Rwanda, January 2003, pp27-45
5. Children living in reception centres;
6. Children in situations of conflict with the law;
7. Physically disabled children;
8. Children who are employed;
9. Children victims of exploitation and sexual abuse;
10. Children affected/infected by HIV/AIDS;
11. Infants with their mothers in prison;
12. Refugee or internally displaced children;
13. Children of single women;
14. Children of poor families;
15. Children who are forced into marriage or are married before reaching the age of adulthood.

Each of these topics will be discussed in the appropriate Chapters in this document.

46. Furthermore, Rwanda envisages to adopt a National Policy in favour of children (of all children), to be harmonized with the Children's Code currently under preparation. It goes without saying that the promotion and protection of the Rights and Responsibilities of the Child will constitute the leitmotiv of this policy. The consultations on this subject with the partners concerned, including Civil Society and the Private Sector, are already underway. The objective being targeted is to ensure that this policy reflects a World Worthy of Children.

47. Unfortunately, some constraints are slowing down the high speed of these policies. The most important of these are the following:
- The lack of adequate resources to allow the implementation of these policies, thereby preventing the attainment of the objectives within the stipulated deadlines.
- The lack of democratic awareness on the part of the populations who are not able to exercise serious control on the delivery of services by their electorate and/or leaders.
- The lack of patriotism of some Authorities who have no respect for public assets and general interests.
- The dependence syndrome which inhibits grassroots participation because the latter have not yet entirely eliminated the habit of having to wait for that which comes from above, of the Welfare State or of foreign "benefactors".

2.3. Mechanisms for the coordination of policies for the Child.

48. The promotion and the protection of the rights, welfare and responsibilities of the Child are a transversal sector. In effect, if one examines it carefully, one realises that whichever way you look at it, all the Services of the country are involved. This Report will, nonetheless, only cite the mechanisms directly involved in the coordination of the policies, programmes and activities which benefit the Child.
49. The Government has put in place an Inter-ministerial Coordination Committee (ICC) of the Social Ministries. It is responsible for harmonizing and coordinating the activities being carried out or to be carried out in the social field. It is made up of the Ministries which have employment, health, education, justice, youth and culture, the Child and the Family and social affairs, within their portfolios. The Committee is supported by a representative of the Ministry responsible for Finances. The technical ICC is headed by the Permanent Secretary of the Prime Minister whilst at the level of the Ministers it is the Prime Minister himself who chairs it. Below the ICC, the Ministers each have a mandate.

50. Since 2003, it is the Minister responsible for Gender and Family Promotion in the Office of the Prime Minister who has been mandated to devise policies and programmes in favour of children and to guarantee their implementation.

51. The Minister therefore coordinates the various related activities carried out by the diverse partners who include representatives of State Services, of Parastatals, of Civil Society, of the Private Sector, of the United Nations Agencies, of the decentralised structures and of the children themselves in some circumstances. From this partnership comes structures which are already operational in the country: the Speakers Forum with a Steering Committee and a Children’s Cluster.

52. Other structures also intervene in favour of the Child even where their primary mission is not the Child in particular. One can cite: the National Commission on the Rights of the Individual (NCRI), the National Police Force, the National Aids Control Commission (NACC), the National Unity and Reconciliation Commission, the National Youth Council (NYC), the National Women’s Council (NWC), the Assistance Fund for Genocide Survivors (AFGS), the National Examinations Council (NEC), the Demobilization Commission, the Maternal and Infant Health Department in the Ministry of Health, the Office of the Ombudsman and the Arbitration Committee.

53. With specific regard to the Rwandan National Youth Council (NYC), it has been designed to be the champion of specific youth matters. It is both the mouthpiece and the attorney of the young people aged from 15 to 35 years. It is therefore clear that it takes care of the group of children aged between 15 and 18 years. Its structure and its organs can be found at all levels of the administration, and is represented in Parliament by two Members.

54. The National Commission on the Rights of the Individual was established by Law No. 04/99 of 12th March 1999. It has been operational since the 24th March 1999.

55. The Constitution of the Republic of Rwanda of 4th June devotes, in its Article 177, a Chapter on the National Commission on the Rights of the Individual. This Commission is a national independent institution responsible notably for: (1) educating and sensitizing the population on the rights of the individual; (2) examining complaints relative to the violations of the rights of the individual,
children included, which are committed on Rwandan territory by State organs, by individuals acting under cover of the State, by organizations and individuals; and (3) carrying out investigations on the violations of the rights of the individual and seizing the competent Courts directly.

56. The NCRI's Activity Report published in July 2004 comprises a Chapter on the major achievements with regard to the Rights of the Child, the violations of the Rights of the Child in the area of Education and the solutions envisaged to restore Rights to children.

57. The idea of setting up a National Children's Forum is underway: already the Children's Summit which brought together 250 children's representatives from all the Districts of the country, from the 29th to 30th April 2004, in a meeting with the highest Authorities of the land and the highly serious recommendations which emanated from it, is adequate proof of its feasibility.


58. Sensitization campaigns of the population on the Rights of the Child had been carried out both for the CRC and for the ACRWC, and continue to be carried out throughout the country by Government institutions, by Non-Governmental and International Organizations, by religious grassroots organizations and by the United Nations Agencies which have Child matters under their portfolio.

59. In this context, the translation of the United Nations Convention and the Africa Charter on the Rights and Welfare of the Child into Kinyarwanda, a unique local language, facilitated the large scale dissemination of these two documents during seminars, conferences and workshops bringing together activists in the area of protection and promotion of the Rights of the Child.

60. Furthermore, training and improvement sessions had been organized for Deputy Mayors responsible for Social Affairs, for Directors of Schools, for Planners in the Provinces and the Districts, for representatives of religious groups, for representatives of local and international NGOs, for Police Officers and Soldiers and even for the children themselves.

61. Various seminars, workshops and specific conferences had been organized to promote the Rights of vulnerable children in particular. One can mention here the seminars on street children, children living in reception centres, children heads of households, children living with host families, refugee children, children in armed conflicts, children in prison and exploited children.

62. As mentioned above, from 29th to 30th April 2004, a National Children's Summit had been organized in Kigali after widespread sensitization of the parents, the children, the educators and the local Authorities at the level of each administrative Division. During this Summit the children's representatives formulated recommendations in relation to the promotion and protection of
their Rights and the Rwandan Government undertook, at the highest level, to implement them. The latter had been summarised in a “Statement of Commitment” signed personally by the highest Authorities of the land including the Head of State himself.

63. The following is the Act of Commitment:

a) To put in place structures at all levels allowing the participation of children in the decision making process concerning them and the monitoring of the realisation of their Rights;
b) To guarantee access to basic and quality education for all children, boys and girls alike;
c) To take care of and protect orphans and vulnerable children;
d) To combat and put a stop to sexual abuse and exploitation of children;
e) To combat HIV/AIDS and increase interventions on behalf of children in this area;
f) To guarantee a society of peace for children and ensure their participation in the re-unification and reconciliation process as much as possible, in the administration of justice.

64. This Summit had provided the opportunity for the Rwandan Authorities to listen to the children, to share with them the conception of the country’s future and that of the world and allowed the leaders of the country to appreciate how constructive the children’s ideas are.

CHAPTER 3. DEFINITION OF THE CHILD

65. In conformity with the Convention (Art.1) and with the Charter (Art.2), Law No. 27/2001 of 28th April 2001 relative to the rights and protection of the Child against acts of violence, in its Article 1 defines Child as “any human being aged less than 18 years from birth unless proved to the contrary”.

66. There is need, however, to point out that some discrepancies exist in Rwandan law between the minimum age for employment, the minimum age for compulsory education, the minimum age for the accomplishment of actions linked to civil or political life, and the minimum age which allows a child to be held responsible from the criminal point of view.

67. Article 360 of the Civil Code, Book One (OJ No. 1 of 1st January 1989) defines the minor as being an individual of either sex who has not yet attained twenty one years.

Coming of Age

68. Article 431 of the Civil Code fixes the voting age at twenty one (21) full years. At this age, one is capable of accomplishing all the requisite acts of civil life, except
for those exceptions determined by law. It is in this context notably that, the provisions of Article 171 of the same Book prohibit marriage between a man and woman of less than full twenty one years except where a dispensation of age is granted by the Minister of Justice and this for serious reasons.

69. Article 47 of the law No. 27/2001 of 28th April 2001 relative to the rights and protection of the Child against acts of violence, reinforces the provisions of the Civil Code which fixes the voting age at twenty one years whilst defining the early and forced marriage as: “Any co-habitation as man and wife in a case where one or the two partners have not yet reached the age stipulated by Book One of the Civil Code is considered as early marriage”.

70. “Is considered as forced marriage is the situation where the married woman has not yet attained twenty one years and has not given her consent”.

The Legal Majority

71. The Rwandan Criminal Code, as revised and amended to date, fixes the legal majority at over 14 years (Article 77). Nonetheless, since the interest of the Child supersedes all, the Child, in case of condemnation, benefits from the excuse of minority if he/she is aged between 14 and 18 years and if he/she commits an offence. This means that the Child aged less than 14 years is not criminally responsible.

72. The excuse being referred to in this Article 77 is the following: “where the perpetrator or the accomplice of a crime or an offence was more than 14 and less than 18 years old at the time of the offence, the penalties would be pronounced as follows, that is if he/she is liable to penal condemnation: “- where he/she has incurred the death penalty or life imprisonment, he/she will be condemned to a penalty of 10 to 20 years in jail;

“- where he/she has incurred a prison sentence or a fine, the penalties that are likely to be pronounced against him/her cannot be more than those which would have been pronounced if he/she were only 8 years old”.

73. Law No. 27/2001 of 28th April 2001 on the rights and protection of the Child against acts of violence, in its Article 21, specifies that the Child that has no guardian and who has to appear before the Courts, shall benefit from legal assistance provided by the State. It should be added that in case of imprisonment, the Child is separated from the adults. Law No. 13/2004 of 17th May 2004 establishing the Criminal Procedure Code (Art. 60 and 184) stipulates that minors aged twelve (12) years are allowed to testify as adults (60, parag.1) and that the minor aged twelve (12) cannot be placed under police custody (184, parag. 1).
The Voting Age

74. In electoral matters, Law No. 42/2000 of 15th December 2000 relating to the organisation of elections at the grassroots administrative levels stipulates that to be a voter, one has to be 18 years and over (Article 8), whilst to be eligible, one has to be 21 years and over (Article 10).
75. Still pertaining to electoral matters, article 5 of the organic Act No. 17/2003 of 7th July 2003 on presidential and legislative elections stipulates that “Are allowed to vote, all Rwandan citizens attaining the age of 18 years by the election date, that have been registered on the electoral lists during the registration period as fixed by the National Electoral Commission, in accordance with his civic and political rights and who are not disqualified according to article 10 of the current organic act.”

76. Likewise article 21 of the same act elaborates that “Are eligible as parliamentary representatives, all Rwandan nationals aged between the years of 20 and 21 years; upright citizens, who are not disqualified by article 10 of the current organic act.”

Labour Laws 2

77. The Rwandan labour Laws, in article 61, prevent companies from employing children under the age of 16 years for night work, and in article 65, paragraph 1 that children under the age of 16 cannot be hired as apprentices. The same article adds that children under the age of 16 cannot be hired for night shift, heavy, hazardous or dangerous work to safeguard their health and physical development. A list categorising such types of work was prepared by order of the Ministry in charge of Labour. The proposal for the order has been formulated. It lists employment conditions and categories from which pregnant and nursing mothers are to be excluded.

78. Act 27/2001 of 28th April 2001 on the rights and protection of minors from abuse, in article 18, stipulates that: “Any work undertaken by children should not expose them to compromise that compromise his upbringing or damage his health or physical development. Companies are prohibited from hiring children under the age of 14 years.”

79. Considering the fact that certain laws, especially labour laws contradict provisions in the African Charter on the Rights and well-being of the Child, the Rwandan government set-up a committee to identify all provisions in it’s Constitution that are contradictory to the principles and provisions on children’s rights among others. From investigations undertaken by the committee, revision will eliminate from the current legislation discrepancies concerning the minimum age. This will culminate with the adoption of the Child laws.

CHAPTER 4 GENERAL TERMS

4.1.1 The right to non discrimination (articles 3 and 26)

80. The Constitution of the Republic of Rwanda of 4th June 2003 prohibits the following in very clear and precise terms; discrimination in any form whatsoever. “All Rwandan nationals are born and remain free and equal
All discrimination based on race, ethnic clan, tribal, skin colour, sex, region, social origins, religion or belief, opinion, wealth, cultural differences, language, social standing, physical or mental disability or and any other type of disability or any other form of discrimination is prohibited and punishable by law” (article 11).

81. ”All human beings are equal before the law. They have equal rights to protection before the law without discrimination whatsoever” (article 16).

82. These two provisions are very pertinent in that they reserve equal rights for boys and girls and reverse traditional tendencies that favour the male child above the female.

83. Act 27/2001 of April 28th 2001 simply mentions “children” without distinction. Articles 4, 5 and 8 also use the terms “All” and “each” implying no distinction whatsoever.

84. The principle of non discrimination is again reinforced by provisions in articles 323, 326 and 331 of Act 42/988 of 27th October 1988 establishing the Preambule heading and the First book of the Civic Code underlining equal treatment of all children regardless of the circumstances of their birth. According to the terms of those 3 articles legitimate children, recognised, or whose paternity or maternity is established following legal action or paternity or maternity suit, have the same rights and obligations as the legitimate children of the same parents.

85. This in itself is a radical change from previous provisions in previous legislation such as the 4th May 1895 decree, which made an explicit distinction between illegitimate children (born out of wedlock) and children born legitimately (article 26). Children born out of wedlock were not recognised according to law and could not enjoy the same rights as children born legitimately.

86. The Rwandan government made tremendous efforts to eradicate discrimination between the sexes (boy and girl), men and women which existed previously especially in inheritance and matrimonial matters. It was in this vein that on 12th November 1999, by act 27/99 introduced to complement the First book of the Civic Code adding a 5th Section on marital, civil liberties and inheritance laws.

87. According to the principles of this new law, all children, whatever their age or sex, share the same rights and obligations in terms of inheritance and civil liberties. The girl child has the same right to inherit as her brother in contrast to legislation preceding November 1999.
4.2 The Best Interest of the Child (article 4)

88. The term “Best interest of the child”, signifies all matters that serve and promote the rights of the child as opposed to the interest of others.

89. The best interest of the child is not a new notion in Rwandan legislation. It stems from a major preoccupation of the government and its agencies. This notion of “best interest of the child” appears in the Constitution of the Republic of Rwanda, specifically in article 28 where it is stated that “all children have the right to enjoy special protection of his person by members of his family, society in general and the state in line with national and international laws”.

90. The Criminal code fixes the age of legal majority above the age of 14 years (Criminal code, article 77). This means that up to that age the child cannot be held liable for any criminal acts committed because he is considered to be lacking in judgement. His best interest has to be taken into account permitting him where judgement is passed against him to be exonerated because of his minority if he is between the ages of 14 and 18 years of age.

91. Act 27/2001 of 28th April 2001 on the rights and protection of the child from abuse clearly states in article 9 that in all decisions affecting the child, his interest are to be safeguarded and article 21 further elaborates that the child that has been condemned to serve a prison term must be incarcerated in an area separate from other the adult inmates.

92. According to the Civic Code, Book 1, articles 248 and 249 on divorce proceedings, the judge has to take into consideration the interests of the children involved. As far as divorce cases are concerned, the fate of the child is solely in the hands of the presiding judge. He alone has the prerogative to decide to place the child in the custody of one or the other of the parents or a third party. Whatever the case may be he has to make a descide on the fates and properties of the persons involved as well as the children.

93. Decisions made according to previous provisions are applicable but do notwithstanding legal recourse consideration of the rights of the child (article 254).

94. The couple involved in divorce or separation petitions by mutual consent, have to deposit a notarised agreement designating the person in whose custody children born of their union or adopted by them are to be entrusted, either during the course of legal proceedings or at the time of the divorce pronouncement.
(articles 260 and 288).

95. Articles 283 to 286 concerning on divorce proceedings, underlines that the best interest of the child that has to take precedence. The children are placed in the custody of the parent favoured by the court, by order or acting on the request of one of their parents or Ministry of Public Health, orders in the best interest of the children, that all or some of them should be put in the custody of one of the parents or a third party.

96. According to article 285 of the Civic code, the annulment of marriage by divorce should not deprive child born of this union to enjoy the advantages that are guaranteed by law or marital engagement of their mother and father. Their children’s rights remain intact in the same way and under the same circumstances after divorce as during the marriage.

97. Still on divorce proceedings, article 286 states that in case of divorce by mutual consent, the ownership of half of the of each parent should be acquired in full title by the children born of the union immediately at the moment of the divorce pronouncement.

98. In terms of adoption, article 339 indicates that adoptive children have the same rights and obligation as the children of the adoptive parent, except in specific cases as mentioned in the same article.

99. Country policy maintains that each child has the right to be brought up within a family unit. However if the father or mother abuse their parental rights, article 359 of the Civic code stipulates that the court has the discretion to deprive the parent of his parental rights temporarily or permanently in the best interest of the child. In such a case, the state uses its discretion to separate the child from his parents and to transfer him to appropriate care.

4.3 Right to Life, Survival and Development (article 5)

The right to Life and Survival

100. The right to life is validated by the Constitution of 4th June 2003, the chapter on the fundamental rights of the people, in article 12 states that “All persons have the right to life, No one can arbitrarily be deprived from his right to life. Act 27/2001 on the rights and protection of the child from abuse provides in article 4 that all children have an inalienable right to life from the moment of conception and that abortion is prohibited except for the purpose and in conditions determined by law. In article 29, this legislation refers to the provisions in the criminal Code concerning punishment for abortion that causes the loss of life. It is very severe in the sense that it considers the voluntary act of termination of pregnancy and attempt to terminate a pregnancy as a crime and offence respectively.
101. This law punishes the attempt to terminate a pregnancy with a prison sentence of 6 months to 3 years. However, in consideration of the interest of the child, this sentence is suspended for the whole duration (article 30 paragraphs 2 and 3). For other cases of abortion, the same law, articles 30 and 31, appear very severe for imposing longer terms of imprisonment than the criminal code. Since the new law supercedes previous legislation on the matter, the judge that decides on abortion cases, has to apply the new law.

102. Act 21/77 of 18th October 1997 establishing the criminal code as modified and updated, qualifies as infanticide, according to the circumstances, as manslaughter or assassination of a child at the moment of it’s birth or shortly after (articles 311 and 312). According to the circumstances pronounced by the judge, the defendant accused of infanticide is either liable to life imprisonment or death sentence (article 314).

103. Abortion constitutes an act that deprives the child of it’s right to life. It can occur spontaneously or with the consent of the mother. It can also be done without the consent of the woman. A woman may attempt to deliberately terminate a pregnancy or get an abortion. Whatever the case, the motives and circumstances surrounding the case, abortion constitutes an offence and a crime. Therefore the terms within Criminal code as modified and updated pronounces on all of the above-mentioned circumstances at the same time (articles 325-326 of the Criminal code). However abortion is permissable if it is done for motives or in the circumstances acceptable by law (articles 327-328 of the Criminal Code).

The right to grow

104. According to the terms of articles 197 and 200 of the Civic code, all is the duty of all parents to take care and bring up their children. Caring for a child includes giving him proper nourishment. Whenever on of the parents neglects this duty, the other should do everything in his power to address this in the interest of the child. The Ministry of Public Health also shares this responsibility.

105. Act 27/2001 of 28th April 2001 on the rights and protection of the child from abuse elaborates in article 7, that the child’s has the right to know who his parents are and to be brought up by them. The child who cannot live with his parents, has the right to have his basic needs provided by his parents and to visit them whenever he wants as long as this does not endanger his life or undermine the security of the country. The same provision recommends that the child should live with his mother before the age of 6 years and if it would not be to his detriment.

106. In the best interest of the child, and according to this law, all children orphan children should be under guardianship, under the care of adoptive parents or in
the custody of the proper establishment for such category of children. An orphan child without a guardian or adoptive parent should be the ward of the state.

107. According to the Civic Code, article 16, from the moment of conception, a child has to enjoy the same civil rights as long as he is born alive. From the time of conception, the child is assumed to be carried to term as long as it serves their interest.

4.4 Respect of the opinion of the child (article 7)

108. According to the Constitution of 4th June 2003, article 33 on the freedom of thought, opinion, conscience, religion, culture and congregation are guaranteed by the state under the conditions outlined by law.

109. Act 27/2001 of April 28th 2001 on the rights and protection of the child from certain types of abuse, in article 9 states that the interest of the child supersedes all other considerations, that the child has the right to freely express his opinion on all issues concerning him and that his voice should be heard directly in all legal or administrative proceedings serving his interests or through the intermediary of his representative.

110. It is within this framework that, for example, in adoption cases, the child has the right to express his consent regarding the matter in the same way as the adopting parent. In case the child is not of the age of legal consent, his parents act on his behalf (article 340 of act 42/1988 of 27th October 1988 Preambule and 1st Book of the Civic Code).

111. Children should equally be given the opportunity to express themselves in the courts as bonafide witnesses in cases where their best interest is at stake. Their opinions are more than relevant as was demonstrated during the genocide trials conducted by the GACACA legal proceedings throughout the country. The main objective is to expose the truth as well as shed light on events that plunged Rwanda into mourning in 1994.

112. The children have to bear witness to events that they have witnessed, lived through, or heard about the genocide.

113. In all legal or administrative matters affecting the child that is capable of speaking for himself, he has to be given the opportunity to speak.

114. Therefore, mindful to safeguard his inalienable rights, the child has to be informed of existent legislation of interest to him and the various legal recourse that he can have at his disposal or through the intermediary of his legal guardian or representative to defend or obtain his rights. He has kept abreast of unfolding events in civil as well as criminal cases.

115. The right to information can also be manipulated to serve the best interest of the
child, in the form of summons or subpoena, prepared accordingly. The child, his guardian or his representative who has been assigned parental rights, is often called to testify in the same capacity as other defendants.

116. The child's voice has to be heard not only in all legal or administrative matters that concern them directly or through the intermediary of their representatives, but also during the course of international, regional and national conferences organized for their benefit.

117. Several sensitisation campaigns have been organized in the communities to promote children to express their opinion and views on events happening around them.

118. Therefore, the active participation of children in conferences, seminars and workshops on issues affecting them a perfect example of children expressing their opinion, a fact that should be taken into consideration when preparing national policy affecting children.

119. The experience of the 1st National Conference on the Rights of the Child organised in Kigali in August 2000 under the chief patronage of the 1st lady is a perfect example. The conference which lasted a week, brought together state ministers, Members of parliament, representatives of United Nation agencies, members of the diplomatic corps accredited to Kigali, Non Government organisations, political and religious bodies, children's representatives.

120. Children were given the opportunity to participate fully in all aspects of the conference. It turned out to be an opportune moment for their voices to be heard through their own testimony of their living conditions views on and issues that they shared with other participants.

121. Furthermore, the children themselves headed the National Children's summit organised from 29th-30th April 2004 during which they expressed their opinions on the problems they encounter in the country and offered their own solutions. This was an opportunity for them to be heard not only by their parents or guardians but by the highest authorities in the land.

4.5 Access to information and child advocacy and participation (articles 4, 7 and 12)

122. According to the Constitution of 4th June 2003, Article 34 on Freedom of press and the right to information are recognised and guaranteed by the government but must not be allowed to interfere with public order or moral values, the protection of youth and children as well as the rights enjoyed by all citizens in preserving their honour, good reputation and the intimacy of private and family life.

124. This law requires from the state and society in general to promote publication and literature for the benefit of children. It recommends that parents or guardians and educators should protect the child and give him good advice according to his age and maturity.

125. The National Population Policy on sustainable development 3”, the chapter on the protection of children specifically stipulates “inform children of their rights and obligations in the classroom, counseling services, youth clubs and grass roots communities”.

4.5.1 The Press, newspapers and Periodicals

126. National radio and television stations on the one hand and national and
private written and broadcast on the other hand organise and publish on a regular basis, programmes designed for the intention and attention of children. These programmes are closely monitored to ensure quality programming and newspapers and suitability to ensure that children are sold products adapted to their level of development.

127. Newspapers and periodicals for children are published in Rwanda. They are HOBE in print since 1957, 5 years before independence; BAKAME publishers, in print since 9177, mainly publish works for children for use in the school system; IMVAHO NSHA, a forthnightly magazine, which dedicates an entire page in each edition to human and children’s rights.

128. A comic book is published regularly at the initiative of the SARA Club, launched by the Eastern and Southern African UNICEF Regional Office, to reach boys and girls aged between 0 to 14 years focuses on capacity building for and awareness training on child rights, particularly on the prevention of HIV/AIDS.

129. It is quite deplorable however, that certain newspapers do not pay enough attention to language and images they print that may shock children and violate article 34 of the above-mentioned Constitution.

4.5.2. Primary and Secondary Schools

130. Nowadays, in all the primary and secondary schools, lessons cover Human rights in general and the rights of the child in particular, as part of the curriculum.
131. However, as concerns civil liberties (freedom of opinion, thought, information, etc.), one has to admit that traditional tendencies to stifle the child's voice weigh heavily in the community and within the family circle of most families. Much more needs to be done for the child to fully enjoy all his rights.

V. CIVIL RIGHTS AND LIBERTIES

5.1 Family Name, Nationality, Identity and Registration at birth (article 6)

5.1.1. Family Name and registration at birth:

132. Traditionally, the naming ceremony is a very important event that brings together the extended family, neighbours, friends of the parents and especially the children in the life of the family. However, official birth registration, the right to carry a family name and identity are often neglected especially in the rural areas.

133. According to written law, the use of the family name is the easiest way to identify an individuals (article 57 of the Civic code). All individuals have to be given his own last name and possibly one or two first names (article 58 of the Civic Code). The family name and eventually first names should be given not later than fifteen days after birth (article 59 of the same code).

134. Act 27/2001 of 28th April 2001 on the rights and protection of the child add that: “at birth, every child must be given a name and be registered according to law”.

135. Parents are therefore obligated by law to register the birth of a child not later than fifteen days after birth together using the hospital medical record (article 117 of the Civic code).

136. The birth certificate records:

1 The year, month, day and place of birth, the sex, first and last name(s) of the child;
2 The Last Names, first names, age, professions, residence and addresses of father and mother and that of the person registering whenever it is applicable;
3 The first and last names of the person who issued the medical record provided.
4 If the father or mother of the child are unknown, this fact should also be stated on the register (article 118 of the Code).

137. It would be prudent to note that certain mothers abandon their babies right after birth and the number of children thus abandoned increases daily. No studies have yet been undertaken to determine the number of children abandoned in this manner and the reasons for this phenomenon although it is obviously stems from social and economic factors such as poverty, and unwanted pregnancies.
138. These abandoned children are deprived of their right to know who their parents are or the right to be brought up by their parents (article 7, 1st paragraph of the 27/2001 law of 28th April 2001 on the rights and protection of the child), to have a name and be registered within the legal time limit. Fortunately, a number of these children are taken-in by families or put up in state run establishments that usually assign first and last names for these children and register them.

5.1.2. Nationality of the child

139. The June 4th 2003 Constitution, in article 7, is very clear and precise on the question of nationality, it goes on the premise that every person has the right to nationality and the fact that persons of Rwandan origin and their offspring have the right to acquire Rwandan nationality if they so require.

140. Act 27/2201 of 28th April 2001 on the rights and protection of the child from abuse, states that “the child has the right to obtain Rwandan nationality according to the laws governing acquisition of nationality” and elaborates that the child, born of a Rwandan mother and foreign born father, automatically obtains Rwandan nationality (article 6, paragraph 2).

141. The organic Act 29/2004 of 3/12/2004, Rwanda nationality clause, lists the conditions for obtaining Rwandan nationality and in article 4 declares that “Are considered Rwandan citizens, all children who have at least one Rwandan parent”

142. All legitimate or natural born children automatically acquire Rwandese nationality on account of their affiliation with their parent (article 3). All new born children abandoned in Rwanda whose parents remain unknown automatically acquire Rwanda nationality. This privilege is withdrawn if during his childhood, the child’s affiliation is established to a foreign national and he acquires his father’s nationality according to the national laws of the father’s country.

143. Considering the best interest of the child, the nationality clause states in article 23 that the loss of the parent’s nationality cannot be extended to minor children of the of the offending parent.

5.1.3. Preservation of the Child’s Identity

144. The general rule is that each child maintains the nationality acquired from birth and at registration. However, if there is just cause or by making a request to the Justice Ministry on behalf of the person involved, it is considered lawful to change the first and last names of a person (article 65 of the Civic Code). Even in adoption cases, article 337 of the Civic code states that “the adopted child
maintains his first and last names on his birth certificate”.

145. Indeed, during and after the war and genocide of 1994, some children lost their identities, first and last names, whereas others were never given the chance to be given a name or identity. This applies to children evacuated to Europe, Africa and America. Also affected were children abandoned and taken-in as refugees at an early age by other countries or by the CENA Homes for children. Many children were repatriated after the war. Others, still cannot be identified or who lost their parents were adopted illegally by the foreign families, as was the case of 41 children adopted at BRESCIA in Italy. Attempts have been made to repatriate these children and re-establish their rights to Rwanda nationality.

146. Eager to re-establish the identity as soon as possible more than 14.000 children who found themselves housed temporarily in 86 Children’s homes in the aftermath of the 1994 genocide, the government, in collaboration with the United Nation agencies and NGOs, set up family tracing and reunification programmes. This operation made it possible for most children to be reunited with their families by the end of 2001. There are about 3600 of them are still spreadout in the 27 children’s homes. Amongst these children, there are socio-economic victims and abandoned children. The photo tracing method, radio message and profiling for each child, designed in collaboration by UNICEF and the IRC have been very effective and have made it easier to trace and reunite families.

5.2 Freedom of expression (article 7)

147 This notion has evolved somewhat, especially after the war and genocide of 1994. With the new Constitution, freedom of expression is guaranteed by law (articles 33,34). Act 27/2001 of 28th April 2001 on the rights and protection of the child from abuse gives the child the right to freely express his opinion on all matters affecting him (article 9, paragraph 2) and the right to freely express his ideas without fear of the laws and traditional considerations of the country according to his age and maturity. The state and society in general have to participate in the production and distribution of books and newspapers and produce special programmes for children (article 11).

148 It is within this framework that “Bourgmeste, defender of children’s rights”, financed by UNICEF and MINALOC, promoted artistic productions, songs, poems, sketches and other works written and performed by children.

149 We must not pretend to ignore cultural tendencies, habits and traditional practices in relation to the child as concerns decisions affecting his family. The voice of the child is still quiet. Dialogue between parents and children still needs improvement. Tradition would have us believe that children must obey their parents without question, especially the father. The child has little say in decisions affecting him. Things are changing very rapidly.
5.3 **Freedom of thought, conscience and religion** (article 9)

150. Freedom of thought, conscience and religion are rights recognised by the constitution of the republic of Rwanda of 4th June 2003 (article 33, paragraph 1). It is guaranteed by the state according to conditions defined by law and applies without discrimination to all Rwandan nationals, adults as well as children, women as well as men.

151. As far as the child is concerned specifically, further elaboration on the nature of this law were given by 27/2001 act of 28th April 2001 on the rights and protection of the child from abuse. In article 13, it is stipulated that "According to his age and maturity, the child has the right and freedom of thought, conscience and religion". Parents and guardians have the obligation to advice and guide them to the proper way enjoy these rights according to his best interest. In reality, freedom of thought for a child is expressed mostly through cultural representations where young artists express their ideas without adult censorship.

152. As regards expression of freedom, conscience and religion, parents are expected to guide their children who have not attained the age of reason. They have to choose for their child the religion or moral values that correspond with their beliefs. Article 7 of the presidential act 509/13 of October 10th 1985 pronouncing on the General Regulation for Primary, Rural and Integrated Arts Education, stipulates that "The head of an institute of learning must guarantee that students receive instruction on religious matters and moral values. It is also expected that each child is and remains free to practice the religion of his choice. He must not be forced by any person whomever to adhere to the religion of the proprietor of the any educational institution as was the practice with missionary schools in Rwanda.

5.4 **Freedom of association and peacefull assembly** (article 8)

153. Freedom of association is a fundamental right guaranteed by the Constitution of Rwanda and does not require prior notification" (article 35) Freedom of peaceful and unarmed assembly are guaranteed according to the conditions fixed by law (article 36)

154. All Rwandan nationals can enjoy these rights that do not discriminate between men and women, adults or male or female children, young or old people alike.

155. Article 12 of the 27/2001 act of 28th April 2001 on the rights and protection of the child from abuse reinforces this point of view particularly as concerns the child by stipulating that"All children shall enjoy freedom of assembly and peaceful gathering".

156. Children and young people in particular are at liberty to chose the associations
they want to belong to be it at school or on the hill. Many young people are members of certain youth clubs such as the Boys Scouts/Guides, Club Xavieri, the JOC, the JOCF. They form cooperatives and other associations that either earn revenue for themselves or help them to succeed in whatever endeavours the want to undertake. It is most interesting to note that the state and government representatives on all levels have always given their moral and financial support to this type of initiative.

5.5 Protection of Privacy (article 10)

157. The Constitution of the Republic of Rwanda stipulates in article 22, 1st, that “No one can be deprived of his privacy, his family, his home or correspondence, violation of his honour or reputation”.

158. Even though neither the Constitution nor other current laws in the country explicitly mention protection of the private life of a child, it is clear that this provision applies indiscriminately to all Rwanda nationals, men or women, young and old, adults and boys or girls likewise.

158. Of course neither home nor correspondence of the child should be violated at any time unless in cases and circumstances defined by law.

5.6 Protection of the child from abuse and torture (article 16)

160. Battering and beating, torture, cruel treatment, inhuman or degrading or treatment or other serious abuse perpetrated on the person of the child, constitute actions that are prohibited by the Rwanda Criminal code. The constitution of 4th June 2003, in article 15 declares that:” All people have the right to enjoy their physical and mental integrity and no person should be victimised with torture, suffering or inhuman or humiliating treatment.”

161. Likewise Article 20 of the 27/2001 Act of 28th April 2001 on the rights and protection of the child from abuse retains the notion that “The child must not be the victim of torture nor pain or cruel, inhuman or humiliating treatment”.

162. Article 32 of the same act prescribes imprisonment of 4 months to 3 years and a fine of 5.000 to 200.00 Rwanda francs to anyone who inflicts cruel treatment, suffering or inhuman or humiliating treatment on children. Nevertheless, as has been encountered previously, there is probable cause to state that nowadays some parents and some welfare officers caring of vulnerable children living in children’s homes, are calling for the return of caning as a form of disciplinary correction.

163. The type of punishment reserved for persons found guilty of such violations vary according to the circumstances under which the act was committed, facts, age of the victim, the physical or mental condition of the child victim, and according
to the seriousness of the consequences of each case. Anyone who voluntarily beats and wounds a child under the age of 14 will be served with five years imprisonment and must pay a fine not exceeding 20,000 Rwanda francs or serve only one of these sentences. If the beating causes the death of the child, the sentence would be for life imprisonment or capital punishment depending on whether or not the intention was to cause death of the victim (articles 323, paragraph 1 and 324 of the criminal Code).

V. FAMILY UNIT AND PROTECTION FROM DISPLACEMENT

164. Rwanda tradition places great emphasis on the role of the family unit first, the extended family next and finally the community for the normal development of the child.

165. The Constitution of 4th June 2003 bases its argument on this good practice in article 27 that the family represents the natural pillar of society, that its integrity should be protected by the state and that parents have the right and obligation to bring up their own children.

166. The 27/2001 act of 28th April 2001, mentioned in different articles belie the preoccupation that each child must have someone to look after him: his parents, his adopted parents, his guardian, his caregivers or the state. Article 7 insists on the fact that the child has the right to know who his parents are and be brought up by them.

6.1 Parental supervision (article 20)

167. Children have the right to belong to a family unit within which they feel loved, understood and that have their best interest at heart.

168. In this family unit, the parents have to give good advice adapted to their personal growth and strengths to prepare them for when going out on their own into the world all in the spirit of peace, dignity, tolerance, civil liberties, equality and solidarity.


170. For his part, article 13 of the 27/2001 act of 28th April 2001 on the rights and protection of the child from abuse states in paragraph 2 that parents or guardians of a child should offer good advice and show him the best way to enjoy these rights in his best interest.
171. It is a fact that traditional practice permitted older family members or others from within the community to exercising parental rights; exact punishment and make sure that the child behaved according to good moral standards within his family circle as well as in his community. Each member of this group had the authority to bring the child to order.

172. This collective solidarity acted in lieu of the parents in case of absence or whenever the latter were not able to assert their responsibilities.

173. However modernisation and individualism has done away with this community service leaving an environment of guilty indifference. Note also that the climate of suspicion and distrust that exists between neighbours and even between members of the same family, a direct result of the war and genocide has negatively impacted this good practice.

6.2. Parental obligations (article 20.1)

174. All minor children are placed under parental control. Rwandan legislation is very clear on this matter: according to the terms of article 345 of the Civic Code, parental custody is given to the father and the mother, for children ties with both and a tutor for children who have not been recognised, orphans without mother or father and abandoned children.

175. Article 350 of the Civic code states that the custody laws impose that the father and mother should take care of and bring up the child according to their means and financial status.

176. Based on these provisions it is safe to assume that parental rights is the prerogative of the person to whom it has been conferred but also a duty that one cannot escape from. In reality, parental control imply custody of the child and guardianship.

6.2.1. Custody:

177. article 84 of the Civic Code fixes the legal of the minor child in the custody of the person who has parental rights over him. Therefore the home of a legitimate child is that of his father or his mother. When the child is under guardianship, his home is that of his guardian. Consequently, the child cannot leave his family home without authorisation of his parents or his guardian.

178. The law determines the conditions in which a child can be removed from this home. The parents can exert punishment on the child to stop him from leaving home. This same right is transferable to any person who has been conferred
with parental rights.

**Social advantages of legal custody:**

179. According to the terms of article 68 of the 51/2001 act of 30th December 2001 establishing the labour laws, mothers are entitled to maternity leave of 12 consecutive weeks, of which 6 weeks have to be taken after the birth of the child.

180. For the father of the child, they are entitled to lesser paternity leave. The number of days used to be 4 days according to the presidential act no. 6/01 of 6th march 1996, to determine compassionate leave and fix the number of days allocated, Act 51/2001 fixes it at 2 working days.

181. Leave for parents whose children are sick has not been clearly defined in the current legislation. It is however tolerated and negotiations are underway to formalise this. Paid leave for parents in such circumstances are covered in three official documents, namely:

   (1) The Labour laws in article 68, paragraph 3 fixes maternity leave wages at 2/3 of the regular wages:
   (2) Presidential act 06/01 of 6th march 1996 modifying presidential act 442 of 10th may 1990;
   (3) Presidential act 69/03/2 on Regulations of Central Government Agents determines the remuneration for compassionate leave

182. To give working parents the chance to look after their children and fulfil their professional obligations, article 129 of the labour Laws allows two half hour breaks for breastfeeding mothers.

183. As opposed to previous laws, custody rights implies a lot more providing nourishment but includes school fees and providing all the child's basic needs until he comes of age or finishes his studies.

184. To make sure that employers fulfil their contractual obligations, the labour laws impose on employers to provide free medical care to employees and members of their immediate family. The Civil Service General Order guarantees the same rights to civil servants.

185. Furthermore, a survivor's pension is available for the surviving children of deceased employees contributing to the Social Fund. However, Social Coverage Policy currently being drafted includes compensatory measures.

186. In reality, these arrangements are not very helpful. In fact, Social security only covers a small part of the population that contributing to the Social Fund.
187. Anyhow, many children are employed as domestic help in homes without regulations or measures to check their working conditions and terms of employment which leaves room for abuse to take place.

6.2.2. Guardianship

188. According to article 352 of the civic code, the father or mother where it applies serve as trustees for the personal properties of their children. The mother has to supervise and make sure that the child’s property are not squandered. The two trustees must agree on the type of trusteeship to adopt and in case of dispute, the judge has to intervene to decide according to the child’s interest.

189. Article 353 limits the father to simple trusteeship. That way he is prevented from disposing of the property or any other acts likely to strain the property of the minor without authorisation of the court. The latter would decide if the particular action should take place and to refuse if it is not convinced.

6.2.3. Penalties on Parental rights

190. The law lists the penalties meted out to persons neglecting or abusing their parental rights and duties and persons prevent parents from exercising these rights. There penalties can be of civil or criminal nature.

Criminal Penalties

191. Article 380 of the criminal code defines sentences ranging form a fine of 20,000 francs to 2 months to 2 years imprisonment for the person who neglects all or any of his moral or financial obligations inherent with his parental responsibilities. These same sentences are applicable to the father and mother who mal-treat children under their care or who compromise his upbringing with “blatant acts of habitual drunkenness and notorious bad behaviour, lack of care or lack of proper moral direction”. Neglect or exposing a minor child not capable of taking care because of his physical or mental incapacity are also punishable according to the criminal code, article 383, by a fine of 500 to 1000 francs and or one month to one year’s imprisonment. These sentences can be commuted to a fine of 1000 to 10,000 francs and or six months to five years if the perpetrator of the crime is the father or mother of the child or by a person under whose custody a child has been placed (article 385 of the criminal code).
192. The Ministry of Public health or any persons interested can equally deprive parental rights by informing the court of notorious misconduct or ill treatment and suffering inflicted on a child (article 359 of the Civic code). Parental control can also cease if the person who has custody is condemned in a criminal court.

193. Perpetrators of kidnappings or child substitution are punishable according to article 255 of the criminal code. The penalty is a fine of 10,000 francs to 50,000 francs and 1 – 10 year’s imprisonment.

Civil Penalties

194. According to article 260 of the civic code, parental custodians have to pay for any damages a minor in his charge causes to others. They have refund damages caused on behalf of the child, unless he can prove that at the time that the offence was committed the child was in the custody of a third party or that he had done his utmost to avoid the situation.

6.3 Separation from parents. (articles 19.2 and 3 and 25)

195. The rwanda government has put in place several measures to prevent children from being separated from their families. In this respect, they consider that the family the represents the 1st line of defence for the child. Indeed the further away he is from his family the more vulnerable he becomes. Children separated from their families as well as street children or those placed in children’s homes are more at risk to being marginalized or ill treated. It is with the objective to prevent this marginalisation and ill treat that the government included the clause in the civic code (article 249) that children are to be separated from their family only if it is in their best interest.

196. Act 284 of the same code states that no matter who has custody of the children the father and mother have the right to supervise the upkeep and upbringing of their children.

197. In the penitentiary system, woman living with their babies are only separated from them when the baby reaches 3 years of age according to the Ministries of Justice and Interior.

198. Government Policy maintains that each child should live within a family unit. However, if a father or mother abuse their parental rights, causing suffering on the person of the child or prove undeserving of this privilege, article 359 of the Civic Code considers that in the best interest of the child, the court can temporarily or
formally deprive the parent of his rights. In such cases the state makes decision to separate the child from the parent and transfer him to a home.

199. It is important to note that in children whose parents are serving a sentence have the right to visit twice in the month.

200. Street children housed in rehabilitation centres they must have regular contact with their families because they have to be reunited eventually after rehabilitation and skills training.

6.4. **Reuniting families and children taken away from their family circle** (article 24.5 (b)

201. Act 25.5(b) of the African Charter on the rights and well being of the child insists that member states have to make the necessary arrangements to locate and reunite a child with his parents when they are separated by internal or external separation caused by armed conflict or natural disasters. One of the difficulties encountered is that certain children no longer have families, to be returned to. These children are referred to as “children on their own”.

202. “Children on their own”, it signifies all minors under the age of 18 whose fathers or mothers (not only one of them):

1. either disappears and is assumed absent or dead (two years assumed alive from the time of disappearance, plus that 7 years before presumption of death). In such a case it is necessary to establish a the situation by the court competent enough to make a final judgement;

2. either certain to be deceased (death certificate available for each or judgment made by the court).


203. Exercising these children’s rights to belong to a family unit is very difficult. Indeed because of war and genocide of 1994, the normal family unit has been destroyed.
Many families have lost family members or were separated from each other. Other find them in precarious financial situations unable to meet the basic needs of their families. This has resulted in a large number of orphans head of household, street children, children living in homes: therefore, it is left to the state to take responsibility for them, care for them and protect their rights. The Rwandan government, in response to this situation count support for these vulnerable families as a strategy for assisting them.

204. on the aftermath of the 1994 genocide, many cases of resettlement occurred without the intervention of government agencies or institutions, Family reunifications and placements into children’s homes were also undertaken by the government with the collaboration of NGOs and United Nations agencies. Unfortunately recent studies on situation of orphans and resettlement indicate that monitoring was not followed up due to lack of funds.

205. Children whose families could not be located and were not placed in foster homes still live in the homes for children on their own (CENA). In 1996, 86 CENA were in operation housing around 14,000 children. Presently, only 27 CENA care for 4013 Children on their own, made up of orphans and children separated from their families. Table 1 lists the CENA and the number of children in their care. It is important to note that this number varies from one moment to the other depending on movements in and out of the centres.

Table 1: NUMBER OF CHILDREN IN THE CENAS in 31/03/2005

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>DISTRICT</th>
<th>CENA</th>
<th>CHILDREN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nyamirambo</td>
<td>1. Centre Memorial Gisimba</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. SOS Kacyiru</td>
<td>225</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Mere du Verbe</td>
<td>162</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Petites Soeurs De Jesus</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Cite de la Misercorde de Kigali</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Mpore Pefa</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. PAMASOR</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8. Yrugo Saint Joseph</td>
<td>61</td>
<td></td>
</tr>
<tr>
<td></td>
<td>9. Home of Hope</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Nyamure</td>
<td>10. Don Bosco Cyotanmakara-Ruyenzi</td>
<td>148</td>
<td></td>
</tr>
<tr>
<td>Ville Nyanza</td>
<td>11. Antonien Nyanza</td>
<td>132</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12. Ste Elisabeth</td>
<td>111</td>
<td></td>
</tr>
<tr>
<td></td>
<td>13. Cite de la Misercorde Butare</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>Rusenyi</td>
<td>14. Esperance Children’s Ai</td>
<td>118</td>
<td></td>
</tr>
<tr>
<td>Ville Kibuye</td>
<td>15. Mabanza</td>
<td>61</td>
<td></td>
</tr>
<tr>
<td>Ville Byumba</td>
<td>16. SOS Byumba</td>
<td>180</td>
<td></td>
</tr>
<tr>
<td>Humure</td>
<td>17. Muhura</td>
<td>97</td>
<td></td>
</tr>
<tr>
<td>Ngarama</td>
<td>18. Home of Mercy</td>
<td>73</td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>CENA Imbazinga</td>
<td>No. of CENAs</td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
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<td></td>
</tr>
<tr>
<td>Ville Gisenyi</td>
<td>19</td>
<td>140</td>
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</tr>
<tr>
<td>Cyanzarwe</td>
<td>20</td>
<td>524</td>
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<tr>
<td>Rulindo</td>
<td>21</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>Kibungo</td>
<td>22</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Murambi</td>
<td>23</td>
<td>205</td>
<td></td>
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<tr>
<td>Gashonga</td>
<td>24</td>
<td>394</td>
<td></td>
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<tr>
<td>Ville Gikongoro</td>
<td>25</td>
<td>132</td>
<td></td>
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<tr>
<td>Kaduha</td>
<td>26</td>
<td>58</td>
<td></td>
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<tr>
<td>Ville Gitarama</td>
<td>27</td>
<td>367</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>4,013</td>
<td></td>
</tr>
</tbody>
</table>

206. Reduction of the number of CENAs since 1996 is a direct result of implementation of national policy in favour of children on their own, based on the Principle of “One child, one family” and national mobilisation for the placement of children on their own. This included children between the ages of 0 to 10 years whose search for their families were not successful. The notion was adopted from the central theme chosen for the 4th celebration of the Day of the African Child on 16th June 1995.

207. Most children still living in CENAS are made up of “residual cases” for whom location of their families were not successful as well as socio-economic cases: children infected and or affected by HIV/AIDS, children whose parents cannot afford to keep them, etc.

208. The Rwandan government allocates funds each year for the upkeep and education of these children according to article 406 of the civic code. This is achieved through the Ministry in charge of Children’s affairs in the provinces and divisions.

209. Concerning the placement of children on their own into children’s homes, periodical reports are prepared by the CENAS and regular inspection exercises are undertaken.

210. According to article 8, last paragraph of Act 27/2001 on Rights and Protection of the child from abuse, the Ministry in charge of children’s affairs have formulated guidelines regulating these pending ministerial decision.

211. The flaw in this policy is that foster families often prefer children who sometimes do not correspond with the availability of children whose legal status have been established.
6.5 Maintenance of the Child (Article 18.3)

211. The family is the basic unit of society and the natural environment for the growth and welfare of all its members and, in particular, its children. Children therefore have the right to grow in an environment which protects them. If their protection is ensured children have more chance of growing up in good physical, mental and affective health and acquire a better future.

212. In this regard, the Rwandan Government has committed itself, through its legislation, to create a protective environment consisting in developing mentalities, traditions, customs and behaviours that might compromise the rights of children.

213. Thus, the June 2003 Constitution, under its Article 27 insists on the duty of parents to educate their children and of the State to put in place a legislation and some institutions for the protection of the family, the child and the mother in particular.

214. Decree No. 27/2001 of 28 April 2001, under its Article 7 paragraph 2 and 14 lays emphasis on the right of the child to be maintained by those who brought him into the world and the right to live in conditions ensuring his welfare.

215. The Civil Code (Articles 197, 198, 200 and others) stipulates that maintenance obligation exists between couples. It also exits between parents and their children. The same legal text states that couples shall contract together by the sole fact of marriage, the obligation to educate their children. If one of the married couple fails to fulfil the obligation to support and educate their children, the other spouse shall take action to force him/her to do so. Obligation to support shall be paid in cash or in kind. Article 204 of the same Code adds that alimony shall only be given in proportion to the needs of the obligee and the resources of the one who owes them.

6.6 Adoption and Periodic Report on Placement

216. Decree No. 27/2001 of 28 April 2001 stipulates the adoption inter alia of solutions for a child who has no parents.

217. The Civil Code distinguished the conditions required of the person wishing to adopt and the conditions that the person adopted must fulfil. Adoption is a solemn contract subjected to imperative forms which must fulfil some conditions of substance and form. Adoption shall produce no effect if these conditions are not met.

6.6.1 Conditions imposed on the person wishing to adopt

- Minimum Age
218. The person wishing to adopt a child must be 35 years of age. There must, in addition be an age difference of at least 15 years between the person wishing to adopt and the person he wishes to adopt (Article 333 of the Civil Code).

- **Capacity for Legal Action**

219. The person wishing to adopt must, like in any legal action, be capable, not only of enjoying the rights but also exercising them (Article 431 of the Civil Code). It is against this background that people banned and those who have been deprived of parental authority cannot adopt.

6.6.2 **Condition imposed on the person adopted**

- **Age of Adoption**

220. The person adopted shall not be subjected to any condition of age. The adoption may take place at any age provided the age difference between the person wishing to adopt and the person adopted is respected.

- **Consent**

221. An adopted person of 18 years of age must himself express his/her consent before a registrar of the place where the act must be performed. His/her consent alone shall be sufficient to ensure that the act can produce legal effect.

222. Consent for the adoption of a child of below 18 years shall be given by the father and mother if they are alive, one of the two parents if the other is deceased, absent or finds himself in the impossibility to express his will, or the parent who has custody of the child in case of divorce or separation. According to Article 335 of the Civil Code, consent to adoption can also be given by the trusteeship council or the person who has the right of custody over the minor if the father and mother are deceased, absent or incapable of showing their willingness. Consent needs the approval of the Court in the domicile of the person adopted.

6.6.3 **Adoption Procedure**

223. Adoption in Rwanda is carried out by a legal action in the presence of a registrar of the domicile of the person adopted. The registrar has a passive role in the sense that he only registers the statements made by those appearing before the Court in the presence of witnesses without necessarily checking correctness. The Court could later assess them in case of contestation.

224. The adoption certificate is prepared in accordance with the law. It enunciates inter alia the place, day, month, year in which it was received, the surnames, first names, capacity of the registrar who registered it, surnames, first names, dates of birth, profession and residences of persons interested in the certificate and all documents
which were produced. The certificate shall obtain the signature of the registrar, those appearing before the Court and witnesses.

225. The certificate is prepared in two copies: one copy deposited with the registrar and another copy to be transmitted to the Secretary of the Court. The parties receive an extract of the certificate or a relevant copy.

226. It should be noted that even if the country has not yet ratified the Hague Convention on international adoption, cases of international adoption are registered. Thus, during the period from January to December 2004, Rwandan children were adopted by foreigners. Here, it is necessary to deplore the cases of Rwandan children evacuated to Italy for purposes of adoption without abiding by the relevant procedures. Some negotiations have taken place between the Rwandan Government and Italy with a view to restoring the children to their rights but the matter has not yet been resolved. The law relating to the rights and protection of the child against violence, states that adoption must be carried out in the interest of the child (Article 16). With regard to the monitoring of children placed in receiving families and in the CENA, there are some shortcomings because currently there is no legal framework governing the placement of children in receiving families. However, the process for the preparation of this framework is underway in collaboration with MINJUST.

6.7 Abuse, negligence, exploitation including psychic and psychological rehabilitation and social reintegration (Articles 16 and 27)

227. In order to be able to bring some income to their parents, children are compelled to enter very quickly into activity, to the detriment of their health and their physical and psychic development. In the traditional society child labour was limited to keeping cattle and helping parents in farm and domestic work.

228. It was simply a normal process of child socialization. Today, children work sometimes under extremely difficult conditions against the payment of often derisory salaries.

229. In addition, sometimes there is the lack of monitoring on the part of needy or irresponsible parents, some of whom leave the children to grow without worrying about giving them solid basic education. Overnight these children sooner or later find themselves in the street left to themselves and exposed to all kinds of exploitation.

230. Law No. 27/2001 of 28 April 2001, in its Articles 43 to 50, as already pointed out, provides for sanctions against parents, adoptive parents, guardians and heads of institutions who violate the rights of the child through abandonment, negligence and involvement in their early or forced marriages.

231. In 1999, Convention No. 182 against the worst forms of child labour was unanimously adopted by 174 (including Rwanda) members of the International Labour Organization and became the first legal instrument expressly recognizing that forced or compulsory recruitment of children as child soldiers is a form of abusive labour of
children. Rwanda has ratified this Convention together with Convention No. 29 relating to force labour.

232. Government decree No. 271/77 of 18 August 1977 establishing the Rwandan Criminal Code provides for and punishes offences committed against children and calls for more serious penalties when offences are perpetrated against children: There is the need to mention some of these cases provided for by the Criminal Code:

- Infanticide (Article 314);
- Abortion (Article 325 to 328);
- Indecent assault and rape (Article 358 to 362);
- Incitement, exploitation and granting of facilities with a view to prostitution (Article 374 paragraph 1 and 375 paragraph 2);
- Advertising of abortion methods (Article 379);
- Abandonment, desertion and exposure of the child (Article 380-387);
- Criminal attempt on individual freedom (Article 388).

233. The organic law of 30 August 1996 on the organization of lawsuit actions on the crime of genocide or crimes against humanity, severely punishes those guilty of sexual violence committed against women and young girls. Under Article 2 of this law, the person who has committed acts of sexual torture is also part of the first category and faces the death penalty in the same way as the perpetrators of genocide.

234. In recent years, a phenomenon of violence against children especially young girls, including in the family circles, has emerged. By way of example, during the year 2004, 1853 cases of rape against children under 18 years were identified and 310 cases of rape were recorded during the months of January and February 2005.

235. Rwanda gives priority to this kind of trials. The magnitude of the phenomenon led to the enactment of a law which increased the penalty against the perpetrators of this kind of offence. Thus, Article 22 of the law relating to the rights and protection of the child against violence stipulates that "appropriate administrative, legal, social and educational measures must be taken to strengthen the protection of every child against every form of violence, interference or physical or mental brutality, abandonment or negligence, stress and being the subject of profit”.

236. It should be noted that the influence of tradition continues to weight heavily with regard to beating of children. Some parents, including social workers dealing with the issue of vulnerable children in an institution, defend beating as a normal disciplinary corrective measure arguing that exaggeration is not permitted.

VII HEALTH AND WELFARE OF THE CHILD

237. Committed to its constitution (Article 10), Rwanda has placed at the centre of its action, the survival of the child by putting in place mechanisms to save the lives of infants and protect the health of mothers and children. Effort have also been exerted to reduce infant-juvenile mortality through the construction, rehabilitation and equipment of health centres. Nevertheless the level of infant mortality remains high in Rwanda.
Indeed, in 2002, out of 1000 live births about 1.39 children died before attaining the age of one year. As for infant-juvenile mortality, 221 children died before 5 years. Juvenile mortality, for its part was 102 for 1,000 live births.

238. In view of the fact that voluntary abortion is prohibited in Rwanda, it is almost difficult to obtain reliable statistical data, even though in practical terms, it is known that it is been carried out in secret. However, cases of identified abortion are severely punished as provided for under the law.

239. With a view to preventing early maternity and unwanted pregnancies in teenagers, reproductive health education programmes for the youth have been initiated by different Ministerial departments with financial and technical support from partners such as UNICEF, UNFPA, USAID.

240. The phenomenon of suicide among children is not very evident in Rwanda. Because of this there is no department responsible for notification and registration of suicide cases alone.

7.2 Disabled Children (Article 13)

241. According to data from the 3rd General Population and Housing Census of August 2002, the number of 93,299 children suffer from physical disabilities. The distribution of disabled children by age group and according to types of disability can be found in the following table.

<table>
<thead>
<tr>
<th>Age</th>
<th>Total</th>
<th>Blind</th>
<th>Deaf/Dumb</th>
<th>Weak lower limb</th>
<th>Weak upper limb</th>
<th>Mental disability</th>
<th>Trauma</th>
<th>Other Disability</th>
<th>Undetermined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>93299</td>
<td>3323</td>
<td>7446</td>
<td>13684</td>
<td>10808</td>
<td>2206</td>
<td>934</td>
<td>14345</td>
<td>40553</td>
</tr>
<tr>
<td>00-04</td>
<td>22455</td>
<td>804</td>
<td>989</td>
<td>2354</td>
<td>1499</td>
<td>167</td>
<td>37</td>
<td>2225</td>
<td>14380</td>
</tr>
<tr>
<td>05-09</td>
<td>23955</td>
<td>857</td>
<td>2485</td>
<td>3222</td>
<td>2692</td>
<td>528</td>
<td>176</td>
<td>3906</td>
<td>10089</td>
</tr>
<tr>
<td>10-14</td>
<td>27803</td>
<td>1037</td>
<td>2636</td>
<td>4507</td>
<td>3782</td>
<td>829</td>
<td>411</td>
<td>4776</td>
<td>9825</td>
</tr>
<tr>
<td>15-17</td>
<td>19086</td>
<td>625</td>
<td>1336</td>
<td>3601</td>
<td>2835</td>
<td>682</td>
<td>310</td>
<td>3438</td>
<td>6259</td>
</tr>
</tbody>
</table>

242. The June 4, 2003 constitution in its Article 14, assigns to the state the duty of taking special measures to ensure the welfare particularly of disabled people.

243. Law No. 27/2001 of 28 April 2001, in its Article 15 states that the disabled child has the right to particular respect in the matter of health, education and welfare from his/her parents, his guardian and the Ministry of Social Affairs.

244. Article 350 of the Civil Code stipulates that the right to custody shall involve, on the part of the father and mother the obligation to maintain and educate children in accordance with their status and their form.
245. In Rwanda, there have always been specialized institutions, generally religious to take care of disabled children. The most illustrious case is that of the Gatara Disabled Children's Centre, launched through the initiative of the late Pastor FRAIPONT NDAGIJIMANA. Other existing structures, such as the Butare and Gahini Centres, which are unable to meet the needs of disabled people, need to be strengthened. The services provided in terms of development, specialized care, special education socio-economic promotion, remain modest.

246. The State, through the Ministry of Social Affairs and Education, contributes to the efforts of private institutions with equipment and financial resources with a view to providing disabled children with the necessary care and special education.

247. The law, although general, is clear and without reservation about the rights of disabled children. In reality, it can be argued that these children do not conveniently receive all the consideration and all special protection they deserve because of the limited resources. However, the political will of the Government is evident and found expression in different specific measures. The Government, in collaboration with disabled people, has contributed to the establishment of the Federation of Associations and Centres for Disabled People in Rwanda (FAHR).

248. Chapter 4 of the Government’s seven-year programme, in its item 4 has envisaged a large number of actions in favour of disabled people.

249. In addition, a specific policy for disabled people has been adopted by the Council of Ministers and a specific law will soon be adopted.

250. Finally, the June 4, 2003 Constitution provides for a seat in the chamber of Deputies for one representative elected by his peers of the Federation. Association of Disabled people. It is understood that the child is, directly or indirectly a beneficiary of the following measures:

7.3 Health and Medical Services:

7.3.1 Infant and Infant/Juvenile Mortality;

252. Reduction in infant mortality is one of the Millennium Development Goals. The purpose is to be able to reduce by 2/3rd between 2000 and 2015, mortality rate among children under five years of age. To achieve this goal, and in spite of the many challenges facing the country, Rwanda has made and continues to make tremendous efforts in this field. Today, the country has embarked upon a risk-free maternity policy which provides free-of-charge examinations and deliveries in its health services.

253. However, according to the indicators, the distance to be covered is a long one. Indeed, during the demographic and health survey (EDS) carried out by the National Population Office in 2000, infant and juvenile mortality rates of 117.4% and 2006.7% respectively were observed for 1000 live births.
254. According to the census taken in August 2002, the level of mortality in children was still high.

Table 3: Distribution of mothers by age group according to number of children born alive and surviving (Source: 3rd RGPA, 2002)

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

255. When we look at the main diseases which were the causes of this high mortality, we notice that malaria is first, followed by acute respiratory tract infections, worm infections, diarrhoea and malnutrition (or deficiency disease). In addition to these diseases, it should be emphasized that HIV/AIDS also represents a permanent danger to the health of children.

7.3.2. Health Infrastructures

256. Health infrastructures were not spared by the war and the genocide, but, thanks to the combined efforts of the State, non-governmental organizations, denominational organizations and the support of external partners, the health services could be reorganized. The country has 39 health districts, 32 district hospitals, 291 health Centres, 37 dispensaries and 22 infirmaries. In 2002, one fifth of the doctors were in the rural areas, one doctor was serving 50,000 people and one nurse 5,000. Recently, to compensate for this inadequacy, the government decided to detach doctors from non-medical services to send them into the health services, particularly in the rural areas. It has also to be emphasized that, to increase the number of qualified staff in this field, a higher Institute for health (KHI) which has just turned out its first batch, has been established. In addition, the secondary education system has been revised.

7.3.3. Nutrition

1. Food Situation
257. Analysis of the food situation for the Rwandan people shows that food availability leaves much to be desired for a large proportion of the population. This is noticed from the rate of prevalence of the so-called deficiency diseases.

258. Indeed, acute and chronic protein (calorie) malnutrition constitutes a major public health problem in Rwanda. Malnutrition affects particularly 6 to 24 months old children because of the weaning problem peculiar to this age group. Nearly 10% of deaths recorded in hospitals were associated with malnutrition and this percentage stands at fifteen percent for children under five years old.

### Synthesis of the Causes of Malnutrition

<table>
<thead>
<tr>
<th>Causes attributable to households and the community</th>
<th>Causes attributable to services and Institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Problems of food availability with major shortage of food production</td>
<td>Gradual pauperisation</td>
</tr>
<tr>
<td>Iron, Iodine and Vitamin A deficiency</td>
<td>Insufficiency of nutritional education</td>
</tr>
<tr>
<td>Low income</td>
<td>Insufficiency of budgets for social programmes</td>
</tr>
<tr>
<td>Many pregnancies in quick succession/early weaning</td>
<td>Insufficiency of reproductive health information</td>
</tr>
<tr>
<td>Poor allocation of family budget</td>
<td>Low level of popular education</td>
</tr>
<tr>
<td>Limited access to weaning foods and inappropriate use of supplements</td>
<td>Poor knowledge of morbidity</td>
</tr>
<tr>
<td>Limited access to potable water</td>
<td>Insufficient budget</td>
</tr>
<tr>
<td>Extra load of work on women</td>
<td>Gender education still in its infancy</td>
</tr>
</tbody>
</table>

#### 7.3.4 Access to Potable (drinking) water, health and sanitation

1. **Access to Potable Water**

259. Data from the General Population and Housing Census shows that 67.2% of households have access to potable water. However, there is still a significant gap between urban inhabitants and rural inhabitants with respectively 79% and 67.2% of households having access to water. Some studies have shown that progress made in drinking water supply particularly in the field of sanitation and health has resulted in 22% reduction in cases of diarrhoea and 65% deaths due to this disease.
260. However, the fact remains that inadequate potable water supply and poor sanitation conditions are among the main causes of infant mortality, disease and malnutrition. While exerting efforts to increase the coverage, it will also be necessary to ensure that sources of water and wells developed provide genuinely potable water, because, indeed, the adverse effects of dirty water consumption on children, in particular, are known. It is particularly the cause of diarrhoeal and parasitic diseases which are deadly for children, particularly those under five years of age.

2. Health and Sanitation

261. Concerning the discharge of excreta, data from the General Population and Housing Census have shown that 85.6% of households have private latrines, rural households being more equipped than urban households with 85.6% and 64.5% respectively.

262. Even though these figures appear encouraging, it is important to insist, once more, on quality and cleanliness of latrines.

263. Indeed, the current situation in the field of sanitation promotes particularly the transmission of faecal and oral diseases which affect families in general and children in particular. Sewage disposal and treatment system is inadequate. Collective sewage sanitation and treatment stations, even in residential and industrial areas and major cities is almost non-existent.

264. In the shanty towns of cities and in rural areas, there is no household water disposal system either. Thus, they can harbour a lot of micro-organism some of which can be pathogenic. Stagnant water also might become a favourite place for the growth of mosquitoes, vectors of malaria which is the primary cause of mortality in children.

7.3.5 Environmental Situation

265. Environmental quality concerns children in as far as it conditions the manner in which natural resources which form the basis of their existence are managed today.

266. As far as environmental protection is concerned, Rwanda is facing an already critical situation in the fields of health, housing, atmospheric pollution, soil conservation, forest and energy.

267. As for the family and psycho-social environment of the child, there are major problems such as extreme poverty; (60.29% of the population live below the poverty line), dislocation of the traditional family unit, family conflicts, the effects of the 1994 genocide and war, etc.

268. This situation has produced the following results:

- Primary needs not met, such as clothing and food;
- Socialization process and insufficient work for children;
- Poor treatment and state of neglect;
- Rape and sexual exploitation;
- Neglected parental responsibility and work improperly shared among family members;
- The large size of the family and an extra load of work on mothers.

7.3.6 Reproductive Health

269. Six priority topics were selected for Rwanda during the Round Table Conference which brought together specialists from different backgrounds in Gisenyi in September 2000. Infant health and teenage reproductive health featured prominently among these topics. The purpose of the Round table Conference was to lay the foundation for a national health and reproduction policy.

The six topics deemed of priority for Rwanda were:

1. Less risk maternity;
2. Infant health;
3. Family planning;
4. Genital infections: STD/HIV and AIDS;
5. Reproductive health and fight against sexual violence.
6. Social changes to increase the decision-making power of women

270. With the view of respecting the right to life and the health of children, a pilot project for the Prevention of HIV Transmission from mother to child was put in place to reduce the rate of this kind of HIV transmission from mother to child. The Project is based in the city of Kigali with 13 Centres and looks after pregnant HIV positive women. The result were encouraging and made it possible to extend the project to 200 Centres in the country. Nevertheless, there is the need to highlight the efforts made to distribute medicines which mothers need after delivery in order to thus prolong their survival and thereby be able to provide care to their children over a longer period. The other constraint of the Project is linked to the resistance on the part of many husbands to accept voluntary testing as well as the difficult access of children to antiretrovirals.

1. Teenage Reproductive Health

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

- Synthesis of fertility: 6.5
- Rate of teenage fertility (child birth for 1,000 women from 15 to 19 years of age): 54;
- Unintentional conception in percentage of married women (from 15 to 49 years of age): 37;
- Rate of prevalence of general contraceptives (women from 15 to 49 years of age): 13.2;
- Number of births assisted by qualified staff: 14%;
272. Even though it can be argued that teenage education in the field of reproductive health exists, it should be recognized that, there is the need to strengthen and systematize it. The same applies to information, education and communication services in the field of sexual health and family planning.

2. Other Teenage Problems

273. The phenomenon of alcoholism, drug use, delinquency and criminality exists but has not yet reached alarming proportions. On the other hand, prostitution among the youth and in very young girls (12 years) keeps developing, particularly because of poverty and the decline of positive traditional values, under the effect of negative external influences, modernization and urbanization. These phenomena are being taken seriously by the authorities concerned and integrated measures are being studied in various sectors, particularly within the Ministries of Gender and Family Development, Local Administration, Good Governance, Community and Social Welfare Development, Justice and Internal Security.

7.3.7 Specific Programmes in Favour of Children

274. The operational plan agreed between the Rwandan Government and UNICEF for the period 2001 – 2006 provides for a water and environmental sanitation programme with the aim of increasing by 30% access to potable water and improving sanitation facilities as well as bringing about changes in behaviour in the school environment through health education. In fact, health and sanitation conditions in the school environment need improvement. Schools rarely have appropriate latrines with running water.

275. It was to explore the ways and means of coping with this kind of problems that the Ministry of Energy, Water and Natural Resources, with the support of UNICEF, has just started a pilot health and sanitation project (HAMS) in the school environment. The "HAMS" project aims to launch, develop and support the culture of health and sanitation within the school population with induced effect in communities resulting in a general change in behaviour. In this connection, it is necessary to point out that "HAMS" Committees made up of water and sanitation authorities in the provinces, school inspectors and medical officers who are health district directors have been in place since 2000 throughout the country.

276. Scheduled to run over a five year period, the programme will carry out the following activities:

- To carry out an evaluation of infrastructures and sanitation facilities in schools;

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7 A study carried out by MIFOTRA in March 2000 has shown that the number of child prostitutes was estimated at 2,140.
To train teachers and school and administrative authorities in techniques of population mobilization in the area of health and sanitation practices;

- To support the local communities in establishing water and sanitation infrastructures in schools, building reservoirs to collect rain water and constructing improved latrines.

7.4. Social Security and Day Care Services and Institutions

277. The law dealing with Social Security Institutions establishes a social security system for children and workers under the Labour Code. The Code in its Article 65 provides that children under 16 years of age cannot be employed in any enterprise even as apprentices. The same Article, in its paragraph 3, also prohibits the employment of a child under 16 years of age in night and painful jobs potentially damaging to or dangerous for his/her health and upbringing.

278. Some public and private institutions are operating in the area of social security: The Rwanda Social Security Fund was set up by Government decree of 22 August 1974 and brought together until 31 December 1999, 10,275 affiliated employers from the public and private sector. It goes without saying that the proceeds from the Social Security Fund in Rwanda will serve both adults and children who are beneficiaries.

279. With regard to social insurance the Rwandan Health Insurance (RAMA) established in 2000, covers the medical expenses of all Government employees and their dependants: Spouse or spouses and children of the employee. It should also be noted that there are Mutual Health Insurance Companies operating in the form of pre-payment systems, initiated by the Ministry of Health since 1999, through health training. Today, it has 45% membership. A national policy on Mutual Health Insurance has been adopted and a law to that effect has been passed.

280. It is to be noted that some insurance companies particularly SORAS and SONARWA, have, in recent times, initiated health insurance, life insurance and student loan insurance system whose first beneficiaries are children.

281. The Government, through MINALOC, is in the process of formulating a Social Welfare Policy whose main activity is mass mobilization to carry out Savings, Social Security, insurance, mutual health insurance and social solidarity insurance with a view to protecting the future of children. The document will be sent to the Council of Ministers very shortly.

282. With regard to Day Care Services and institutions for children whose parents are working, an inventory was made of five day nurseries throughout the country namely two in the capital Kigali, two in the town of Butare and only one in Ruhengeri, all being of private initiative. In this regard, we can point out, the existence of 335 nursery schools throughout the country, during the 2003 – 2004 school year (only 28 being public) training 28,103 children including 13,876 boys and 14,227 girls.

7.5. Separation from Parents (Article 26)
283. As stated above, Article 14 of the 4 June 2003 Constitution calls on States to take special protective measures for vulnerable groups particularly orphans.

284. Similarly, as stated earlier Article 8 of Government decree No. 27 of 28 April 2003 provides for successive protective measures for orphans, either by way of guardianship, adoption or placement in an institution or State Sponsorship.

285. The Law organizes guardianship for children who have no parents at all to exercise parental control over them. The matter is referred to the court by the registrar. He chooses the guardian from among the closest major relatives or among other people able to provide guardianship and education for the minor. In practice, most often, guardianship is organized by arrangement within families without having recourse to the court. The Law also provides, as already mentioned, for the possibility of adoption of children, particularly orphans and lays down the administrative procedures to which people desirous of adopting children must conform.

286. All this is done with the aim of ensuring respect for the rights of the orphan child to non-discrimination in the same way as other children.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

8.1 Education, including Training and Career Guidance

287. The Rwandan legislation and especially the Constitution provides that all children should have the right to education.

288. The Constitution stipulates in its Article 40 that “Every person shall be entitled to education. Freedom of learning and education shall be guaranteed under conditions determined by the Law. Primary education shall be compulsory. It shall be free in public institutions”.

289. Similarly, the Law on the rights and protection of the child against violence specifies that the child shall be entitled to education (Article 10). The same Article adds that primary education shall be compulsory according to the Law. Basic education shall start from six to nine years. The Ministries of Education and Social Affairs shall determine the modalities of secondary and higher education for children whose parents are poverty-stricken. This Law gives to the District Council the responsibility to ensure the implementation of the provisions contained in the Law in line with free and compulsory education. It was against this background that District Education Fund which pays for vulnerable children was set up.

290. The Rwandan Government has therefore placed the development of human resources at the forefront of its priorities and at the centre of its mission. Vision 2020, the Poverty Reduction Programme, the seven year programme of the Government and the Sectoral Policy of the Ministry of Education consider education as the mainstay of sustainable human development. In official and other statements the recurrent theme is that it is children who form the major asset of Rwanda which has no mines, diamond nor oil. In this regard, the country has endorsed the major international goals on education
i.e., the Millennium Development Goals on education, the Jomtien goals, the Beijing Goals and those of Dakar.

8.1.1 Education Access

In the Rwandan traditional system, the education of the child is a responsibility of the nuclear family, the extended family, the community and peers. The child grows up by adapting himself to the different patterns that offered him day-to-day life which initiates him into some values known as "uberere buruta" i.e. education is more important than birth". Modern life has added school to this process.

Schooling Level

Main Indicators of Education in Rwanda

At the Primary Level

1. Over the period 1999 – 2004 the net rate of schooling has increased considerably, rising from 69.9% to 93% but the drop-out rate remains high sometimes reaching 16.6%;
2. The rate of transition from the primary to the secondary does not exceed 45%;
3. The percentage of qualified teachers has significantly decreased over the five years, from 9.2% to 88.2% but the number of pupils trained by a qualified teacher exceeds the acceptable standards (112 pupils per qualified teacher in 1999 as against 75.8% pupils per teacher in 2004);
4. In 2004, the number of children ready to start school (between 7 and 12 years) was 1,339,845 while children sent to school were quantified at 1,246,634, that is a difference of 93,211 children not sent to school;
5. Promotion rate was 50.5% in 1999 while in 2003, it was 64.2%;
6. The rate of pupils repeating a year was 38.1% in 1999 as against 20.6% in 2003.

Even though made considerable progress has been made over the five year period, as shown by the attached Table, the number of 28,103 children trained by nursery schools is not sufficient when we know that the number of children entering primary school exceeds 1,300,000. It should be pointed out that undeveloped preschool education is also very costly and is concentrated in urban areas in private hands.

Indeed, the problem of poverty within families compels some parents not to educate their children, for lack of school supplies. The high number of children outside school is in the process of being salvaged by the "catch up" programme initiated by the Ministry of education in collaboration with UNICEF.

At the Secondary Level

The number of children that were ready to start secondary school (13 – 18 years) was 1,333,751 in 2004 while the number that was sent to school did not exceed
203,551 i.e. a difference of 1,130,200 pupils that were not sent to secondary school. Thus, the net rate of education in secondary school was only 15.2% in 2004.

The percentage of qualified teachers remains 51% at the time a qualified teacher is training 51.5% pupils.

**Infrastructure Development Capacity**

293. In 2003/2004, primary education had 2,262 schools, with 29,385 classrooms. At the secondary level the total number of schools was 505 including 286 public and 218 private schools with altogether 4,573 classrooms. Generally, the school infrastructures are not sufficient and a good number of them are not in good condition and adequately equipped.

**8.1.2 Education of the Girl Child**

294. In recent years, Rwanda has increasingly shown great concern about the disparities in the levels of education between boys and girls. This awareness has manifested itself at various levels, and this, since the World Conference on Education held in Thailand in 1990, which gave rise to the global declaration on “education for all”.

295. At the national level, there is no obstacle to the education of the girl child. The obstacles that existed before, which were at the level of some prejudices and negative customs have markedly declined and are to be considered as belonging to the past. Here, its is necessary to highlight the crucial role played by women’s organizations in the sensitization of the Rwandan community, the establishment of the FAWE school and the creation of clubs in different schools which militate in favour of promoting the education of the girl child.

296. The activities undertaken by the PACFA Project under the high patronage of the First Lady of Rwanda by distributing prizes to girl pupils who passed with distinction the official examinations, are meant to encourage the schooling of the girl child, and marks a crucial turning point in the eradication of the disparities that have for a long-time characterized our educational system.

297. However, for several reasons, a high number of children to start school still remain at home although primary education is compulsory and free. This situation has been created mainly by illiteracy and poverty on the part of the parents, worsened by the absence of infrastructures, the lack of equipment and the consequences of the genocide.

**8.2 Leisure, Recreational and Cultural Activities (Article 12)**

298. Rwandan children have the right to enjoy themselves and to play, participate in cultural activities and to do sport.
299. The mission assigned to the Ministry of Youth, Sport and Culture is broken down into four main parts namely: development of artistic and cultural activity among the youth; promotion of the positive values of the Rwandan Culture as well as promotion of sporting and recreational activities.

300. Within the framework of the Law dealing with the rights and protection of the child against violence, it is stipulated, in its Article 17, that the child has the right to rest and must engage in games and leisure activities convenient for his age. Paragraph 2 of the same Article states that the Ministry of Sports should ensure that Districts and institutions responsible for children should have adequate sporting infrastructure.

301. Thus, MIJESPOC has already decided among its priorities, to design programmes for the establishment of kindergartens and sporting and recreational facilities open to all. In the long-term, it hopes to equip each province with a functional sporting complex capable of enabling a diversified sporting activities.

302. It should be added that physical and sporting education courses exist at all levels of education from the nursery school to the end of secondary education. Interschool tournaments are also organized in different disciplines, each year, bringing together teams from different schools in the whole country. There are also the “Ingando” groups organized within the framework of unity and reconciliation for ex-child soldiers and for all the youth before entering public higher education.

IX SPECIAL CHILD PROTECTION MEASURES

9.1 Children in Emergency Situation

9.1.1 Refugee and Displaced Children (Article 23 and 25)

303. The difficult war and genocide situation that our country went through in 1994 as well as the situation of insecurity which followed during the period 1997 – 1998, left behind it, a large number of refugee and displaced children. Some of the children are living alone in households managed by minors and others live in the CENA.

304. Concerning the unaccompanied Rwandan children living abroad, data supplied by ICRC as of 30 December 2004 gave the figure of 400 based in African and Western countries. As underlined by the policy of the Government, children deprived of their family environment have the right to protective assistance and specific support systems. It is necessary, as far as possible, to avert placement in institutions which must only be the last resort solution.

305. Relying on the traditional culture, our country is encouraging Rwandan families to welcome in their midst orphan or unaccompanied children, immediately after their return from exile, after a transit in the CENA. In all, 22,525 children have been accepted into households, including 10,212 boys i.e. 45.3% and 12,313 girls i.e. 54.7%.
306. With regard to foreign refugees living on the Rwandan soil, in early 2005, the country hosted a population of 40,798 refugees. Among them, more than 27,529 have not yet reached 18 years of age.

307. The Rwandan government has been closely collaborating with UN agencies, such as UNHCR and UNICEF as well as local and international NGOs to be able to meet the needs of those refugees. In this respect, refugee children have the same rights as Rwandan children in the field of health, education and nutritional assistance.

308. It is also interesting to note that Rwanda has ratified the different international instruments in the field, which are:

2. The international Covenant on Civil and Political Rights of 19 December 1966;

9.1.2 Children in Armed Conflicts including Specific Measures for the Protection of Children and Their Care (Article 22)

309. During war and the genocide some children under 18 years were recruited into the army.

310. Immediately after war and genocide, all these children were demobilized and a school rehabilitation and reintegration programme was established, with the support of international donors, as proposed by Convention No. 182 on the worst form of Child Labour, ratified by the Rwandan Government. On the whole, 2,922 child soldiers were thus demobilized. The Rwandan Government opened in June 1995, a KADOGO (small) school at Butare with the aim of ensuring the social integration of these children.

311. Other children involved in the armed groups of infiltrators regularly come from the DRC and are sent to the rehabilitation centres and reintegrated by group, into the community. There are still about 2,000 remaining.

9.2 Children in Situations of Conflict with the Law

9.2.1 Administration of Juvenile Justice (Article 17)
312. It is important to note that with UNICEF support, MINIJVST has been able to establish a specialized department for the protection of the rights of the child called "Children in Conflict with the Law", whose main tasks are:

1. To protect the rights of minors in detention in order to release those who were not above 14 years of age at the time of their conviction;
2. To expedite the preparation of the files of those who were between 14 and 18 years old at the time of commission of the crime.
3. To monitor rape cases by making available to the prosecution people specially responsible for the cases of minors;
4. To establish the necessary contacts with the courts to accelerate the trial of minors;
5. To carry out all sensitization campaigns aimed at promoting respect for the rights of children;
6. To make lawyers available to minors to defend them before jurisdictions (Article 21 of Law No. 27/2001 of 28 April 2001).

9.2.2 Minors Deprived of Their Freedom, including all forms of Detention, Imprisonment or Placement in Cells in Conformity with the Provisions of Article 5(3) of the Charter on the Rights of the Child banning the death penalty (Article 17.2(a))

1. Minors below 14 years

313. In collaboration with UNICEF, the Rwandan Government, through MINIJVST and MININTER, ensure the welfare of minors in prisons who have committed crimes before reaching the criminal majority of 14 years, because they are criminally irresponsible. They are gradually released and reintegrated into their families after having undergone re-education in an Ad Hoc Centre.

2. Minors between 14 and 18 years

314. These are minors criminally responsible but who enjoy minority pardon because of the fact that they were more than 14 years and less than 18 years at the time charges were preferred against them. Indeed, the Rwandan Criminal Code sets the criminal majority at 14 years (Article 77). Thus, for minors, the least penalties are inflicted (9). As at 31 January 2005, there were 948 minors in all prisons in the country as shown by Table 4.

Table 4: Situation of Minors and Infants in Prison
As at 31 January 2005
### Table: Minors and Infants in Prisons

<table>
<thead>
<tr>
<th>Prisons</th>
<th>Minors 14 years</th>
<th>Minors 14 - 18 years</th>
<th>Infants -3 years</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>G</td>
<td>F</td>
<td>G</td>
</tr>
<tr>
<td>KIGALI</td>
<td>0</td>
<td>0</td>
<td>127</td>
</tr>
<tr>
<td>REMERA</td>
<td>0</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>RILIMA</td>
<td>0</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td>GITARAMA</td>
<td>3</td>
<td>0</td>
<td>323</td>
</tr>
<tr>
<td>NYANZA</td>
<td>0</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>MPANGA</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>BUTARE</td>
<td>0</td>
<td>0</td>
<td>28</td>
</tr>
<tr>
<td>GIKONGORO</td>
<td>0</td>
<td>0</td>
<td>39</td>
</tr>
<tr>
<td>CYANGUGU</td>
<td>0</td>
<td>0</td>
<td>33</td>
</tr>
<tr>
<td>GISOVU</td>
<td>0</td>
<td>0</td>
<td>40</td>
</tr>
<tr>
<td>GISENYI</td>
<td>0</td>
<td>0</td>
<td>47</td>
</tr>
<tr>
<td>RUHEGERI</td>
<td>0</td>
<td>0</td>
<td>43</td>
</tr>
<tr>
<td>MIYOVE</td>
<td>0</td>
<td>0</td>
<td>58</td>
</tr>
<tr>
<td>NSINDA</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>KIBUNGO</td>
<td>0</td>
<td>0</td>
<td>91</td>
</tr>
<tr>
<td>NYAGATARE</td>
<td>0</td>
<td>0</td>
<td>22</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3</td>
<td>0</td>
<td>875</td>
</tr>
</tbody>
</table>

#### 9.2.3 Reform, Family Reintegration and Social Reintegration (Article 17.3.3)

315. As pointed out earlier, minors detained who committed crimes before attaining the age of 14 are gradually released and put in a re-education centres before joining their families. In this connection, about 500 children involved in the 1994 Rwandan genocide were re-educated at the Gitagata Centre (situated in the Kigali/Ngali province) and reintegrated into their families in December 2000 after a long process of sensitization and preparation of families and the community to welcome them. The Centre provides psycho-social support to the minors as well as vocational training, functional literacy, health education and national reconciliation.

316. The Ministry of Justice and MIGEPROT is currently preparing to receive into a rehabilitation centre minors still being held in detention centres.

#### 9.3 Children whose Mothers are in Prison

##### 9.3.1 Special treatment for pregnant women and mothers of infants and young children found guilty (Article 30)

317. MINIJVST, in collaboration with the NGO ASOFERWA has, since 1997, assigned to each prison a social assistant in charge of problems of infants and pregnant women and the general welfare of minors. Food supplements are also distributed to infants and pregnant women. In addition, the training provided by ASOFERWA consists in facilitating reintegration into reception families by carrying out research on the families or
close relatives of the children as soon as the children reach three years of age and their mothers must remain in prison. The number of infants who had not yet reach three years of age was 161 in September 2005 (see Table No.4 above).

9.3.2 A mother must not be imprisoned with the child (Article 30 (b))

318. There does not exist in our legislation special provisions on mothers who are in prison with their children. The only provision that exists is the one which admits that a child at least three years of age can be separated from his mother to be welcomed, by a member of his closest family. ASOFERWA deals precisely with this kind of cases.

9.3.3 Reform, integration of the mother within her family and social reintegration (Article 30(f))

319. The Rwandan legislation has gaps in this area. Like any other detainee, the mother is reintegrated into the community after having served her sentence. It should be noted however that mothers and children occupy separate rooms in prison.

9.4 Children in situation of exploitation and abuse

9.4.1 Child economic exploitation and labour (Article 15)

320. The Rwandan Labour Code in its Article 65 paragraph 1 bans the labour of children under 14 years of age and stipulates that only the Ministry of Labour can authorize an addition to this Article. In all cases, dispensation can only be given for the employment of children aged between 14 and 16 years in light jobs as long as the jobs are not likely to be prejudicial to their health, their studies and their participation career guidance and additional training programmes.

321. The same Article adds in its paragraph 3 that a child of under 16 years of age cannot be employed in nocturnal, painful and unhealthy or dangerous jobs that can be prejudicial both to his health and his training. The list of jobs is prepared by a decree from the Ministry of Labour.

322. In its Article 18, Law No. 27/2001 of 28 April 2001 stipulates that work carried out by children must not entail risks likely to compromise their education or to damage their health and development. It adds that in no case shall a child be employed in some enterprise before having reached the age of 14.

323. The national policy on orphans and other vulnerable children states that many children carry out activities which help families within the framework of a schooling process. This is why it is necessary to make a difference between daily household work and work situations which endanger the health and development of the child. Child labour in its worst form is an abuse.

324. In reality, children are often compelled to work even before the age of 14 in order to be able to survive. They are numerous in informal activities like careers in sand and
stone enterprises, brick making and in tea plantations. Some also work as household servants.

325. In Rwanda, the worst forms of child labour such as defined by ILO\textsuperscript{10} Convention No. 182 are known: prostitution, hazardous work likely to damage health, safety and morality of children, work in mines, fishery, restaurants, farms (sugarcane, tea, rice, etc.), domestic work, street peddlers, workers in workshops (garages and carpenter shops).

326. Following the RGPH of August 2002, among the 2,643,403 children aged between 6 and 17 years, child labour involved 352,550 who had declared themselves occupied in various works. Among them, 166,245 were boys i.e. 47.2% as against 186,305 girls i.e. 52.8%.

327. As shown on Table 5, the greater proportion of working children (97%) are concentrated in four sectors namely: agriculture; hunting and forestry (83.1%), households employing domestic staff (11.9%) trade and repair (1.2%) and finally manufacturing activities with 0.7%.

Table 5: Distribution of the Population of Children Aged from 6 to 17 years
Occupied in Spheres of Activities and by Sex\textsuperscript{11}

<table>
<thead>
<tr>
<th>Spheres of Activity</th>
<th>Total Number</th>
<th>%</th>
<th>Male Number</th>
<th>%</th>
<th>Female Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, hunting and forestry</td>
<td>293101</td>
<td>83.1</td>
<td>136441</td>
<td>46.6</td>
<td>156660</td>
<td>53.4</td>
</tr>
<tr>
<td>Households employing of domestic staff</td>
<td>41876</td>
<td>11.9</td>
<td>18454</td>
<td>44.1</td>
<td>23422</td>
<td>55.9</td>
</tr>
<tr>
<td>Trade and repair</td>
<td>4156</td>
<td>1.2</td>
<td>3031</td>
<td>72.9</td>
<td>1125</td>
<td>27.1</td>
</tr>
<tr>
<td>Manufacturing activities</td>
<td>2306</td>
<td>0.7</td>
<td>1426</td>
<td>61.8</td>
<td>880</td>
<td>38.2</td>
</tr>
<tr>
<td>Transport, storage and communication</td>
<td>1219</td>
<td>0.3</td>
<td>1050</td>
<td>86.1</td>
<td>169</td>
<td>13.9</td>
</tr>
<tr>
<td>Other community services activities</td>
<td>918</td>
<td>0.3</td>
<td>654</td>
<td>71.2</td>
<td>264</td>
<td>28.8</td>
</tr>
<tr>
<td>Hotel and restaurant</td>
<td>559</td>
<td>0.2</td>
<td>444</td>
<td>79.4</td>
<td>115</td>
<td>20.6</td>
</tr>
<tr>
<td>Construction</td>
<td>750</td>
<td>0.2</td>
<td>675</td>
<td>90.0</td>
<td>75</td>
<td>10.0</td>
</tr>
<tr>
<td>Fishery, pisciculture and related activities</td>
<td>422</td>
<td>0.1</td>
<td>397</td>
<td>94.1</td>
<td>25</td>
<td>5.9</td>
</tr>
<tr>
<td>Mining, property, rental and service activities</td>
<td>407</td>
<td>0.1</td>
<td>254</td>
<td>62.4</td>
<td>153</td>
<td>37.6</td>
</tr>
<tr>
<td>Administration, defence and social security</td>
<td>388</td>
<td>0.1</td>
<td>202</td>
<td>52.1</td>
<td>186</td>
<td>47.9</td>
</tr>
<tr>
<td></td>
<td>282</td>
<td>0.1</td>
<td>215</td>
<td>76.2</td>
<td>67</td>
<td>23.8</td>
</tr>
</tbody>
</table>

\textsuperscript{10} Rwanda ratified this convention by Presidential decree No. 39 bis/01 of 30 September 1999
\textsuperscript{11} Data obtained from the 3\textsuperscript{rd} RGPH, August 2002
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Production and distribution of electricity, water and gas</td>
<td>17</td>
<td>0.0</td>
<td>14</td>
<td>82.4</td>
<td>3</td>
</tr>
<tr>
<td>Financial intermediation</td>
<td>16</td>
<td>0.0</td>
<td>10</td>
<td>62.5</td>
<td>6</td>
</tr>
<tr>
<td>Education</td>
<td>140</td>
<td>0.0</td>
<td>65</td>
<td>46.4</td>
<td>75</td>
</tr>
<tr>
<td>Health and social welfare</td>
<td>102</td>
<td>0.0</td>
<td>49</td>
<td>48.0</td>
<td>53</td>
</tr>
<tr>
<td>International organizations</td>
<td>13</td>
<td>0.0</td>
<td>7</td>
<td>53.8</td>
<td>6</td>
</tr>
<tr>
<td>Undetermined</td>
<td>5878</td>
<td>1.7</td>
<td>2857</td>
<td>48.6</td>
<td>3021</td>
</tr>
</tbody>
</table>

328. Many of these children work to help their families because they bring a major income to support the household budget. In the case of households headed by children, the older children must, in principle, help the youngest who cannot work and meet their needs.

329. The issue of child labour constitutes a dilemma which thwarts Government policy on child labour. Indeed, a good number of children, even those who live with their natural families need to work regularly, because their contribution to the household income is very important and sometimes vital to the point of preventing the family from falling into total destitution.

330. The government through the Ministry in charge of child labour and in collaboration with the partners, has designed some projects for combating the worst forms of child labour. It particularly involves the “KURET Child labour, HIV/AIDS and Education “ project implemented by World Vision and funded by the US Labour Department and the ILO/IPEC Project for child soldiers.

331. The Rwandan Government, through this Ministry, has also been sensitising the population and the children to the consequences of the worst forms of child labour. The consequences of the persistence of child labour take on several forms as elucidated at the Conference on the rights of Rwandan Children held from 14 to 18 August 2000. They are of several orders:

- **Physical**: Accidents at work and occupational diseases, sexual abuse with STD and HIV/AIDS and growth retardation and bone deformity as their consequences;

- **Psychological**: Some surroundings in which children work can lead them into prostitution just like children can feel frustrated and develop aggressiveness. They can also lose confidence in their parents and even in every adult person.

- **Financial**: Inadequate or non-existent salary not able to meet their needs.

A Technical Advisory Committee on issues related to the fight against the worst forms of child labour was set up in 2005.

9.4.2 **Drug Abuse (Article 28)**
332. The consumption of drugs is severely punished under the Rwandan law in general and concerning children in particular, Law No. 27/2001 of 28 April 2001 relating to the protection of the child against violence, punishes with a 5 to 20 years prison sentence and a fine of 100,000 to 200,000 Francs, any one who may have incited a child to consume drugs, may have used or used a child in the trafficking of drugs, weapons and in smuggling.

333. Under Article 1 of Government decree of 19 November 1973, on the moral preservation of the youth, presence in drinking bars is forbidden for any minor who is unmarried and under 18 years of age, if not accompanied by his father, mother, guardian or a person to whose care he has been entrusted. Other provisions of the Government decree provides for penalties against the bar manager or a cinema manager, with the doubling of the penalties in case of a subsequent offence. Repressive measures are also provided for against anyone who may have directly or indirectly led, or contributed or helped to contribute to the presence of a minor under 18 years who is unmarried in drinking bars and bars. Article 8 of the said Government decree stipulates further that the bar manager or cinema manager shall display at the entrance the bar in a conspicuous manner, the text of the Government decree and a notice bearing the words: “No admittance to minors unmarried and under 18 years of age” and provides for appropriate measures against the minor who exceeds this ban.

9.4.3 Protection Against Child Abuse and Torture (Article 16)

334. The 4 June Constitution in its Article 15 states that every person has the right to his/her physical integrity and condemns torture, physical or cruel, inhuman or degrading treatment.

335. Article 32 of decree No. 27/2001 of 28 April relating to the rights and the protection of the child against violence sanctions any person who inflicts on the child a cruel treatment, atrocious suffering or inhuman and degrading punishment.

336. The Rwandan Government is thus doing every thing possible to protect children against ill treatment by ensuring that children who are victims of ill treatment, receive assistance in the form of reparations with a view to their recovery. However, in some situations, it could be very difficult to obtain information or proofs about what is happening in families or in the community, because in most cases, adults abuse the right of correction that they have on children. Often beating is involved as mentioned earlier in the previous Chapters.

9.4.4 Sexual Exploitation and Sexual Violence (Article 27)

337. Government decree No. 27/2001 of 28 April 2001 relating to the rights and protection of the child against violence, defines, in its Article 33, as rape committed on a child, all sexual relations or any sex-based practices on a child, no matter its form and all that has been used. It also provides for most severe penalties (including the death penalty) as compared with those prescribed by the previous laws (Articles 34, 35, 36 and 37).
338. With respect to the incitement of the child to sexual activities such as prostitution, the decree on the rights and protection of the child against violence is very clear on it.

339. Articles 38, 39 and 40 of the Government decree lays down the penalties for whoever shall finance a child prostitution house or receive money from the prostitution of a child or who may have used or have used children to exploit them for purposes of show business aimed at prostitution or pornographic materials.


341. It is to be noted also that Convention No. 182 as well as the specific provisions of the Civil Code, the Criminal Code and the Labour Laws guarantee the legal conditions of protection.

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

342. The Rwandan legislation also sanctions the abandonment and exploitation of the child, thus, Articles 43, 44 and 45 of the law relating to the rights and protection of the child against violence decrees prison sentences and fines against parents or guardians who may have exposed or caused to be exposed, abandoned or cause to be abandoned a child who has been found. The death penalty shall be inflicted if the abandonment of the child or his exposure caused his death. Article 46 of the same Government decree applies sanctions to a parent, guardian or head of an institution in charge of children who may be found guilty of a breach of his obligation to educate and protect the child against violence. Paragraph 2 of the same Article, punishes parents guardians or heads of institutions in charge of children who may have led the child in to vagrancy, knowingly received monies or shared the proceeds from the begging of the child. However, in the urban areas, there are cases of adults who, accompanied by their children, practise begging and leads them to do the same. Meetings aimed at repressing this phenomenon have been held particularly in the city of Kigali.

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

343. Rwanda has signed the protocol relating to the trafficking of children. In addition, the Government decree relating to the rights and protection of the child against violence provides in its Article 41 for from five years to life imprisonment, for any person found guilty of abduction, sale or trafficking of a child.

344. It is highly interesting to note that cases of the sale or trafficking of children are not common in our country. The known forms of abduction are limited to forced and early marriages in some parts of the country, but are in the process of disappearing thanks to the combined work of women and children's rights activities, religious denominations administrative authorities and the national police. However, a small number of children (10) may have been reported found in a West African country and research is underway to identify them.
9.5 **Children who are Victims of Negative Social and Cultural Practices Affecting their Welfare, Dignity and Normal Growth and Development**

9.5.1 **Betrothal of Girls and Boys (Article 21.2)**

345. According to Article 159 of Government decree No. 42/1988 of 27 October 1988 establishing the preliminary title and the First Book of Civil Code, engagements or betrothal shall consist in the agreement between members of the two families that marriage shall take place between two people, the fiancé and the fiancée, belonging to the two families and the undertaking by the two families to help and sponsor the union of the future couple.

346. For its part, Article 161 of the same decree points out that engagements shall be without effect as long as the fiancé and the fiancée have not given their agreement. It is clear from these provisions that engagements and subsequent marriage can only be valid if the future couple have each attained the age of 21 years (Article 171).

9.5.2 **Early and Forced Marriages (Article 21.2)**

347. Data from the 3rd RGPH of August 2002 have revealed the existence of a very low number of children entering free unions. In all, of children aged between 12 and 17 years, there were 8,774 cases of children in free marriages including 2,704 boys and 6,070 girls. These children who do not know much about sexuality run all the risks ranging from dropping out of school to contamination by STDs and HIV/AIDS, through premature and unwanted pregnancies.

348. In terms of consequences we can also say that the effects of early and forced marriage on girls and to a lesser extent, on boys are many. From a legal point of view, the three key issues are: the denial of childhood and adolescence; reduction in individual freedom; and lack of the opportunity to develop independent personality. Added to that is the denial of psychological and emotional welfare and the chance for education.

349. Early or forced marriage also has repercussions on the welfare of families and society in general. Indeed, when girls lack education and are ill-prepared for their role as mothers, it is the whole nation that suffers from its consequences.

350. Concerning agreement to the marriage, decree No. 42/1988 of 27 October 1988 states that the man and the woman before 21 years cannot contract a marriage. The same Article makes an exception before 21 years for serious motives, the Ministry of Justice or its delegate may grant age dispensation.

351. With regard to repression Article 49 of the decree relating to the rights and protection of the child against violence, provides that every person responsible for the early or forced marriage of a child shall be punished by imprisonment from 6 months to 5 years and a fine of 20,000 Francs. If the person responsible for the early or forced
marriage is his parent or guardian, the penalty shall be 1 to 5 years imprisonment and a fine of 40,000 Francs (Article 50).

9.5.3 Any Other Form of Female Genital Mutilation (Article 21.1(a))

353. Under Article 33 of the decree relating to the rights and protection of the child against violence, all sex-based practices carried out on the child, no matter its form and the method used, constitute a rape committed on the child.

354. These provisions of the decree are enough to discourage anyone wishing to carry out such practices particularly since, so far, our country has not experienced such practices.

9.6 Children Belonging to Minority Group (Article 26)

355. The socio-cultural and political situation of Rwanda is such that there are no people that could be described as minority or autochthonous or indigenous group.

9.7 Children who need Special Protection (Article 26)

9.7.1 Children in Difficult Situation

356. Among the consequences that weighed and still continue to weigh heavily on the country since the war and the genocide of 1994 are children in difficult situation. This particularly concerns orphans children living in households headed by minors, children suffering from physical disabilities, children in conflict with the law, child soldiers, children living in the CENA, working children and street children.

357. As most of these situations have been highlighted in the preceding pages, we shall confine ourselves to the cases of children living in households headed by minors, street children and children affected by HIV/AIDS.

- Children Living in Households Headed by Minors

358. Among the 1,757,426 households in Rwanda at the time of the RGPH of August 2002, there were 15,052 of them headed by children under 18 years of age, i.e. a percentage of 0.9 Table 6 shows the distribution of these households by province and according to sex.

<table>
<thead>
<tr>
<th>Province</th>
<th>Total</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>Kigali-ville</td>
<td>952</td>
<td>720</td>
<td>75.6</td>
</tr>
<tr>
<td>Kigali Ngali</td>
<td>1,293</td>
<td>879</td>
<td>68.0</td>
</tr>
<tr>
<td>Gitarama</td>
<td>809</td>
<td>511</td>
<td>63.2</td>
</tr>
<tr>
<td>Butare</td>
<td>848</td>
<td>572</td>
<td>67.5</td>
</tr>
<tr>
<td>Gikongoro</td>
<td>780</td>
<td>504</td>
<td>64.6</td>
</tr>
<tr>
<td>Cyangugu</td>
<td>623</td>
<td>421</td>
<td>66.1</td>
</tr>
<tr>
<td>Kiuye</td>
<td>1,006</td>
<td>598</td>
<td>59.4</td>
</tr>
</tbody>
</table>
Gisenyi | 3,008 | 1,579 | 52.5 | 1,429 | 47.5
Ruhengeri | 2,708 | 1,552 | 57.3 | 1,156 | 42.7
Byumba | 1,079 | 645 | 59.8 | 434 | 40.2
Umutara | 742 | 579 | 78.0 | 163 | 22.0
Kibungo | 1,204 | 817 | 67.9 | 387 | 32.1
TOTAL | 15,052 | 9,368 | 62.2 | 5,684 | 37.8

359. As can be seen, children household heads are predominantly male i.e. 62.2% as against 37.8% females. When we know that these children do not have enough resources to earn their living, we easily understand the day-to-day difficulties facing them.

360. The Ministry of in charge of the protection of the child, in collaboration with partners and decentralized institutions, has been assisting these households headed by minors according to their needs: Housing, clothing, foodstuff, psycho-social monitoring, school fees and school supplies, etc.

- **Street Children**

361. In the 1990s, the phenomenon of street children was known in Rwanda but had not reached alarming proportions. It seriously developed in 1994 with the genocide, repatriation of refugees in 1996 and infiltrations in 1997. It is found in cities and urban areas. The number of street children was estimated at between 6,000 and 7,000 of which more than half are in the capital, Kigali. The General Population and Household Survey carried out 2002 was unable to quantify them because of their mobility.

362. Among these children we can distinguish “street children and children in the street.” The former live in the street while the latter work in the street during the day and return home in the evening.

363. Among the street children 49% are between 12 and 14 years old, 45% between 15 and 17 years, 25% are double orphans and 75% have one of their parents, 60% come from households headed by women alone.

364. Efforts have been made to try to take these children away from the street. One of the strategies was to organize their training in transit camps with a view to listening to them and preparing their reintegration into the community. When we questioned them, 50% wanted to return home by laying down some conditions, 25% wanted to go to school or professional training centre while 25% wanted to make a living in the street. In spite of these efforts, the phenomenon of street children persists in view of its root causes which are often linked to poverty, domestic violence, remarriage of one of the parents and the city attraction particularly when a brother or a friend is already there.

365. Indeed, the Rwandan society is confronted with major challenges such as the socio-economic situation which keeps 60.2% of the population below the poverty line, the destruction of traditional family values protecting children, the consequences of the genocide and the problem of coordinating the various interventions.
365. In 2005, AIDS orphans (of one or both parents) aged below 18 years was estimated at 200,000\textsuperscript{13}. It is difficult to know exactly their number because of the stigma associated with AIDS.

366. When parents or guardians of children fall sick or die of AIDS, his right to education is often compromised because he is sometimes forced to leave school and assume the role of an adult to look after members of his family and meet their needs. The same applies to his right to rest, games and leisure. HIV/AIDS often increases poverty within the family and creates for the child the risk of having to carry out the worst forms of labour and allowing himself to be exploited.

367. The national policy in favour of orphans and other vulnerable children recommend the mainstreaming of assistance to children affected with HIV/AIDS into OVC programmes to avoid stigmatisation.

368. HIV Control Projects in general have an OVC component which lays particular emphasis on children affected by HIV/AIDS (those whose parents/guardians are ill or orphans).

369. Among these projects, there is the need to highlight the MAP Project, the PEPFAR Project and the KURET Project on Child Labour, HIV/AIDS and education.

370. The decentralized institutions each year provide funds earmarked for assistance to vulnerable children in general and children affected by HIV/AIDS in particular. Such assistance is often limited to school fees and subscription to health insurance due to budgetary constraints.

X. RESPONSIBILITIES OF THE CHILD

“Indian ni kabili, ndina, dawe na ndina mwana” (We say wait for me two times wait for me, father and wait for me son).

371. Traditionally, the Rwandan child has some rights whose enjoyment enables him, not only to be useful to himself but also to his parents, the family and his country. He also has duties to assume towards his parents who nurtured and educated him, and educated him, towards his family of which he is a member and towards his country, which gives him facilities and guarantees for his life, his survival and his harmonious development.

372. The 4 June 2003 Constitution in its Chapter II, Articles 45 – 51 defines the rights and duties of the citizen. In pursuance of the CADBE, Rwanda in its decree No. 27/2001 of 28 April 2001 relating to the rights and protection of the child against violence, has devoted a chapter to the duties of the child (Article 25, 26 and 27).

\textsuperscript{13} Hunter, S. et J. Williamson, \textit{Enfants sur le bond} – F\'esum\'e: Estimations mises \`a jour et recommandations pour l'aide (version PDF), USAID, 2002
10.1 Responsibilities of the Child towards his parents, family and the society

373. Under Article 25 paragraph 1 of the Government decree, the child has the duty to respect his parents, his guardian, his teachers, his friends and all persons older than him. The child must have respect for his parents who moulded him for several years. This positive value also has its roots in the Rwandan culture where the child owed total obedience to his parents and older persons, where the child must obey the orders of his parents or his guardian. The obedience and respect extended and continues to extend to his teachers at school and to his friends.

374. As previously noted, the family is the basic unit of the society and the natural environment for the growth and welfare of all members and particularly children. Thus, under Article 197 of the Civil Code, couples have the obligation to maintain and educate their children. The obligation to maintain the child implies maintenance obligation which shall be in cash or in kind (Article 198 of the same Code). Article 200, paragraph 1 stipulates that maintenance obligation exists among the couple, it also exists between the father and mother on the one hand and their children on the other, and vice versa. This means that children also have the obligation to maintain their parents and to provide them with support. But Article 204 of the same Code adds that this support shall only be given in proportion to the needs of the claimant and the resources available to the person that must provide the support. These provisions are thus strengthened by Article 25, paragraph 2 of the decree No. 27/2001 of 28 April 2001 which stipulates that “the child has the duty to help his parents or his guardian in a manner that is not prejudicial to his health”. The duty of the child towards his parents is justified particularly when parents are poor or have become old or tired. Corresponding to the Rwandan adage “Urukwyu rukuze rwonka abana barwo” which means the old rabbit feeds from its children.

10.2 Responsibilities of the child towards his superiors (Article 31)

375. The Rwandan custom contains some positive values which Rwandans should not forget or abandon. The obedience and respect which the child owes towards elders whenever they may be (home in family, at school, etc.) are part of positive values of the Rwandan culture.

376. Respect and obedience of the child towards his/her superiors are enshrined in the written law in force in Rwanda. Indeed, Government decree No. 42/1988 of 27 October 1988 states in its Article 343 that “A Child, at any age, owes honour and respect to his/her father and mother”. This provision is strengthened by decree No. 27/2001 of 28 April 2001, relating to the rights and protection of the child against violence. It states in its Article 25, paragraph one, the principle that “the child has the duty to respect his/her parents, his/her guardian, his/her teachers, his/her friends and all people older than him/her.

377. In addition to the respect and obedience, the child has the legal and moral obligation to provide support to elders, particularly ascendants who are in need (Article 200, paragraph 2 of the Civil Code). This obligation is reciprocal.
10.3 **Responsibilities of the child towards his country and the Continent** (Article 31)

378. Article 47 of the June 4, 2003 Constitution clarifies this principle in the following terms: "All citizens have the duty to contribute through their work to the prosperity of the country, to safeguard peace, democracy, social justice and to take part in the defence of the fatherland.

- **Prosperity of the Country**

379. Any activity carried out by the child contributes, by its very nature to the welfare of the family and to the development of his community. The Rwandan child is educated in this direction. The educational programmes provide for civic education which prepares the child to assume his duty as a good citizen.

- **Safeguarding Peace**

380. The civic and moral education which the children receive from his early childhood either in the family or at school, prepares them gradually to live peacefully in the community and to avoid conflict with their neighbours.

- **Safeguarding Democracy**

381. From his early childhood, the child is educated to show non-discrimination of any kind whatsoever. Once a grown up, the child participates in activities aimed at helping equality and democracy to reign among Rwandans. One of the examples is the National Summit of children below 18 years of age which was organized in April 2004. Children expressed their points of view at the Summit on peace and national reconciliation, assistance to all vulnerable children without any discrimination and the building of a country worthy of them based on freedom and equality among citizens. They were aware that Rwanda needs their contribution and proposed solutions which were taken into account by the authorities. Participants in this Summit were representatives of children at all levels.

- **Defending the Fatherland**

382. The decree relating to the rights and the protection of the child against violence adopted on 28 April prohibits military service for children under 18 years (Article 19). But from the early age, the child is educated to love his fatherland.

383. The principle of child obligation towards his country is enshrined in Government decree No. 27/2001 of 28 April 2001, relating to the rights and the protection of the child against violence, in its Article 26 which stipulates that "the child has the duty to love his fatherland and to serve it according to the best of his/her ability".

**XI. FACTORS THAT PERMITTED THE IMPLEMENTATION OF THE CHARTER**
1. The Rwandan culture which places the child at the centre of all its family and community concerns;

2. The political will to promote the welfare of the child;


4. The existence of active partnership around the rights and duties of the child among all stakeholders from both the public sector, UN Agencies, diplomatic missions and the Civil Society, the private sector and the community.

5. The existence of a national policy in favour of orphans and other vulnerable children.

6. The ongoing process in line with the establishment of children’s fora both at the central and decentralized level.

7. Rwanda's active participation in different regional and international fora.

8. The existence of different organs, Commissions and Organizations whose duties include the promotion and protection of the rights of the child.

9. The existence of decentralized institutions which implement, laws, policies and programmes dealing with the welfare of the child.


XII. CONSTRAINTS TO THE IMPLEMENTATION OF THE CHARTER

The implementation of the African Charter on the Rights and Welfare of the Child has faced many constrains including the following:

1. Difficulties linked to the poverty of the country and families, which handicapped the full satisfaction of the rights of the child. Indeed, more than 60.29% of the Rwandan population live below the poverty line;

2. The consequences of the 1994 genocide which deeply shattered the fabric of the Rwandan society;

3. The very high number of children in general and vulnerable children in particular.

4. The still very high rates of infant mortality;
5. The scourge of AIDS which is increasingly raising the number of orphans;

6. Changes in traditional socio-cultural behaviours due to modernization, urbanization and monetization;

7. The population is not yet sufficiently aware of the rights and duties of the child;

8. Difficulties in coordinating the activities of those operating in the field of the rights of the child;

9. The existence of some gaps within the Rwandan legal framework;

10. The influence of tradition which makes some parents not to sufficiently respect the right of the child to freedom of expression and leisure or to still use beating as a means of punishment;

11. Special education has not yet reached a satisfactory level;

12. Health and sanitation infrastructures are still inadequate;

13. The inadequacy of pre-school educational institutions, day nurseries and kindergartens.

XIII. CONCLUSION AND RECOMMENDATIONS

The situation of the Rwandan child described throughout this report should be a matter of concern to all stakeholders: authorities at all levels, donors, Civil Society the private sector, the international community parents and children themselves.

The following recommendations are directed at all of them, according to their fields of competences:

1. To promote poverty reduction programmes;

2. To increase the budget allocated to programmes for the promotion and protection of the child in general and the vulnerable child in particular both at the international and national level and within decentralized institutions;

3. To raise people’s awareness of family planning;

4. To intensify programmes to sensitise the people to the need to fight against AIDS;

5. To intensify popular and family education programmes aimed at tolerance and national reconciliation;

6. To promote cultural values;

7. To raise the people’s awareness of the rights and duties of the child as well as parents’ obligation towards their children;

8. To establish at the national level, an independent body to coordinate all interventions in favour of the child;

9. To put place, at all levels, structures to coordinate activities in favour of the child;

10. To review the existing laws and bridge the gaps noted in the field of child protection;

11. To gather all the laws relating to the protection of the child into a single document called The Child Code and thus harmonize some provisions;
12. To sensitize the family and the community to ban the cultural anti-values hindering the respect for some rights of the child such as the right to freedom of expression and opinion and the right to leisure, etc.;
13. To sensitize parents and teachers to adopt corrective measures not running counter to the rights of the child;
14. To promote special education for disabled children who cannot be integrated into the normal educational system;
15. To promote health and sanitation infrastructures in general and in the school environment in particular;
16. To exert efforts to ensure total vaccine coverage for children;
17. To provide children under five years of age, with free health care in public health institutions;
18. To promote pre-school education, the establishment of day nurseries and kindergartens;
19. To take the measures enabling the population access to health care, such as health insurance.