

DOC/OS/(XXXVI)373b

**RWANDAN REPUBLIC**

**MINISTRY OF JUSTICE AND  
INSTITUTIONAL RELATIONS  
P.O.BOX 160 KIGALI**

**SEVENTH PERIODIC REPORT OF RWANDA  
TO THE AFRICAN COMMISSION ON HUMAN  
AND PEOPLES' RIGHTS**

**1999 – 2002**

**February 2003**

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## **INTRODUCTION**

The African Charter on Human and Peoples' Rights was adopted on the 27<sup>th</sup> June 1981 by the Organization of African Unity (OAU) and entered into force on the 21<sup>st</sup> October 1986. With the replacement of the OAU by the African Union, Rwanda adopted and ratified the Constitutive Act of the African Union adopted in Lomé on the 11<sup>th</sup> July 2000 by the 30<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government by Decree No. 23/01 of the 18/4/2001 (O.G. no. spec. of 8/5/2001, p.19). It signed the Charter on the 11<sup>th</sup> November 1981 and ratified it under Decree no. 10/1983 of the 17<sup>th</sup> May 1983 (O.G. 1983, p. 343). Most of its provisions have already been incorporated into Rwandan legislation.

In application of the provisions of Article 62 of the Charter, Rwanda deposited its initial Report with the African Commission on Human and Peoples' Rights in 1990 and presented it during the 9<sup>th</sup> Session of the African Commission held in Banjul, The Gambia, in march 1991. It was one of the first three countries that presented their initial Reports before the African Commission. The initial Report was to be followed by others at two- yearly intervals. That of 1992 had not been submitted due to the war of liberation that took place in the country. In 1994, the country was occupied with the reconstruction effort in the aftermath of the genocide. The same was true for the periods between 1995 and 1997 during which Rwanda's attention was concentrated on putting up the foundations for the rule of law. In 1999, Rwanda submitted a brief periodic Report which was not presented to the Commission. A cumulative Report covering those which Rwanda had not been able to present from 1992 to 2000 had been submitted in March 2000. It was this Report that had been presented to the Commission in May 2000 in Algiers.

The present Report covers the period 2000 – 2002. It is sub-divided into two parts. The first part talks briefly about the Rwandan institutional system, as well as the Human Rights Instruments to which Rwanda is signatory. The second part provides information on the measures taken during the period in question in the application of the African Charter on Human and Peoples' Rights, on the difficulties encountered in its implementation and on perspectives for the future.

The content of this document is the fruit of the combined efforts of the public institutions and of national independent organizations and institutions working in the field of human rights.

**PART ONE: INFORMATION ON THE INSTITUTIONAL SYSTEM  
AND ON THE HUMAN RIGHTS INSTRUMENTS TO  
WHICH RWANDA IS SIGNATORY.**

Rwanda is situated in the central part of East Africa. It is between Uganda, Burundi, Tanzania and the Democratic Republic of Congo (DRC). The country stresses between 1° and 3° latitude South and 29° – 31° longitude East and thus enjoys tropical mountain climate. Its mountainous topography gave it the name of “Country of a thousand hills”. Its population is estimated at 8,343 million inhabitants over a surface area of 26,388 km<sup>2</sup>, namely a population density of 337 inhabitants per km<sup>2</sup><sup>1</sup>. The Gross National Product was 242 dollars per annum in 2000<sup>2</sup>.

Rwanda was ruled by a King. The Berlin Conference of 1884 placed it under German authority as part of German East Africa. After the 1<sup>st</sup> World War it was entrusted to Belgium under the authority of the League of Nations as a territory under trusteeship. After the 2<sup>nd</sup> World War, the League of Nations became the Organization of the United Nations which placed Rwanda under Belgian rule.

After independence (1962) Rwanda underwent political regimes characterized by serious human rights violations and the culture of impunity, which resulted in the 1994 genocide.

In July 1994, the Rwandan Patriotic Front (RPF), having ended the genocide, formed a Government of National Unity with those Political Parties which did not take part in the genocide. In November of the same year, a National Transition Assembly was set up.

**CHAPTER ONE: THE CONSTITUTIONAL FRAMEWORK AND  
RWANDAN INSTITUTIONS.**

Rwanda is a Republic with a fundamental Law intended to rule the country during the transition period. It is a supreme national law with which all the other legal and regulatory arrangements must conform.

It runs the country’s institutions in accordance with the principle of separation of the powers of the Executive, the Legislative and the Judiciary.

Various national commissions whose objectives relate to human rights have been created. They are operational. Civil society and non-governmental organizations are active in the area of human rights.

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<sup>1</sup> Report of the National Population Office, Kigali, 2001

<sup>2</sup> Ministry of Finance and Economic Planning, Rwandan Development Index, Kigali, 2001.

### **1.1. The Fundamental Law.**

The Fundamental Law of the Rwandan Republic is a collection of texts with several components, namely:

- The 10<sup>th</sup> June 1991 Constitution;
- The Arusha Peace Accord;
- The Declaration of the RPF of the 17<sup>th</sup> July 1994 relative to the setting up of the institutions;
- The Agreement Protocol between the Political Groups RPF, MDR, PDC, PDI, PL, PSD, PSR and UDPR relative to the setting up of the National Institutions signed on 24<sup>th</sup> November 1994.

The Legal and Constitutional Commission stipulated in the Arusha Peace Accord and created by Decree No. 23/99 of the 24/12/1999 (O.G. No. 1 of 01/01/2000) is responsible for preparing the first draft of the Constitution which should govern the country after the end of the transitional period scheduled for July 2003.

A Legislative Reform Commission was created within the Ministry of Justice and Institutional Relations by Prime Minister's Order No. 53/03 of 27/07/2001 to carry out an inventory of all the legal or regulatory documents which are no longer adapted to the realities of the country and to prepare first drafts of new laws or texts to be revised. In this context the latter made an inventory of those legal texts, which fell into the urgent category. The proposals for the amendment of these texts aim largely at the strengthening of the principles such as the separation of powers, the independence of the judiciary and the rule of law. Meanwhile the Fundamental Law remains in force.

### **1.2. The Rwandan Institutions.**

The organization of institutions in Rwanda during the transitional period is described in the preceding Report. Nonetheless, certain clarifications can be added. Furthermore, the few amendments and innovations which came up during the period covered by this Report are outlined in the lines which follow.

#### **1.2.1. The Executive.**

As indicated in the preceding Report in pages 8 and 9, the Executive power is exercised collectively through the decisions taken during Cabinet meetings by the President of the Republic and the Government. The latter is made up of the Prime Minister, the Deputy Prime Minister, Ministers and Secretaries of State (Article 4 and 15 of the Protocol on Distribution of Powers). Their portfolios and privileges as well as the execution of their duties are outlined in the preceding Report.

Established in the aftermath of the 1994 genocide, the current Government has since then embarked on a process of reconciliation, of the reconstruction of the rule of law and of democratization.

### **1.2.2 The Judiciary.**

The Judiciary, independent from the Executive and Legislative Powers, is exercised by the Courts, the Tribunals and other legal institutions. Since the submission of the previous Report the legal system has developed in several aspects notably with regard to the tribunals and the “GACACA Courts”. The only changes that took place during the period in question will be indicated further on in this document.

#### **a) The District Tribunals**

Following a new re-organization exercise in the country, the Decree No. 50/2001 of the 29/12/2001 amending the Decree No. 09/80 of the 7<sup>th</sup> July 1980 creating the Organization and Legal Authorities Code, the jurisdictions of the District Tribunals were revised so that each province and the City of Kigali were divided into legal districts and each administrative and city jurisdiction corresponded to the jurisdiction of a district tribunal. Thus, the number of districts was reduced from 143 to 106.

#### **b) The Tribunals of First Instance**

The Organic Law No. 8 of the 30<sup>th</sup> August 1996 establishing the arrangements for proceedings against offenses, which constitute crimes of genocide or crimes against humanity committed as from The 1st October 1990, had created within the Courts of First Instance and Military Tribunals so-called specialized Chambers with the exclusive competence for dealing with such offenses. These Chambers had been removed to give way to the “GACACA Courts”. However cases, which had already been brought before the courts, continue to be judged before these courts which used to contain the said Chambers.

#### **c) The Appeal Courts**

There are no new developments in relation to the Appeal Courts since the presentation of the previous Report.

#### **d) The Supreme Court**

The Supreme Court has a sixth division namely, the “GACACA Courts” Division responsible for supervising the “GACACA Courts” and for settling all conflicts relating to competence which may arise between them. This Division is also responsible for overseeing, inspecting and coordinating their activities.

**e) The Military Tribunals**

The Military Tribunals make up a category of specialized courts including the War Council and the Military Court responsible for pronouncing penal judgments against military officers and their accomplices. The mandate of the military tribunals originally covered both the members of the Rwandan Defense Forces and the National Gendarmerie. With the suppression of the latter and its replacement by a National Police with a status different from that of the military, this mandate covered only the members of the Rwandan Defense Forces.

**f) The “GACACA Courts”**

According to the provisions of the Organic Law No. 22/2000 of the 11/10/2000 amending and completing Decree No. 09/80 of the 7<sup>th</sup> July 1980 which established the Organization and Legal Authorities Code, the specialized courts are the War Council, the Military Tribunal and the “GACACA Courts”.

A technique of merging the classical legal system with certain principles of traditional Rwandan justice inspired a new category of legislation. This is the “GACACA Courts” system set up by the Organic Law No. 40/2000 of the 26<sup>th</sup> January 2001 which created the “GACACA COURTS” and the arrangements for proceedings against offenses considered as crimes of genocide and crimes against humanity committed as from the 1<sup>st</sup> October 1990 and the 31<sup>st</sup> December 1994, as amended and completed to date.

The war and the genocide which plunged Rwanda into mourning between 1990 and 1994 and which resulted in more than a million victims gave rise to the arrest of several people. The prisons are overflowing with detainees whose number (about 110,000) largely exceeds its normal holding capacity. The numerous victims of the genocide impatiently wait for justice to be done for their rights to be restored. The detainees and their families await judgment so that the criminals will be definitively condemned and the innocent freed. However, faced with the slow pace of the classical justice system due to the limited number of courts and the difficulties of putting together evidence, the pace of judgments made has proved unsatisfactory. There is fear that time may worsen the situation by causing the disappearance of evidence and making real impunity incompatible with the Rwandan peoples’ need for justice. It is in this context that the “Gacaca” system covers the various administrative entities of Rwanda.

This system specifically englobes a procedure of confession and pleading guilty open up to the 15<sup>th</sup> March 2003 for anybody who committed crimes of genocide and crimes against humanity. Anybody being tried for crimes of genocide belonging to the punishable categories of judgment before the “GACACA Courts” and who used these procedures will benefit from a commuted sentence.

The Government and Rwandan people expect the “Gacaca” system to help:

- Obtain precise information, in a very short time, on the truth of what exactly happened during the genocide and the massacres.
- Accelerate the judgment of those detained for crimes of genocide and massacres.
- Eradicate for good the culture of impunity whilst instilling the rule of law in the national society.
- Punish the persons involved in the acts of genocide and massacres and strengthen unity and reconciliation amongst Rwandans.
- Show that the Rwandan Community is capable of solving its own problems by using traditionally inspired justice.
- Bring solutions to the various problems caused by the genocide and massacres including the problem of compensation of the victims.

Each assembly of a GACACA Court is made up of 19 persons who can only meet if there is a quorum of at least 15 persons present. Decisions are taken by consensus and, failing this, by absolute majority.

At the top of the hierarchy is the non-jurisdictional “GACACA Courts” Division of the Supreme Court.

Furthermore, the process offers the guarantee of a just and fair hearing. Some of these guarantees relate namely to:

- The moral quality of honest judges elected by the population and trained for this purpose;
- The primordial role of eye witnesses (**TO CHECK – a charge ou a decharge**) by individuals who were on the spot during acts which were publicly committed or had themselves participated in the acts of genocide and massacres;
- The possibility of having legal experts intervene during hearings;
- The opening of public hearings to all without discrimination including the Authorities, legal officers and lawyers;
- The recording of the proceedings in writing, as well as the transparency of well founded judgments made by a collegial group in secret session and in principle by consensus;
- The existence of local remedies and the supervision by a specialized Division of the Supreme Court.

The election of the “Gacaca” judges took place from the 4<sup>th</sup> to 7<sup>th</sup> October 2001. After a training period the President of the Republic officially launched the commencement of the work on the 18<sup>th</sup> June 2002. A Compensation Fund is being created. The introduction in the process of a sentence of labour for community benefit as an alternative to imprisonment by Presidential Decree No. 26/01 of the 10<sup>th</sup> December 2001 (O.G. No. 3

of 01/02/2002 p. 112) will allow the large scale emptying of the prisons, with all its attendant benefits for the national society at large in relation to human rights.

**g) The Supreme Council of the Magistracy**

A Supreme Council of the homogenous and autonomous Magistracy, made up of 21 members, all magistrates, manages the careers of magistrates in the Courts and Tribunals other than the President and Vice-President of the Supreme Court. Its legal mandate, its composition and authority have been detailed out in the previous Report (see pages 11 and 12).

**h) The independence of the Judiciary:**

The re-establishment of the Supreme Court, as well as the new organized system and responsibilities of the Supreme Council of the Magistracy strengthen the independence of the Judiciary as has been described on page 12 of the preceding Report.

**1.2.3. The Legislature:**

By virtue of the principle of the separation of powers stipulated by the Fundamental Law, it is the Transitional National Assembly, which embodies the legislative power. The description of this institution and its missions has been outlined in pages 15 to 17 of the previous Report.

It is an Assembly with the following several components:

- The representatives of the Political Parties included in the composition of a government of national union;
- The representatives of the Rwandan Defense Forces;
- The representatives of women's and youth organizational structures.

Even if former political groups appoint the National Assembly Members, their right to vote is exercised individually.

A regime of parliamentary incompatibility tends to fully guarantee the independence of the Member of Parliament vis-à-vis the public authorities or, if need be, private interests. This incompatibility relates to the exercise of ministerial, legal or other public functions.

In the context of its relations with state controlled institutions, the Fundamental Law provides for the intervention of the Transitional National Assembly in the following cases, relative to presidential duties:

- In the event of inability of the President of the Republic to promulgate a law within 10 days: the President of the Transitional National Assembly effects this promulgation;

- In the event of violation of the Fundamental Law by the President of the Republic: he will be indicted by the Transitional National Assembly with 2/3 of the members present;
- In the event of the resignation of the President of the Republic: the letter of resignation is received by the Transitional National Assembly;
- In the event of investiture of the President of the Republic: the latter is sworn in by the President of the Supreme Court before the National Assembly.

Inversely, the Members of the Transitional National Assembly are sworn in before the President of the Republic in the presence of the Constitutional Court. He has the option of requesting the endorsement of the National Assembly in case of a Cabinet reshuffle and of the sacking of the Prime Minister. Finally he is kept informed of the deliberations of the National Assembly.

In its relations with the Government, the power to confirm these decrees/laws adopted by the Government remains the prerogative of the National Assembly, which should do so at its very next session.

Moreover, the Transitional National Assembly holds the power to control Government activities. The control mechanisms can, if need be, be activated by challenging the responsibility of the Government, of a Minister or of a Secretary of State.

In its turn the Government can call for the dissolution of the National Assembly.

The power of sanction is also brought to bear in the case of violation of the Fundamental Law by the Prime Minister, a Minister or by a Secretary of State.

In his relations with the Transitional National Assembly, the Prime Minister is compelled to present the Government's programme and the ministerial team responsible for its implementation, to the National Assembly. However, the Prime Minister holds certain prerogatives on the Transitional National Assembly.

These relate namely to :

- Requesting the National Assembly to consider, in session, a specific point as a matter of urgency (Article 69, parag. 5 protocol on power sharing).
- Requesting the President of the Republic to dissolve the Transitional National Assembly on the decision of Cabinet and after consultation with the bureau of the Transitional National Assembly; (Article 76 Protocol on power sharing).
- Consulting the bureau of the National Assembly, after the Supreme Court, so as to declare a state of siege or a state of emergency on decision of Cabinet (Article 18, 10 Protocol on power sharing).

In its relations with the Judiciary, the President and Vice-President of the Supreme Court are chosen by the National Assembly from a list presented by the Government. They are relieved of their duties by the National Assembly through a two-thirds majority vote, either at its own initiative or on the proposal of the Government. Further, the President and Vice-President of the Supreme Court are sworn in before the President of the Republic in the presence of the Transitional National Assembly. The Constitutional Court, one of the Divisions of the Supreme Court, is responsible for checking the constitutionality of the laws voted through by the National Assembly before their promulgation.

The National Assembly has 9 permanent Committees, technical bodies within which the greater part of parliamentary work is carried out. Among these Committees figures that of National Unity and Human Rights. This Committee is responsible for:

1. Issues relative to national unity and reconciliation, as well as to human rights;
2. All problems which give rise to dissension amongst Rwandans: for instance words, documents, acts and problems of any other nature;
3. Matters aimed at harmonizing Rwandan legislation with international conventions in relation to human rights which have been ratified by Rwanda;
4. Matters relative to organizations for defense of human rights;
5. All issues pertaining to the work of public departments responsible for the protection of human rights.

Among the activities already being carried out by the Committee for National Unity and Human Rights of the Transitional National Assembly figure notably:

- Reports on projects and draft laws relative to the creation of various national committees working in the area of respect for and defense of human rights;
- Its important role in the adoption of laws favourable to the national objectives in the field of human rights;
- The formulation of recommendations in this respect for Government.

As has already been pointed out in respect of the Executive power, the prerogative of initiating laws belongs to the Government and to the Transitional National Assembly.

Finally, it should be noted that the Treaty establishing the Pan-African Parliament signed in Syrte (Libya) on the 2<sup>nd</sup> March 2001 by the 5<sup>th</sup> Extraordinary Session of the Assembly

of Heads of State and Government had been approved and ratified by Rwanda by Law No. 37/2001 of the 17 July 2001 (O.G. spec. edit. of 2/11/2001 p. 17).

### **1.3. The National Human Rights Commission**

The basis, the creation, the institution, the competence and means of activity of the National Human Rights Commission are spelt out in detail in pages 17 and 18 of the preceding Report. The same was done in relation to its independence and the legal immunity of its members.

In the area of the protection of human rights, the National Human Rights Commission has achieved the following concrete activities:

- It has mobilized all the means possible to defend the individual whose rights have been violated, and has given advice to the competent authorities for the repression of all forms of human rights violations;
- In the area of civil and political rights, the complaints received were for the most part, linked to cases of arrests and illegal detentions, as well as cases of non-execution of judgments in penal matters. The Commission has visited the jails and detention houses of the country and has submitted concrete proposals to the Departments responsible for the improvement of the conditions of the detainees and the respect of their rights.
- Furthermore, on its own initiative, the Commission has undertaken to pursue the follow up of the activities of the “GACACA Courts” which are carried out over the entire country.
- In the area of economic, social and cultural rights, the Commission deals regularly with complaints related to the violations of the right to individual property, of those linked to violations of the right to work and those relative to the assets of orphans of the genocide, as well as problems linked to the right to education, etc.

In the effort to increase awareness of and respect for human rights, the Commission achieved the following activities:

- To prepare and dispense human rights education and to organize public conferences on this subject destined for different sectors of the population: secondary level students in their respective schools, the executive committee members of grassroots organizations, the youth during consultative and civic training meetings, the “ingando”, the independent human rights Associations and Security Agents;
- To broadcast educational programmes on radio and television;
- To prepare didactic material on human rights;
- To prepare and organize the celebration of commemorative days in the context of International or African Conventions relative to human rights.

To succeed in its activities, the National Human Rights Commission:

- Opened regional offices in all the Provinces of the country except in the Kigali City Council and “Kigali Ngali” as they are close to headquarters;
- Employed qualified staff at its headquarters to take care of the work on promotion, protection and respect for human rights with the population;
- Acquired computing equipment, means of communication and training in technical investigation for the staff in the area of human rights.

Since its creation, the Commission has produced three Annual Activity Reports, which it submitted to the Office of the President, to the Government, to Parliament, to the Supreme Court and to the different partners. The Commission’s Reports are also distributed to the public at large.

In its Agenda, the National Human Rights Commission has included the intention to approach various organizations in the effort to find specific solutions for the very frequent cases of human rights violations including arrests and illegal detentions, the non-execution of judgments, the violation of the right of orphans to property, as well as the disputes linked to ownership rights of refugees who have been repatriated after more than two decades in exile.

It also intends to carry out activities related to human rights education by targeting the most concerned groups, activities related to the drafting of a Rwandan Human Rights Charter which should be an integral part of the new Constitution currently being drafted, and the preparation of an educational manual on human rights issues destined for secondary school students.

Among the constraints encountered, the Commission is faced with difficulties of a general nature including insufficient material means required for the realization of its activities, the ignorance of the population with regard to individual rights and the rights of others, poverty as the source of greed which is one of the causes of the various types of human rights violations.

#### **1.4. The National Unity and Reconciliation Commission.**

Created by Law No. 03/99 of the 12/03/1999 (O.G. No. 6 of the 15/03/1999), the National Unity and Reconciliation Commission is responsible for 9 tasks, namely:

1. To prepare and conduct debates at the national level with the objective of promoting Unity and reconciliation of the Rwandan people;
2. To use all possible means to sensitize Rwandans to the need for unity and to set it up on a solid base;

3. To prepare and disseminate ideas and initiatives necessary for promoting the culture of unity and reconciliation;
4. To denounce and combat acts, documents and language liable to incite any kind of discrimination;
5. To prepare and co-ordinate the national programme for the promotion of reconciliation of Rwandans;
6. To sensitize Rwandans on their rights, on the respect for the rights of others and to build in them a culture of fighting for their rights;
7. To express views relative to the draft laws intended to combat all forms of sectarianism and to promote the unity and reconciliation of the Rwandan people;
8. To closely monitor respect for the objectives of unity and reconciliation by all the institutions;
9. To supervise respect for the ideology of national unity and reconciliation by political groups, leaders and every individual.

Among its activities, which relate directly to the respect for human rights notably figure the following:

- It has organized several debates, training seminars and days of reflection at the national level, notably for the representatives of the local population and of the diaspora, for the leaders of political parties registered in Rwanda, for journalists and other components of civil society, for certain State officials and those of the Commission itself;
- It has organized a national debate with Rwandans living abroad. The latter had been informed about the recent past experienced by the country and future prospects for national unity and reconciliation. The exchanges had been very fruitful.
- It has organized consultative and civic training meetings “Ingando” , 3 per year, each time bringing together, on average, more than 600 students attending higher level educational institutions in the country. During these “ingandos”, human rights issues figure on the top of the list.
- It has initiated and directed preparatory exercises on the first draft of the law prohibiting discrimination and all forms of sectarianism.

- A meeting to exchange ideas on human rights issues, justice and reconciliation had been organized in June 2001 with the support of eminent personalities from South Africa, Namibia and Germany;
- The Commission is a partner in a Project for the training of military personnel in the respect for and protection of children's rights, initiated by UNICEF in collaboration with the National Human Rights Commission and the Rwandan Defense Forces;
- To create harmony within Rwandan society, the Commission facilitates dialogue between the perpetrators of the genocide who wish to request pardon from those who escaped. This encourages the peaceful co-existence of individuals.

Within the framework of its future perspectives, a poll had been carried out in July 2002 to gauge the opinion of the population on the expectations and contribution of the "Gacaca" hearings within the national reconciliation process. The results of this poll should facilitate the planning of follow-up and support actions of this programme so that the latter can adequately respond to the expectations of Rwandans in the matter of reconciliatory justice.

A programme for strengthening the follow-up of the activities of the different institutions (state controlled and non-state controlled) has already started with a view to enabling the Commission to adequately fulfill one of its important roles, namely, "to ensure respect for the principle of respecting and promoting unity and reconciliation " by all institutions, leaders and individuals. It goes without saying that that would have a positive impact on the promotion and respect for human rights.

The Commission will continue to organize other debates, conferences, seminars and "ingandos" on unity and reconciliation. These should again be opportunities for expressing positive and/or negative indicators of the process for unity and reconciliation and for raising the awareness of the population at all levels to the need to maintain the process for peace, justice, unity and reconciliation in our country;

In the execution of its mission, the National Unity and Reconciliation Commission should overcome the difficulties relative to the paucity of resources, and to the post genocide socio-economic context.

Among the constraints encountered in the area of promotion and protection of human rights can be cited:

- A long-term culture of divisionism and discrimination anchored within the Rwandan Community;
- The offshoots of the 1994 genocide which only served to enlarge the already existing divide;
- The refugees who are still outside the country and who, for the most part,

- are engulfed by those who have special reasons for not returning home;
- The slow progress of the judgments on crimes of genocide which gives no hope to the victims of one day seeing the judgment of those who offended them;
- The widespread poverty within the population is not a factor which favours national unity and reconciliation;
- Illiteracy which does not help the acquisition of new ideas through Sensitization;
- Conflicts related to land distribution.

## **1.5. Civil Society and the Defense of Human Rights.**

### **1.5.1. Non-governmental Human Rights Organizations.**

Rwanda currently has several non-governmental organizations (NGOs) active in the field of human rights. The International NGOs, which stayed on after the emergency period following the 1994 genocide, continue to freely carry out their activities aimed at promoting human rights.

The Rwandan, foreign and international non-profit making law Associations are governed by a new Law No. 22/2000 of the 26<sup>th</sup> July 2000 relative to the creation of non-profit making Associations (O.G. No. 7 of the 01/04/2001 p. 39) which replaced the old Edict of the 25<sup>th</sup> April 1962 relative to non-profit making Associations.

The new law governs them for the better, in the interest of not only public order, but especially in the interest and harmony of their members and of the community at large.

Its innovations aim notably at:

- The protection of the Associations' heritage;
- The improvement of the modalities for decision-making with the introduction of the Members General Assembly as the supreme body of each Association;
- The integration of foreign law NGOs;
- The creation of follow-up and evaluation mechanisms of these Associations.

The trend is that these NGOs are generally arranged in groups, some of which specialize in well-defined sectors such as Women's Rights, Children's Rights, the rights of genocide escapees etc. The best known Groups are the "Collectif des Lignes et Associations de Defense des Droits de l'Homme au Rwanda" (CLADHO), PRO FEMMES/TWESE HAMWE and IBUKA.

As a group some of these Associations have the following achievements to their credit:

- Support to the Government in its efforts to instill the rule of law and to translate as faithfully as possible the aspirations of the population throughout the participative democratization process;
- The control of corruption in the framework of a project called “Contribution to the re-establishment of human moral values in the fight against corruption”. The objective is to involve everybody in the eradication of corrupt practices and in the management of joint assets as a good family head;
- The seminar on the contribution of local human rights NGOs in the “Gacaca process”. This seminar enabled the NGOs to bring out the relevance of collaborative action to avoid duplication, overlapping and confusion;
- The drafting and finalization of the joint project entitled “Support Project to the Civil Society in the GACACA Process in Rwanda: *To survive together (P.A.P.G.)*” by the Groups CLADHO, PRO FEMMES/TWESE HAMWE and IBUKA. The ultimate aim of this project is to contribute to the success of this process while respecting the rights of all the parties concerned (victims and detainees);
- The follow-up of the results of the elections of honest “Gacaca” “Inyangamugayo” judges carried out across 9 provinces of the country by the members of 5 Groups involved in the Support Project to the Civil Society in the GACACA Process in Rwanda (PAPG);
- The launching and setting up of structures, composition of the organogramme, mobilization of funds and the implementation of the Programme for Observation of Elections in Rwanda (POER) initiated since 2000 and bringing together the Groups of CLADHO, IBUKA and PRO-FEMMES/TWESE HAMWE. The Media House, the Union of Rwandan Workers (CESTRAR) and the Episcopal Committee “Justice and Peace” also participated.
- Participation in several meetings in the search for appropriate solutions to the problem of land ownership in Rwanda and to poverty alleviation with a view to contributing to the drafting of a land policy and law within the framework of the network *Grassroot Consultations on land issues* “Landnet” bringing together the local and international NGOs working in the area of the development of human rights in Rwanda.

## **CLADHO**

The “Collectif des Ligues et Associations de Defense des Droits de l’Homme au Rwanda (CLADHO), in fact exists since March 1993, on which date four Associations made a resolution to combine their efforts to confront the numerous violations of human rights taking place in the country during that period. It was officially registered by Ministerial Decree No. 18/05 of the 4<sup>th</sup> January 1994 and today re-groups 5 Associations.

The activities of CLADHO and its members are aimed at the protection, defense and promotion of Human Rights in Rwanda. This collectif is the only one in Rwanda to have obtained Observer Status with the African Commission of Human and Peoples’ Rights. However, in view of its limited financial resources, it has not yet been able to participate in the sessions of the Commission.

Nonetheless, with the little means at its disposal, CLADHO and its member Associations have been able to realize certain activities in the framework of their own programme. Thus:

- CLADHO has been able to design and execute the human rights awareness raising project funded by “Christian Aid” and the World Bank;
- CLADHO provided its representative in the National Coordination Committee for the Follow-up on the Implementation of the Beijing Action Platform with a host of elements enabling him to contribute to the drafting of a strategy and a plan of action to integrate the concept of “gender” into its activities and those of its member Associations;
- CLADHO has taken care to provide assistance to persons that have approached it or its member Associations for help in carrying out investigations for the protection and defense of their rights;
- CLADHO made a declaration on the occasion of the commemoration of refugee day celebrated on the 20<sup>th</sup> June 2001 by launching an appeal to the national and international community for “ it to seriously consider the resolution of the problem of refugees piled in the camps inside Rwandan territory”;
- The KANYARWANDA Centre for the Rehabilitation of the victims of Torture and Repression provided medical assistance to 67 destitute individuals and settled their hospital bills;
- The member Associations of CLADHO organized sensitization and training sessions on the respect for, promotion and defense of human rights for various categories of the population including the grassroots authorities, primary and secondary school teachers and secondary school students.

In spite of the paucity of human and financial resources suffered by CLADHO and its member Associations, this human rights defense group hopes to pursue and reinforce its activities. More particularly, the initiative to establish a “GACACA” dialogue at the national level was a success, and CLADHO intends to strengthen this Platform and

mobilize extra funds for its extension. Besides, it intends to deploy special efforts for the commemoration of the Universal Declaration of Human Rights on the 10<sup>th</sup> December each year.

### **PROFEMMES – TWESE HAMWE**

13 Associations for the promotion of Women’s Affairs, Peace and Development created the PROFEMMES/TWESE HAMWE GROUP in 1992. It has currently 40 member Associations, all of them involved in the protection of human rights as defined by the Universal Declaration of Human Rights and by the African Charter on Human and Peoples’ Rights.

The activities of the PROFEMMES/TWESE HAMWE member Associations are mainly concentrated in the following areas:

- Education on human rights issues in general and on Women and Children’s issues in particular.
- Assistance to victims with regard to administrative and or legal procedures to help re-establish their violated rights. At this level 12,729 individuals, 7,344 women and 5,385 children had been assisted by the Association for the Defense of Women’s and Children’s rights “HAGURUKA ASBL”;
- The organization of different training sessions on human rights which brought together a total of 24,204 participants of all categories and the training of auxiliaries known as “para jurists” who currently total 365, and are distributed in all the districts and towns of the country;
- The economic, social and cultural emancipation of women to enable them obtain the required means to get rid of poverty and acquire a relative level of material independence;
- Adult literacy, the opening and operation of nursery, primary and secondary schools, as well as training centers for uneducated young people and for the education of girls, research on the reasons for the non-education of girls in Rwanda and the dissemination of the results on a large scale;
- The control of sexually transmitted diseases and HIV/AIDS and the fight against domestic and community violence perpetrated against women and young girls, which is detrimental to their health, abode and to their right to property.

In the field of peoples’ rights, the member Associations of PROFEMMES/TWESE HAMWE are active in the area of the culture of peace and gender promotion, in the area of conflict prevention and resolution, of democracy and good governance and in information and communication.

The first difficulty encountered by the Group PROFEMMES/TWESE HAMWE is the poverty of women who continue to wait for the defense and promotion of their rights, for

financial support and solidarity from the Associations when the latter themselves do not have sufficient resources and depend on gifts from benefactors. Another major constraint is the ignorance of the majority of the population of their own rights. Added to this is the weight of traditional practices which weigh heavily on their consciences, thus requiring a massive information campaign and legal training when the resources at the disposal of the Group and of the member Associations are limited.

In spite of these difficulties, the Group PROFEMMES/TWESE HAMWE and its member Associations intend to:

- Pursue, as much as possible, the sensitization and information campaign on human rights in general, and on women's and children's rights in particular;
- Continue the process of decentralization by creating provincial secretariats to better respond to the needs of the population;
- Continue to play the role of lobby and to advocate for the respect of human, women and children's rights;
- Create networks for exchanges and collaboration at the national, regional and international levels to better protect women and children.

### **IBUKA.**

The non-profit making Association IBUKA was created by its members in order to reflect on all the problems caused by the genocide, to respond to the need to co-ordinate all the activities relative to the problems experienced by the genocide escapees and to represent the latter vis a vis third parties. It acquired legal status through Ministerial Decree No. 029/17 of the 11/12/2002 (O.G. No. 6 of the 15/8/2002, p. 120).

IBUKA took on the task of coordinating the activities aimed at rehabilitation and support for the genocide escapees. Its objective is:

- To assist, defend and represent the genocide escapees;
- To search for evidence of guilt against the perpetrators, the silent partners and the planners of the genocide and bring them to justice;
- To promote justice and control impunity;
- To retain and respect the memory of the victims of the genocide;
- To constantly remind the universal community of the odious crime of genocide in order to control its recurrence, to control revisionism and to encourage collaboration in the search for radical solutions;
- To analyze the root causes of the crime of genocide and that which facilitates its perpetration;
- To fight against ethnic and other forms of discrimination;
- To encourage the development of national peace and harmony as well as the equality of all individuals before the law;

- To coordinate the efforts at solving the problems caused by the genocide and to seek support for these efforts;
- To encourage good relations with those Associations with identical or similar objectives.

IBUKA's members are physical and moral persons concerned by the problems caused by the genocide.

IBUKA has several activities to its credit, notably in the area of education of destitute children, in the area of health and rehabilitation and in support for genocide escapees in all sectors.

IBUKA has from the onset followed with interest the proceedings of the individuals accused of the crime of genocide both in Rwanda, in the International Criminal Tribunal for Rwanda in Arusha, Tanzania, and everywhere else. IBUKA unreservedly provides support to victims, to civil groups and witnesses.

### **1.5.2. The Media and Human Rights in Rwanda**

Law No. 54/91 of the 15<sup>th</sup> November 1991 (O.G. 1991, p. 1866) governed the media. This text, which contained restrictions with regard to the exercise of the rights of the media, has just been replaced by a new law No. 18/2002 of the 17/05/2002 governing the activities of the media (O.G. No. 13 of the 01/07/2002, p.113) and sanctioning plurality in the audiovisual and written news.

This law has introduced new aspects by:

- Providing a clear definition of a journalist, of his rights and responsibilities and his role in society;
- Making provision for the creation of a Supreme Press Council which would guarantee and ensure the freedom and protection of the media, monitor respect for and deontology of the press, and to determine the conditions of equal access to public media for all political groupings;
- Allowing the issue of press cards to journalists and to others working in the media houses themselves;
- Monitoring the protection of children in particular and of the youth in general against publications liable to destroy morals and good habits;
- Differentiating civil responsibilities from criminal ones within the media, with journalists being considered in this matter just as other ordinary citizens.

According to its Article 13, the right to create a media house which, up to now, had been the monopoly of the State, is now allowed to all physical or moral persons with a legal background and who fulfill the conditions laid down by the said law.

The press within the civil society comprises 23 newspapers and magazines of the private media of which the most important are Kinyamateka, Umuseso, Ubumwe, Ishakwe, Enjeux and Gasabo. A national television and official radio stations, as well as two official newspapers can be added to the media inventory.

Together, all this private press and the public newspapers of the Rwandan Information Office (ORINFOR) make up an Organisation called “The Media House” thus combining all their efforts.

Newspapers coming from the neighbouring countries are freely read in Rwanda. The international press is present: certain radio stations like the British Broadcasting Corporation (BBC) and the Voice of America (VOA), the Deutsche Welle (D.W.) and soon Radio France International (RFI) frequently broadcast in Rwanda in FM. Some of these even broadcast in the national language of Kinyarwanda. All this media works principally or secondarily, as the case may be, for the promotion of human rights.

## **CHAPTER II: THE HUMAN RIGHTS INSTRUMENTS RATIFIED BY RWANDA.**

The international instruments relative to human rights to which Rwanda is signatory can be divided into ten main categories, namely:

1. The general instruments;
2. The instruments relative to the control of discrimination;
3. The instruments relative to genocide, to war crimes, to crimes against humanity and to torture;
4. The instruments relative to women and children;
5. The instruments relative to humanitarian rights and to refugees;
6. The instruments relative to slavery and to human trafficking;
7. The instruments relative to work;
8. The instruments relative to copyrights;
9. The instruments relative to terrorism;
10. The instruments relative to the environment;

Among the general instruments serving as a basis for the others figure notably:

- The Universal Declaration of Human Rights adopted and proclaimed in a United Nations General Assembly Resolution on the 10<sup>th</sup> December 1948;
- The International Human Rights Agreements including the International Convention on Civil and Political Rights.
- The International Convention on Economic, Social and Cultural Rights.

Several international, regional and sub-regional instruments relating to specific areas of human rights such as the protection of vulnerable persons, the environment, health and others have been ratified.

Among the most recent figure notably:

- Convention No. 182 relative to the prohibition of the worst forms of child labour and to immediate action for their elimination was ratified by Presidential Decree no. 39 bis/01 of the 30/9/1999 (O.G. No.7 of 01/4/2000, p. 11).
- Convention No. 29 relative to forced labour ratified by Presidential Decree No. 26/01 of the 10/11/2000 (O.G. No. 24 of 15/12/2000, p.8).
- The African Charter on the Rights and Welfare of the Child ratified by Presidential Decree No. 11/01 of 30<sup>th</sup> May 2001 (O.G. 2001, No. 22, p. 58).
- The Treaty establishing the Pan-African Parliament approved and ratified by law No 37/2001 of the 17<sup>th</sup> July 2001 (O.G. spec. edit. of the 28/11/2001 p. 17).
- The Protocol prohibiting illegal acts of violence in international civil aviation airports, ratified by Presidential Decree No. 38/01 of the 14<sup>th</sup> April 2002 (O.G. 2002, No. 9, p. 7)
- The optional Protocol to the Convention on the Rights of the Child relative to the involvement of children in armed conflicts, approved and ratified by Presidential Decree No 31/01 of the 26<sup>th</sup> February (O.G. 2002, spec. edit of the 26/2/2002 p.25).
- The optional Protocol to the Convention on the Rights of the Child relative to child trafficking, prostitution and pornography, approved and ratified by Presidential Decree No. 32/01 of the 26<sup>th</sup> February 2002 (O.G. 2002, spec. edit of the 26/2/2002, p. 27).
- The Organisation of African Unity Convention on the prevention and fight against terrorism, ratified by Presidential Decree No. 39/01 of the 14 April 2002 (O.G. 2002, No. 14, p. 23).
- The Convention for the prohibition of terrorist bomb attacks ratified by Presidential Decree No. 40/01 of the 14<sup>th</sup> April 2002 (O.G. 2002 No. 14, p.24).
- The Convention against hostage taking, ratified by Presidential Decree No. 41/01 of the 14<sup>th</sup> April 2002 (O.G. 2002, No. 14, p. 25).
- The International Convention for the prevention of funding of terrorism, ratified by Presidential Decree No. 43/01 of the 14<sup>th</sup> April 2002 (O.G. 2002, No. 14, p. 27).
- The 1988 United Nations Convention against illegal trafficking of drugs and psychotropic substances to which Rwanda has just acceded by Presidential Decree No 47/01 of the 14/04/2002 (O.G. 2002 No. 15 p.37).
- The Stockholm Convention on persistent organic pollutants ratified by Presidential Decree No. 78/01 of the 08/7/2002 (O.G. No. 19, p. 8).

**PART TWO : THE MEASURES TAKEN FOR THE APPLICATION  
OF THE AFRICAN CHARTER ON HUMAN  
AND PEOPLES RIGHTS**

The submission of this Report to the African Commission on Human and Peoples' Rights is, once again, Rwanda's way of re-affirming its commitment to respect and ensure respect for the rights enshrined in the Charter. It is easy to understand that there still remains much to be done in the area of Human Rights. A permanent effort is thus engaged to overcome certain difficulties and pursue the re-establishment of the rule of law in general, and to promote respect for Human Rights in particular.

**CHAPTER ONE: APPLICATION MEASURES**

The measures for application of the provisions of the African Charter on Human and Peoples' Rights relate to the public liberties recognized to persons individually or to groups of persons before the State and to the Authorities representing it. These liberties are inscribed in the Fundamental Law, specifically in Title II of the Constitution of the 10<sup>th</sup> June 1991. They are presented in the corresponding Chapter of the preceding Report. The innovations made in this respect are contained in the points discussed below.

**1. Political and Civil Rights**

**1.1.1. The Equality of all before the Law (Articles 2 and 3 of the Charter)**

The existing political will aims at the prohibition of all kinds of discrimination in general and against Women in particular in all the sectors of the public and private life of the citizens. The crowning of this policy consists above all in the promulgation and the application of the Law No. 42/2001 of the 18<sup>th</sup> December 2001 prohibiting crimes of discrimination and the practice of sectarianism (O.G 2002 No. 4, p.21). Not only does this Law unequivocally and unrestrictedly define all forms of discrimination, it also curbs it severely and renders this type of crimes imprescriptible.

**1.1.2. The Right to Life, to liberty and to the security of individuals  
(Articles 4 and 6 of the Charter)**

Article 12 of the 10<sup>th</sup> June 1991 Constitution stipulates that the Human Being is inviolable. The freedom of the human being is guaranteed: none can be pursued, arrested, detained or condemned except in circumstances stipulated by the law in force before the act is committed and under its prescribed forms". In Article 13 the Constitution stipulates that none can be subjected to security measures except in the circumstances and forms indicated by the law, for reasons of public law and order or of State security.

The Rwandan Constitution guards the legal security of individuals and dedicates the principle of non-retroactivity of the penal law, which is indispensable for the protection of the human being against all kinds of abuse of authority. It also lays down the rule of the presumption of innocence according to which all persons should always be

considered innocent of offenses for which they are accused as long as their guilt is not established by a final condemnation.

### **The Right to Life**

No law prohibiting the crime of genocide and other crimes against humanity, which cost the lives of more than a million Rwandans, had been promulgated in 1994. The Provisions of the Rwandan Penal Code could sanction these crimes, but the exceptional nature and unprecedented magnitude of the crimes committed, notably in relation to the number of perpetrators and victims gave rise to the need to adopt more appropriate measures to ensure the hearing and judgment of these crimes.

It is in this context that the “GACACA Courts” have been institutionalized in the manner explained in the first Chapter of the First Section of this Report.

### **The Right to Liberty**

Respect for the fundamental principle of the rule of law requires the Government to intensify the fight against injustice. Indeed, even the slow pace of the legal system cannot justify the keeping of an individual in remand indefinitely. Thus, in this respect, more than 24,000 detainees, for the most part pursued for genocide and whose detention period could have been more than the prison sentence required for their offence, benefited from a collective measure of temporary freedom.

The categories concerned are as follows:

- The individuals pursued for participation in the genocide and for crimes against humanity of the second and third degree and who had pleaded guilty and asked for pardon.
- Children, minors between 14 and 18 years of age detained for genocide and crimes against humanity;
- Very elderly or seriously ill detainees;
- Detainees pursued for common law offences whose detention period is likely to go beyond the maximum prescribed sentence.

This measure aims principally at the correct application of the law inscribed in the context of the rule of law, of national re-unification and reconciliation, as well as the necessary re-habilitation of the legal climate in the context of the 1994 genocide.

### **The Right to Security**

The provisions in the African Charter on Human and Peoples’ Rights and of the Fundamental Law relative to the freedom and security of the individual are the object of special scrutiny by the Government. A clear improvement of the security of the individual and his property following the institution of certain highly important measures, including the institutionalization of a national police force by the law No. 09/2000 of the

16/06/2000 which created and organized the National Police Force (O.G. spec. edition of the 29/06/2000, p. 26). This unified and better-trained Police Force is more adapted to the security objectives of the population and its property.

In this context, the collaboration between the national security authorities and INTERPOL gives better results and the current technical and deontological training of police officers, and more particularly of future officers of the Judiciary Police, will undoubtedly serve to improve the quality of security services on the one hand, and to promote the respect for citizens' rights even in situations of legal proceedings.

### **1.1.3. The prohibition of torture and ill treatment** (Article 5 of the Charter)

The Penal Code prohibits physical torture (Article 388). In practice, training in the prevention of torture is largely provided for police officers, for legal personnel involved in legal action against such crimes, for doctors and in schools to ensure its implementation.

### **1.1.4. The Right to a fair hearing** (Article 7 of the Charter).

The efforts of the Government are concentrated on assistance provided to individuals accused of genocide and to the civil party victims. The Rwandan Bar, with support from international organizations, provides legal assistance to individuals who do not have sufficient funds to pay for the services of a lawyer. In this context, the Bar intervenes at three levels, namely within the framework of the project of the United Nations Development Programme (UNDP 192 files), the project of the Association of Lawyers without Borders (ASF 780 files) and the project Pro Deo (92 files); each file can cover ten or so individuals. The Government also signed some Agreements with the United Nations Children's Fund (UNICEF) so that this Organization can provide legal assistance for children, minors accused of genocide, by bearing the charges of the lawyers responsible for their defense.

If all the pending requests are taken into account, it can be noted that this number is on the increase. The Rwandan State is aware of this for currently a draft law relative to a Fund for legal assistance is being prepared. It is expected that the Kigali Bar will manage this Fund.

A draft law relative to the prevention and the repression of corruption and related offenses is pending for adoption in the National Assembly. The provisions of the future law concern both public and private sector officers. Pertaining to sanctions, exemplary sentences are reserved for any magistrate or referee who is found guilty of corruption in view of the sensitive nature of the justice sector. With the entry into force of such a law, apart from the setting up of a national autonomous and independent Commission for the prevention and the control of corruption, there will be delegates responsible for the prevention of corruption appointed in those sectors of work which are particularly exposed to corruption, like the legal sector, in view of the heavy responsibility of this sector.

**1.1.5. The fundamental freedoms: of religion, of conscience, of profession, of opinion, of meeting, of association, and of movement within the country** (Articles 8,9,10,11 and 12 of the Charter).

Most of the religious organizations working in various fields relative to human rights take the form of non-profit making Associations to enable them evolve better. These non-profit making Associations are governed by the law No. 20/2000 of the 26<sup>th</sup> July 2000 (CHECK LAW NO. WITH EARLY REF. ABOVE OF SAME ASSOCS.– 22/2000 ???) which organizes them in a better manner in the interest not only of public order but especially in the interest and harmony of their members. In effect, this law recognizes the legal nature of these Associations by allowing them to act in total independence. No authorization is required.

The same is valid for the freedom of gathering in peaceful non-armed meetings. (Article 20 of the Constitution).

Thus, special laws protect the exercise of certain professions, namely those of medical Doctors, Lawyers, professional Bailiffs and soon, Notaries. The exercise of other professions is entirely free there giving rise to a new upsurge of professionalism. As an example, the enterprises which declared their labour force and who were registered with the Labour Office, on the 30<sup>th</sup> June 2000 numbered 553 (with a labour force of 24,805 workers among whom 24,174 are nationals, namely 97.5% and 631 are foreigners, namely 2.5%<sup>1</sup>)

The various branches of activity are distributed in the professional categories. The figures available to the Labour Office on the 30<sup>th</sup> June 2000 amount to 6.76% in agriculture, 0.23% in the mining industries; 14.24% in the manufacturing industries; 4.60% in construction and public works; 9.10% in trade, restaurants and hotels; 5.91% in transport, warehouses and communications; 7.65% in the Banks, Insurance, real estate and services and 43.99% in community services.<sup>2</sup>

These enterprises carry out their professional activities with respect for the legislation in force and the full exercise of their rights is granted through the professional organizations.

**1.1.6. The Right to participate freely in the direction of public affairs.** (Article 13 of the Charter).

The Protocol of the Arusha Peace Accord relative to the Rule of Law accepts universality and the implications of the fundamental principles of democracy, (Article 6). It stipulates that the Government should depend on the consent of the people expressed through regular, free, transparent and fair elections.

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<sup>1</sup> Figures from the Ministry of Public Service and Labour, Kigali, 2002.

<sup>2</sup> Idem.

In this context, the Rwandan Government has adopted a policy of good governance based notably on the principle of decentralization. Decentralization in effect, presumes the delegation of a large number of the roles of central government to local authorities in order to allow the population to participate actively in the management of public affairs (*res publica*). This participation by the population in the decision making process which should be transparent, was concretized by the election of representatives of the population in the grassroots organizations which are decentralized entities.

Furthermore, various legal texts initiated by the Government and listed below have been adopted by Parliament and others are currently being drafted to progressively accompany this process. They are :

- the review of the Fundamental Law dated 05/10/2000 (O.G. spec. edition of the 6/10/2000 justified by the fact that the administrative organization of the territory as it was before the 1994 genocide did not allow the population to participate in the decisions on matters which concerned them. Following this review, certain grassroots leaders will be elected as opposed to what used to obtain during the previous single party regimes. All adult Rwandan citizens who are not disqualified for any reason by the Law can be elected in the conditions laid down by the law. However, foreigners who have resided in Rwanda for a year and have a residential permit can participate in the elections at the District, Municipal and Ward levels (Article 9 of the 10<sup>th</sup> June 1991 Constitution as amended). Thus even some foreigners are allowed to vote. The organization of these elections is entrusted to an Electoral Commission in conformity with Article 24 C of the Arusha Peace Accord in its section relative to the Protocol on Power Sharing.
- Law No. 39/2000 of the 28/11/2000 relative to the creation, organization and operations of the National Electoral Commission (O.G. spec. edition of 29/11/2000) as amended and completed by Law No. 11/2002 of the 12/03/2002. (O.G. spec. edition of 19/3/2002). An Independent National Commission responsible for preparing and organizing elections at the Ward, Municipal, District and Town levels, as well as the elections of the Members of Parliament and President of the Republic, is created by this Law in its Articles 2 and 3. Among other things, it is in charge of the definition of electoral constituencies, preparation and provision of civic education relative to the elections, of the supervision, announcing and publishing of results of the elections in writing and of ensuring that these elections are totally transparent and free.
- Law no. 42/2000 of the 15<sup>th</sup> December 2000 governing the organization of elections at the Rwandan grassroots administrative units. (O.G. spec. edition of 19/3/2002) as amended by Law No. 13/2002 of 12/03/2002 (O.G. spec. edition of 19/3/2002). This Law, which is justified by the responsibility of each citizen to participate in the governance of the

country, translates in its broad outlines the government's concern to ensure that the elections take place in the best possible conditions of transparency and in a manner satisfactory to all its citizens.

- **A series of laws pertaining to the administrative re-organisation of the Territory within the framework of the decentralization process were enacted between the end of 2000 and beginning of 2002.** (O.G. No. 4 of 15/02/2001). These are laws No. 43/2000 of 29/12/2000, 04/2001 of 13/01/2001, 05/2001 of 18/01/2001, 07/2001 of 19/01/2001 and 17/2002 of 10/5/2002 relating respectively to the organization and functioning of the Province, the District, the Rwandan urban constituencies and of the City of Kigali, as well as that relating to the finances of the Districts and Towns. The same is valid for Law No 20/2002 of 21/05/2002 relative to the organization and operation of the Common Development Fund for the Districts, Towns and the City of Kigali (O.G. No. 15 of 01/08/2002). This collection of laws is aimed at granting the power of self government to the grassroots administrative authorities.

With regard to the holding of elections at the level of the Ward, the Municipality, the District and the Towns, generally, in the eyes of both national and international observers, everything is done with respect for democratic principles, notably with freedom of expression and transparency. In this context can be noted a remarkable number of women elected at the level of the grassroots bodies. It is to be pointed out that the organisation of the electoral regime is not yet complete. The elections at the grassroots level are already being effected on the basis of the texts mentioned above. Draft laws are currently being prepared to complete this regime at the level of the legislative and presidential elections. The referendum on the Constitution is scheduled for May 2003.

## **1.2. Economic, Social and Cultural Rights**

### **1.2.1. The Right to Work** (Article 15 of the Charter)

A new Labour Code inspired mainly by the sacred principles of the protection of human rights has just been enacted in the form of a law No. 51/2001 of the 30<sup>th</sup> December 2001 establishing the Labour Code. (O.G. No. 5 of 1/3/2002 p. 70). In this Code there are several innovations, the most important of which are:

- The integration of agricultural workers previously subjected to a special law;
- A heightened protection of workers interests and rights;
- The prohibition of all discrimination and exclusion with the effect of destroying or altering equal opportunities with regard to work;
- The introduction of the right to compensation at the end of one's career;
- The reduction from 45 to 40 hours as maximum working hours per week;

- Children, women in general and pregnant women in particular, as well as handicapped workers are more particularly protected by this law;
- Strikes and lock-out are defined and regulated in detail;
- The sentences laid down for offenses against the Labour Code are increased.

A new law No. 22/2002 of the 9/7/2002 establishing the General Statute of the Rwandan Public Service (O.G. No., 17 of the 01/9/2002, p. 78) has just replaced the Decree of the 19<sup>th</sup> March 1974 governing the General Statute of State Agents.

The important innovations with respect to this new law relate to :

- Competition for access to the Public Service;
- The harmonization of the salaries of State officials operating in different sectors;
- The application of the principle of decentralization of services to the State officials;
- The creation of a monitoring Committee for the Public Service and the management of the files of State officials which would guarantee objectiveness, neutrality and effectiveness in recruitment, integration, training and evaluation of State officials in the Public Service;
- The modalities for evaluation of professional capacity for training and specialization purposes of State officials;
- The harmonization of the careers of all State officials, with the exception of military and police careers, through the adoption of a single statute, for politicians and the magistracy.

In April 2002, the situation of jobs in the public, private and informal sectors was as follows:

- In the Public Service: 38,489 employees of whom 8,383 were in central Administration;
- In the establishments in which the State was shareholder: 4,164 employees;
- In the private enterprises: 35,656 employees;
- In the informal sector: 8,000 employees;
- TOTAL : 86,309 employees <sup>1</sup>

### **Remuneration:**

Article 84 of the Labour Code stipulates that “workers with equal qualifications, carrying out the same type of work and in similar conditions, should be remunerated in an equal manner, without taking into account either their origin, gender or age”.

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<sup>1</sup> Archives of the Ministry of Public Service and Labour, Kigali, April 2002

According to Articles 86, 88 and 89, “the minimum wage and conditions of remuneration for piecework should be posted up in the offices of the employers and in the payment areas of the staff”. (Article 86). The rule stipulates “the salary should be paid at regular intervals and, in principle, directly to the worker”.

### **Hygiene and security at work**

The health and security regimes at the place of work are also treated under Articles 132 to 138 in the new Labour Code. It applies both to employers and workers.

#### **1.2.2. The Right to form Unions and to go on strike**

Law No. 51/2001 of 30<sup>th</sup> December 2001 establishing the Labour Code deals with the professional organization of workers or employers, (Articles 142 to 147).

In the second paragraph of its Article 142, the Law stipulates “Workers and Employers are free to set up a union or a professional organization, without seeking prior authorization. They are also free to belong to a union or a professional organization of their choice”.

The Rwandan Central workers Union (CESTRAR) which regroups 17 unions, and the Association of Rwandan Employers (AER) are active in defending the rights of their respective members.

Article 147 of the Labour code stipulates “Workers and Employers’ Organizations cannot be subjected to dissolution or suspension by administrative means, except at the wish of the members themselves or on the basis of a legal decision”.

Strikes and lock-out are regulated in detail by Law No. 51/2001 of 30<sup>th</sup> December 2001 which established the Labour Code in the framework of settling labour disputes. Thus, all strikes or lock-outs are prohibited before the exhaustion of the procedures laid down by law or in violation of a conciliation agreement on a collective dispute or of a judgment having acquired executory force. Even in this case they can only be legal if the stipulated notice had been given. (Article 189).

Special modalities are laid down by Decree of the Minister who has labour in his portfolio, for the exercise of the right to strike by workers who hold jobs which are indispensable for the maintenance of security of individuals and goods, or by workers whose strike action is likely to compromise security and human lives. (Article 191).

In practice, strikes by workers or State officials are very rare. Most grievances are settled by other means notably like negotiation with the employers.

#### **1.2.3. The Right to Security and Social Insurance** (Article 16.2 of the Charter)

The pension payments paid to beneficiaries have been established by Presidential Decree No. 36/01 of the 08/04/2002 which revised the amounts payable as pension and the

allowances paid by the Rwandan Social Fund (O.G. No. 10 of 15/5/2002, p. 25). Other laws beneficial to the security and insurance of workers have been adopted, and others are currently being studied. Such is the case for law NO. 24/2001 of 27<sup>th</sup> April 2001, which created the Rwandan Medical Insurance Scheme (RAMA).

Furthermore, civil servants and workers have the possibility of acquiring group insurance with financial insurance institutions to supplement the ordinary social security regime.

#### **1.2.4. The Right to ownership of Property** (Article 14 of the Charter)

##### **Land Ownership.**

In order to guarantee respect for the right to own property, the Government ensured that the assets belonging to displaced persons and which others had occupied after the events of 1994 were returned to their owners on their return home after the war.

Currently a reform of the land ownership system is being carried out. It aims at the advantage of granting land-owners temporal ownership in the form of a lease??? lasting 90 years. The principle of inviolability of the property remains the determining factor and this land reform targets a double effect, namely to achieve social well-being and the economic development of the country.

##### **Intellectual Property**

The up-dating exercise of the law relating to the protection of intellectual property is at an advance stage. In this regard, a sensitization seminar for economic operators was organized in March 2002 to sensitize them to the requirements of the new draft law and to record their suggestions for future amendments. The new law should be adopted at the beginning of the year 2003.

##### **Trade and Industry**

Since 1990 commercial activities in Rwanda have been largely liberalized. In order to launch this liberalization with prudence, the Government maintained in force certain control prerogatives. Since the 28/01/2001, law No. 15/2001, which amended and completed law No. 35/91 of 5/8/1991 relating to the organization of internal trade (O.G. No. 3 of 1/02/2001) eliminated all the remaining controls so that today commercial activity is entirely liberalized. This law provides a legal framework for collaboration between Government and the economic sector for solving any problem of dysfunction of the trade circuits.

With the objective of protecting Rwandan businessmen from eventual losses in periods of trouble, an insurance programme is funded by the World Bank, (in the context of the project "African Trade Insurance Agency") covering political risks, upheavals, transit goods and risks related to convertibility, as well as payment risks. This arrangement is to last three years, but it needs to be extended in view of the permanent need for it.

Action has been initiated for the promotion of Consumer Associations. Currently one is ready to get to work. It is further envisaged to finalize the drafting and adoption of a draft law relating to the defense of consumers.

Law No. 03 of the 19/01/2002 has just created the Rwandan Normalization Office responsible notably for the quality control of consumer products for the protection of consumers.

### **1.2.5. The Right of the Family to protection.**

The Family, generally speaking: the child and the wife are specially protected by national legislation.

#### **a) Protection of the Child by legislation**

In Rwanda children are being protected more and more against all forms of violence and in particular against sexual violence which is currently receiving special attention from Government.

In this respect, there is need to recall the recent approval and ratification of the Optional Protocol to the Convention on the Rights of the Child in the area of involvement of children in armed conflict, which was approved and ratified by Presidential Decree No. 31/01 of 26/02/2002 (O.G. spec. edition of 26/02/2002, p.25) and of the Optional Protocol to the Convention on the Rights of the Child relating to the traffic, prostitution and pornography of children, (O.G. spec. edition of 26/02/2002, p. 27).

The national legislation contains supplementary provisions in the Civil and Penal Codes aimed in particular at the protection of children.

#### **1<sup>o</sup> Law No. 27/2001 of 24<sup>th</sup> April 2001 relative to the rights and protection of the child against violence. (O.G. No. 23 of 01/12/2001)**

This Law englobes certain provisions that protect the child in certain areas in which its interests had, so far, not been taken into account.

Article 6 of the Law grants Rwandan nationality automatically to any child born of a Rwandan mother and foreign father.

The child is obliged to live with its mother until it reaches the age of 6 (Article 7, paragraph 3).

Article 15 recommends that parents give special protection to handicapped children.

Military service is prohibited for children of less than 18 years (Article 19).

All co-habitation between a man and woman who have not reached civil majority age (21 years) is considered as an early marriage and is prohibited by law, and if one of them has not consented to the marriage it is considered as a forced marriage; (Article 47).

This Law is specially designed to protect children against a wave of rape of young girls and to prevent these acts by elevating them to the highest category of crimes, notably where they cause death or an incurable disease to the victim.

## **2° Protection of the Child by the Labour Code**

The Law No. 51/2001 of the 30/12/2001 establishing the Labour Code also protects maternity in its Articles 67 to 70. In its Article 61, it stipulates “it is prohibited to employ, during the night, a child of less than 16 years”. It devotes its chapter IV to the working conditions of the child.

This Code prohibits notably:

- The engagement of a child of less than 16 years, even as an apprentice, except with the endorsement of the Minister responsible for Labour, taking into account the nature of the work and the prohibited categories of labour for the child; (Articles 64 and 65).
- The maintenance of a child in a job recognized by the Inspector of Labour as being above its strength or harmful to its health.

The rest period for a child of less than 16 years between two periods of work should be a minimum duration of twelve hours (Article 63).

Apart from the Labour Code, a sensitization campaign has been launched over the entire country in order to fight against illegal labour of children.

Generally, Government has embarked on several activities in order to ensure that the rights of children are respected. Among these figure notably:

- The sensitization of the population on the problem of rape of children which is accompanied by vigorous action in the pursuit of these crimes. In effect, for example, the hearings of rape cases have absolute priority and the accompanying medical examination is done free of charge. However, these medical examinations are done for both the victim and the arrested person so that the rights of the latter are also protected.
- The monitoring of the problem of children illegally adopted after the massacres and the 1994 genocide by Italian families in violation of the adoption conditions and procedures. Thus, the case of 41 adopted children in Italy has been entrusted to the Attorney General of the country and to a lawyer who have already established contacts with the parents or families

wishing to have these children returned. From January to December 2001, foreigners living outside the country had adopted 9 Rwandan children in the same manner. These cases had been denounced.<sup>1</sup>

- Assistance to school going children and children heads of household who, in this respect, figure among the beneficiaries of the Assistance Fund for the Genocide Escapees created by the Law No.02/98 of 28<sup>th</sup> January 1998 with the mission of bringing assistance to the escapees who are deprived in terms of education and health.
- The Head Office of the “Social Security and Protection of Vulnerable Groups” within the Ministry for Local Government and Social Affairs responsible for designing policies and strategies for the benefit of all children living in difficult conditions.
- “Street children” are categorized as children in a situation of emergency. Their number has not yet been systematically established. They are simply estimated to be between 6,000 and 7,000 in the country’s urban centers. The research and inquiries carried out to this effect in certain sampled areas identify the immediate, underlying and fundamental factors and causes. Among the principal causes figure notably poverty, orphanism, family disputes etc. Below are the results of the inquiries established by these institutions in the aftermath of the 1994 genocide (from 1996 to 1998) at different but successive periods.<sup>1</sup>

	TROCAIRE	MIJESPOC 1	COMRADE	MIJESPOC 2
Poverty	56%	17.3%	83%	Increased but % not specified
Orphans	33%	23%	64%	33%
Conflicts and family disputes	63%	11.7%	-	-
Non-attendance of school	82%	100%	89%	-

The principal activities by Government, supported by UNICEF, aiming at the socio-economic re-integration of these children, are the “tracing” and family re-unification, the placement in specialized centers accompanied by schooling and skills training. The success of these activities remain mitigated for various reasons: these children are accustomed to street life, severe poverty in the households, the irresponsibility of certain parents who do not hesitate to exploit their children by sending them out into the street to work, beg or steal to provide for the needs of the family, etc.

<sup>1</sup> Ministry for Local Government and Social Affairs: “Initial Report on the implementation of the Convention relative to the Rights of the Child”, Kigali 2002, p. 44

## **b) The Protection of the Rights of Women**

Rwanda implements a policy aimed at promoting gender equality and the total integration of women in development.

A Ministry responsible for Gender and Women's Affairs had been created towards this end, with specific programmes for building the capacity of women in all spheres of national life so as to reduce their level of marginalization and to make them aware of their rights and role which should be strengthened at the national level.

New texts have been added or will be added to the already existing legislation on gender equality, which will show that the political will exists to rehabilitate the woman and give her her rightful place in Rwandan society.

Among these texts figure notably:

- The Law No. 42/2000 of 15<sup>th</sup> December 2000 relative to the organization of elections at the Rwandan grassroots administrative units stipulates that a quota of at least 1/3 women must participate in the senior positions.
- The Law No. 51/2001 of 30/12/2001 establishing the Labour Code which grants total equality of opportunities to men and women in the workplace with the main result of suppression of all economic arrangements which are unfavourable to women. This new Code devotes its entire Chapter V to the conditions favourable for pregnant women and breastfeeding mothers;
- The draft Law establishing and organizing a National Women's Council;
- Draft texts aimed at the integration of some international conventions relative to the rights of women in Rwandan legislation, and the integration of gender issues in the constitution currently being drafted;
- The revised draft of the Rwandan Nationality Code to eliminate all forms of discrimination against women;
- The draft Law amending and completing Decree No. 01/81 of 16<sup>th</sup> January 1981 relative to census, identity cards, household and residence of Rwandans concerned by the need to eliminate certain forms of discrimination against women, notably the right of the woman to register her child on her identity card, which could only be done in the absence of the father;
- The draft law on land reform in which the integration of gender issues should be inserted into the gender policy.

Other actions in this area also need to be pointed out. These are, namely:

- The identification of discriminatory provisions against women within Rwandan legislation which need to be revised;
- The establishment of a high level and highly representative structure for the follow-up and co-ordination of the implementation of the recommendations of the international conference on women held in Beijing from 4<sup>th</sup> to 15<sup>th</sup> September 1995.
- The adoption of the national action plan on gender and the drafting of a national policy on gender issues, which is currently in its final stages;
- The drafting of a national plan of action on the elimination of all forms of discrimination against women;
- The continuous organization of training and sensitization programmes for men and women on the gender issue;
- The numerous initiatives of the fight against poverty aimed more particularly at the economic reinforcement of women;
- The sensitization and popularization aimed at comprehension of the Law No. 22/99 of 12/11/1999 completing the first book of the Civil Code and instituting the fifth section relative to matrimonial regimes, to liberalities and successions (O.G. No. 22 of 15/11/1999) which has revolutionized the rights of women in succession issues and devoted the principle of gender equality in this area.

For the rest, in spite of all kinds of constraints including the insufficiency of financial resources due to the generalized and very severe poverty of women, including also the high level of illiteracy and the extremely low level of education, as well as obstacles caused by traditional customs bringing about a lack of confidence in themselves or a lack of information, the Rwandan Government has spared no effort in continuing to intensify the struggle against all forms of discrimination against women and to promote their rights.

#### **1.2.6. The Right to enjoy improved mental and physical health**

(Article 16 of the Charter)

Since 1995, the Government has applied a new national health policy with the broad objective of contributing to the well-being of the population by guaranteeing quality services which are acceptable and accessible to the large majority of the population with its total participation. The realization of this policy can be summarized into two areas: the improvement of the sanitary environment and the drafting of sanitary regulations, legal texts and regulations governing the institutions, departments and health services. In the context of the organization and management of health services and of the protection of the patient, the right to enjoy the best of health extrapolates the simple monitoring of illnesses or the treatment of patients and requires also the formulation of both legal and purely professional norms in order to protect the users of the health services.

The principal legal mechanisms that the Government has been endeavouring to put in place since 1998 to help improve the quality of health care, of the health services and the management bodies are as follows:

- Law No. 10/98 of 28<sup>th</sup> October 1998 relating to the exercise of the art to heal, a framework document containing several executory decrees including one which lays down the conditions and modalities of dispensing health care in public and private health centers where the rights and obligations of the patient and those of the health staff will be specifically defined;
- This framework law was completed by the one governing pharmaceutical art (Law No. 12/99 of 02 July 1999 (O.G. No. 23 of 01/14/1999, p. 37) by virtue of which a list of essential medicaments had been up-dated (Ministerial Decree No. 20/03/ min of 31 may 2001). A Ministerial Decree has just been drawn up determining the duties linked to the function of Inspector of Pharmacies as well as the conditions of their execution.
- Furthermore a draft project of the law organizing the control of cigarette smoking in Rwanda has just been prepared to protect non-smokers and young people and to regulate the production, sale and advertising of cigarettes;
- Law No. 30/2001 of 12<sup>th</sup> June 2001 relating to the organization, operations and competence of medical doctors;

The implementation of the national health policy required, from 1995, a community and intersectorial approach based on the health district.

However, Government is aware that the adoption of the health policy has not been followed-up with the preparation of the necessary legal mechanisms to support this approach. Indeed, only Kigali Central Hospital (CHK) and the Butare University Hospital (HUB) have a legal framework clearly defined by Law No. 41/2000 of 07 December 2000 which established and organized the University Hospital.

In reaction to such a situation, a study is currently being carried out to analyze the ways and means of providing all the hospitals of the country with a legal framework to enable them operate under the form of autonomous entities.

Always mindful of the need to protect the patient, current and appropriate priorities have just been established in the context of setting up a complete legislation for the health sector. It is in this spirit that the following texts are currently being drafted.

These are first drafts of organic and ordinary laws relating successively to the Health Code, the Public Hygiene and Environment Protection Code, the Organization and operations of the Health Care Institutions and Departments, the Organization of general

administration in the area of health, as well as those establishing the Order of Pharmacists, the Rwandan Council of Nurses and Birth Attendants. There are also the first drafts of the laws governing bio-medical research and traditional medicine.

With the creation of these Groups, there is also the emergence of Associations of Health Professionals among whom the most active are the AMR “Association of Rwandan Doctors”, the ARPHA “the Rwandan Association of Pharmacists” and the ANIR “ the National Association of Nurses in Rwanda”.

This legal context is registered in another operational context concretized by the efforts of the Rwandan Government to control the pathologies relating mainly to transmissible illnesses, which can be avoided by hygienic measures and by the change in attitudes, but which present the highest morbidity and mortality rates. These are malaria, HIV/AIDS, respiratory tract infections, diarrhea, parasite based infections, skin infections, tuberculosis, typhus, cholera and meningitis. For the year 2001, more than 90% of the consultations in the peripheral health centers were related to these illnesses.

### **Malaria**

Malaria, which was the primary cause of morbidity, high death rates and mortality in the past five years, has currently taken a definite downward trend thanks to the new therapeutic strategy, which constitutes an important aspect of the new policy in malaria control.

The combination of Amodiaquine and Fansidar has made it possible to ward off the chemo-resistance manifested by the majority of patients to the habitual anti-malarial medication. It is expected that with this new scheme, which was started in 2002, the death rate, which until then had been estimated at 0.15%, will be reduced.

Besides these curative measures, Government intervention also concentrates on prevention, on assumption of costs, the education of the population and the use of dipped bed nets as a principal prevention strategy.

### **HIV/AIDS**

In Rwanda, HIV/AIDS exists in 41.8% of the patients affected by sexually transmitted diseases (STD). In 2001 the figure stood at 400,000 sick persons of whom 20,000 were children between 0 and 14 years and 210,000 women. This puts Rwanda at No. 14 on the list of most affected countries in Africa with a general prevalence rate of between 11.3 and 12%. Among the youth the prevalence rate is from 9.08% to 12.23% for girls and from 3.48% to 6.98% for boys. In the groups of pregnant women, the prevalence rate is evaluated at 19% in the urban areas and at 7.5% in the rural areas.<sup>1</sup>

This data shows how heavy a load HIV/AIDS is for the health services.

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<sup>1</sup> Figures from the Ministry of Health, Kigali, 2001

At the level of the referral hospitals, the persons affected by AIDS occupy up to 80% of the beds of the internal medicine department. This justifies intervention by Government, which has made the fight against AIDS a national priority.

The effective application of this policy took the following form:

- The institutionalization of the HIV/AIDS control organs through the creation of a National AIDS Control Commission (A.P. No. 02/01 of 16/03/2001) which is a multi-sectoral institution for the coordination, advocacy and mobilization of resources to increase the impact of the interventions on AIDS control by involving more actively all the other sectors concerned;
- The setting up of a National Centre for Treatment and Research on HIV/AIDS (TRAC) whose mission is to guarantee technical research activities on the various types and the special points of the virus in Rwanda and the epidemiological monitoring of HIV/AIDS;
- The promotion of the accessibility of anti-retroviral drugs through advocacy with the manufacturing firms and on the best management methods;
- The prevention and protection against the transmission of HIV/AIDS from mother to child;
- The convening of and participation at national and international conferences and seminars on the subject;
- The intensive sensitization campaigns in which the President of the Republic himself and his spouse have invested their own efforts.

All these measures, associated with the establishment of a formal framework for the collection of data and the proper diagnosis of a case of AIDS by the health professionals will allow the stabilisation of the sero-prevalence which so far had been very high.

Furthermore, Rwandan non-governmental initiatives contribute to the fight against HIV/AIDS. The most outstanding is that by the spouse of His Excellency the President of the Republic whose activities are focused on protection and treatment for the family against HIV/AIDS.

These activities aim notably at:

- Advocacy for persons living with HIV/AIDS;
- The mobilization of resources for protection and treatment;
- Social mobilization for the promotion of behavioural change;
- The implementation of mechanisms aimed at preventing the spread of HIV/AIDS, as well as assistance to the sick.

Generally, the Office of the First Lady integrates its activities within the national AIDS Control Programme. The First Lady often plays an important role and is member of international Associations concerned with the prevention and control of HIV/AIDS.

At her invitation, the First Ladies of Sub-Saharan Africa met in a summit at Kigali, from the 20<sup>th</sup> to 22<sup>nd</sup> May 2001 to discuss and share experiences and to propose concrete action and strategies relative to children and to the prevention of HIV/AIDS on our Continent. At the end of the summit, the participants issued a declaration of their collective commitment to take on the responsibility of preventing HIV/AIDS in women and children, on the prevention of the Mother to Child transmission, and the promotion of the search for peace and solutions to armed conflicts in each of their countries as the appropriate framework for the fight against HIV/AIDS.

Other similar summits followed including the one in Barcelona held in July 2002 during which the First Ladies reaffirmed their interest in uniting against AIDS.

### **Tuberculosis and respiratory tract infections**

Among the causes of Tuberculosis, HIV/AIDS remains the immuno-depressive factor par excellence. The National Programme for the control of Tuberculosis adopted an intervention strategy of bearing the costs by utilizing DOTS (Direct Observed Treatment Short Course), which allowed the realization of a therapeutic success rate of 70.1% in 2000.

Furthermore, respiratory tract infections are on the increase and constitute a serious threat for children under 5 years. Although adequate information on their decline is not yet available, they figure, since 1995, among the first five causes of morbidity and mortality declared by the health centers. The introduction of a vaccine against “*Haemophilus influenzae*”, a reliable and effective vaccine approved by the WHO made a considerable contribution in the fight against these diseases.

### **Five Diseases targeted by the Extended Immunization Programme “EPI”**

Vaccination/immunization remains the best strategy for the control of measles, poliomyelitis, tetanus, diphtheria, and whooping-cough.

According to the standards, one should count at least one case of acute flabby paralysis per 100,000 children of less than 15 years, which would bring the expected number of cases in Rwanda to 38 per annum. Measures like mass immunization, the strengthening of the routine immunization programmes, social mobilization, the active monitoring of cases and combing immunization have been implemented to accelerate the control of measles and to reinforce the eradication of poliomyelitis.

The tetanus detection rate remains low. In principle, Rwanda should signal 189 cases of neo-natal tetanus per annum. With 5 cases declared in 2000, the under-notification rate is

estimated at 97%. Rwanda is thus placed among the Class A countries that are on track for eliminating neo-natal tetanus. We may wish to recall that the elimination of neo-natal tetanus represents an incidence equal to at least 1 case per 1,000 live births.

Furthermore, Rwanda being a signatory to the conventions relative to the fight against these five diseases, is committed to applying the measures and recommendations by organizing National Immunization Days which resulted in the average of 100% immunization in 2000.

### **Malnutrition, diseases with epidemic potential and other diseases.**

For the past 30 years Malnutrition has figured among the ten primary causes of morbidity. An inquiry carried out in 2000 shows that the nutritional situation of children and pregnant women has never improved for the past three decades. 29% of the children of 0 to 5 years still suffer from low weight (weight/age), 42% show retarded growth (height/age), and 7% suffer from acute malnutrition (weight/height).

To deal with this, new methods of intervention are introduced in the control of infectious and parasitic diseases, the increase in food production, sensitization to family planning and above all community participation, notably in the monitoring of Children in Community Centres but also in the control of micro-nutrient insufficiency, in particular through the consumption of iodized salt in households.

### **The emerging or re-emerging diseases**

Besides, since 1994, the Rwandan health sector has been confronted with several emerging or re-emerging diseases like the epidemic typhus, cholera, meningitis, bacillary dysentery, schistosomiasis, onchocerciasis, trypanosomiasis.

Apart from these re-emerging diseases, the health centers regularly register cases of traumatism, skin infections, and bucco-dental infections, which are also major causes of morbidity.

Added to these, certain diseases like arterial hypertension, diabetes, cancer of the breast and of the uterine colon are of concern to the Government which, before determining the appropriate prevention and support strategies, first intends to collect more detailed epidemiological data in order to better appreciate the magnitude of the problem.

### **Health and regulation of the birth rate**

Rwanda has a population density of 337 inhabitants/sq.km.<sup>2</sup> The synthetic fertility index is 6.5; the gross birth rate is 4.52% and the population aged less than 15 years is evaluated at 51.4%

These indicators, combined with a low literacy rate (48.4% for women and 51.4% for men), the under utilization of family planning services, of ante-natal consultation and

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<sup>2</sup> Idem

delivery translate into a high rate of maternal mortality (810/100,000 live births), a high rate of infant mortality (130/1000 live births and a diminished life expectancy (48.5 years).<sup>1</sup>

In order to deal with this situation, various projects have, since 2000, been implemented and are being executed by various national institutions.

The success of Government intervention and the positive impact of its commitment and that of its partners in the health sector, particularly with respect to birth rates has borne laudable results. In effect, the proportion of births in relation to which the mother had benefited from ante-natal care is estimated at 92%, the rate of births which took place in a health center is about 31%, whilst the rate of modern contraceptive prevalence is about 4.3%.<sup>2</sup>

Furthermore, special emphasis had been put on the mother to child transmission of the virus, which was evaluated at 25% in Kigali.<sup>3</sup> Besides the 20 Counseling Centres, which carry out voluntary and free screening throughout the country, about 10 Centres responsible for the control of mother to child transmission had been created.

The strategy of the Ministry of Health remains the increasing of the access to treatment with Niverapine and by the distribution of the said Centres through out the country in order to reduce, as much as possible, the risk of spreading the HIV/AIDS infection.

In order to improve the health conditions of women and children, the Ministry of Health has embarked on the large scale involvement of all the actors in the sector especially at the intermediary and peripheral levels; the strengthening of the coordination framework; the determination of national priorities and the definition of a national health policy in relation to births.

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<sup>2</sup> Idem

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<sup>2</sup> Idem

<sup>3</sup> Idem

### **Mental Health**

A study carried out in 1995 on the effects of the 1994 genocide, shows that within the Rwandan population, a large number of children still relive the traumatic effects of the genocide. 84.4% of the interrogated children have painful and intrusive recollection of the event including images, thoughts and perception and 75% remember the traumatic experiences that they suffered. Another group of children show neuro-vegetative hyperactivity, which did not exist before the trauma. 60% show hyper vigilance, 56.6% have difficulty in sleeping or experience interrupted sleep, 52.5% feel irritability, excessive anger or difficulty in concentrating.

In order to find an adequate response to this situation which represents a serious challenge for the country, a Psycho-Social Consultation Department, which receives each year, 36.5% of patients showing signs related to psychic trauma, was created, and the Neuro-psychiatric Hospital of Ndera had been rehabilitated in order to receive patients referred there from the district hospitals.

### **Blood Transfusion**

A National Blood Transfusion Programme guarantees the blood security through the collection, testing and distribution of blood for all the hospitals in the country. The blood collected is tested for four diseases namely, HIV/AIDS, Hepatitis B and C and Syphilis. Four blood transfusion centers in the country allow the coverage of all the requirements in blood, which are evaluated at about 20,000 bags/year.

#### **1.2.7. The Right to Education** (Article 17.1 of the Charter)

In the spirit of guaranteeing the right to education to all citizens and of allowing them to have access to it, each country establishes its own education policy. For all time and in all places, the education of future generations has been based on a society project. In effect, to educate is not only to instruct, to transmit knowledge, but also to develop consciences, “to prepare future responsible and informed adults”. In considering the terrible tragedies that took place and the role of the Rwandan Authorities in these crises, it can be said that education manifestly failed in its mission of training a leadership imbued with the values of humanism, of dialogue, of respect for others, of tolerance, justice, peace, solidarity, patriotism and responsibility.

Thus, it is important that today, school children acquire, preferably at the beginning of their schooling, knowledge in human rights and in international humanitarian law and acquire the related principles and norms from an individual, social and collective perspective.

Since 1996, the National Education Policy assigned the following mission to the Rwandan educational system:

- To form a citizen who is free from all kinds of discrimination: ethnic, regional, religious or sexual;
- To form a citizen imbued with human rights and responsibilities towards others and towards society;
- To contribute to the promotion of the culture of peace, of justice, of tolerance, of solidarity, of unity and of democracy;
- To contribute to the promotion of an authentic national culture of, distancing itself from the culture of violence;
- To encourage the citizen to freely express his thoughts and opinions.

It is therefore on the basis of these considerations that the Government fixed ambitious objectives relative to primary school enrolment (95% before the year 2005) and to teaching quality.

Furthermore, the Government, as intended, has adopted policies and taken all possible necessary measures in public expenditure to realize these objectives, in spite of the persistence of problems like the lack of qualified teachers at the primary level which progressed from 46% in 1998 to 81% in February 2001, the lack of teaching material and a relatively high school drop-out rate, even though it is constantly diminishing (from 24% in 1998 to 12.4% in 2001/2002).

Before moving on to some indicators of the educational system, it is important to point out the initiation of a “life skills” programme introducing the notions of rights and responsibilities and the programme of integration of the notions of human rights and of international humanitarian law in Rwandan secondary schools.

Besides, the Education Policy Programme was chosen as the vehicle for teaching human rights and international humanitarian law in view of the important role that this subject plays in the civic education programme.

**The indicators of the educational system at the primary level**

The base statistics of the primary system are presented as follows: <sup>1</sup>

	1996/97	1998/99	1999/00	2000/01	2001/02
The number of students	1,270,733	1,288,617	1,431,692	1,476,272	1,534,510
The number of schools	1,940	2,021	2,093	2,142	2,172
The number of teachers	22,396	23,436	26,187	28,698	26,024
% of qualified teachers	44.6%	49.2%	53.2%	62.7%	81.2%

	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
1. Number of students	1,154,768	1,270,733	1,288,617	1,431,692	1,476,272	1,534,510
2. Number of boys	574,642	635,765	644,430	721,881	738,439	763,277
3. % of boys	49.8%	50.0%	50.0%	50.4%	50.0%	49.8%
4. Number of girls	580,126	634,187	644,187	709,811	737,833	771,233
5. % of girls	50.2%	49.9%	50.0%	49.6%	50.0%	50.2%
6. Enrolled children (7 to 12)	-	970,161	1,025,190	1,062,435	1,081,358	1,101,861
7. Population age	-	-	1,466,086	1,472,244	1,475,940	1,479,940
8. Gross enrolment rate	-	-	87.9%	97.2%	99.9%	103.7%
9. Boys	-	-	89.5%	99.6%	101.9%	105.8%
10. Girls	-	-	86.4%	99.5%	98.2%	102.3%
11. Net enrolment rate	-	-	69.9%	72.33%	73.3%	74.5%
12. Boys	-	-	70.2%	72.5%	72.9%	74.0%
13. Girls	-	-	69.7%	71.8%	74.9%	74.9%
14. Survival rate	28.0%	22.0%	-	-	-	-
15. Transition rate	18.0%	21.0%	38.0%	42.0%	37.0%	-
16. Promotion rate	66.6%	56.2%	50.0%	49.6%	54.0%	-
17. Repeter rate	28.0%	32.1%	38.1%	37.6%	31.8%	-
18. Drop-out rate	5.5%	11.7%	11.4%	12.6%	14.2%	-

<sup>1</sup> Archives of the Ministry of Education, Science and Technology and Scientific Research, Kigali 2002.

It should be noted that the drop-out rate which had stabilized around 11.5% for the past few years went up again during the 2000/2001 school year to reach 14.2%.

### **Secondary Education**

At the secondary level the following statistics are relevant <sup>1</sup>:

(I) School year	(II) 1997/98 <sup>2</sup>	(III) 1998/99	(IV) 1999/00	(V) 2000/01	(VI) 2001/02
No. of public schools	262	167	176	186	185
No. of private schools		155	187	190	208
<b>NO. OF STUDENTS</b>					
Total no. of students in all schools	90,840	105,292	125,124	141,163	157,210
Students in public and free subvented schools	-	60,556	68,457	79,699	88,641
Students in private schools	-	44,736	56,667	61,464	68,569
Total no. of boys in all schools	45,054	51,811	61,458	70,265	79,422
Boys in public and free subvented schools	-	31,254	36,648	43,378	49,567
Boys in private schools	-	20,557	24,810	26,887	29,765
% of boys in public and free subvented schools	49.6%	49.2%	53.5%	54.4%	62.0%
Total no. of girls in all schools	45,786	53,481	63,666	70,898	77,788
Girls in public and free subvented schools	-	29,302	31,809	36,321	38,984
Girls in private schools	-	24,179	31,857	34,577	38,808
% of girls in public and free subvented schools	50.4%	48.8%	46.5%	46.6%	50.2%
% of girls in private schools	-	54.0%	56.2%	56.3%	49.8%

<sup>1</sup> Figures from the Ministry of Education, Science and Technology and Scientific Research, Kigali 2002.

<sup>2</sup> The figures in Column II are cumulative. They relate to both public schools and free subvented ones.

In order to guarantee better equal opportunities for the students, a National Council of Examination Officials for the primary and secondary levels was instituted by Law No. 19/2001 of 12/3/2001 (O.G. no. 9 of 01/5/2001, p. 49).

This Council is essentially responsible for:

- a) Responding to the responsibility relative to official examinations of the primary and secondary levels in Rwanda;
- b) Drawing up the rules governing the said examinations and all other related formalities;
- c) Organizing and administering the examinations with transparency and equity;
- d) Delivering the certificates and diplomas to candidates that have succeeded;
- e) Distributing the well performing students, taking into account their aptitudes, in the various educational establishments or institutions and in the appropriate section or faculty;
- f) Establishing, in conformity with the present law, the equivalence of certificates and diplomas delivered abroad with those delivered in Rwanda;
- g) Collaborating with the officers in charge of preparation of curricula, and with schools' inspectors with respect to programmes.

This Council has already proved to be effective and transparent.

There are also institutions of higher education emerging notably in the technical, health and education fields. Two free Universities have just been registered. These are the Free University of Kigali and that of Gitwe, which acquired their legal status through Ministerial Decrees No. 013/17 of 7/06/2002 and No. 032/17 of 27/09/2002 respectively.

### **1.3. Peoples' Rights** (Article 19 to 24 of the Charter)

The Rwandan people form a nation integrated in international society being part of the United Nations and specifically part of the African Union. Rwanda is member of sub-regional organizations, in which framework it hopes to realize the development of its people.

And so, it cannot realize these expectations without counting on regional and international cooperation, which is only possible with the application of the principle of respect for the rights of peoples and of nations.

#### **1.3.1. All individuals are equal** (Article 19 of the Charter)

Article 19 of the African Charter on Human and Peoples' Rights stipulates: "All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another". It affirms thus the principles of respect for sovereignty, for territorial integrity and the inalienable right to the independent existence of all peoples. By signing and ratifying this Charter, Rwanda committed itself to respect for these principles.

### **1.3.2. The Right of People to a satisfactory Environment** (Article 24 of the Charter)

The protection of the environment is not only a humanitarian obligation but more particularly it is an unavoidable imperative for the survival of people. And so, it is essential that the protection of the environment and of the earth in particular be a priority.

In this context, a large number of International Conventions had been ratified by Rwanda, notably those relative to:

- Plant protection;
- The conservation of fauna and flora;
- The conservation of nature and natural resources;
- The international trade of wild species of fauna and flora threatened by extinction, Rwanda supports the idea expressed by certain Member States of the African Union to amend certain Articles of the relevant Convention for its actualization;
- Biological diversity;
- The control of desertification;
- Climatic changes;
- The protection of the ozone layer;
- Persistent organic pollutants.

Pertaining to the protection of the environment within the framework of national legislation, a draft policy and draft law on the environment is currently being tabled for adoption.

The intention is to put in place, as the rest of the world is doing, more appropriate measures for the effective protection of the earth, of the fauna and flora, of springs, lakes and rivers etc.

There is need to point out, in this context, that even if the relevant law has not yet been adopted, the former natural forest of Nyungwe has been accorded the status of national park and will be surrounded by a buffer zone whose depth is yet to be determined.

The same is valid for the former parks of Akagera and the Volcans. A proposal had been submitted for the registration of the latter as an element of the world natural heritage.

In the area of industry, there has been a Decree since the 28/05/1956 on dangerous, unhealthy or awkward establishments. The establishments being targeted are those whose use could give rise, for their neighbours, to inconveniences of a diverse nature like bad odours, the dangers of explosion, fire or intoxication, water pollution, outflows which are unhealthy and harmful to vegetation, smoke, dust, noise and vibrations, smelly residue, proliferation of flies, dangers of infection and contamination, etc.

In this same context, a national policy for the promotion of the industry had been adopted in 2001 by Government. This policy advocates the creation of non-pollutant industrial units, which respect all the environmental norms.

### **1.3.3. The Right of People to Peace (Article 23 of the Charter)**

Rwanda is engaged in the combat for the world and for Africa generally, and the Great Lakes sub-region in particular to achieve a truly durable peace.

### **1.3.4. The Right to participate in cultural life, to benefit from scientific progress and to protect the Rights of authors (Article 22 of the Charter)**

There is large-scale dissemination, as well as training and even intervention in the area of protection of moral and patrimonial rights on literary, artistic and scientific work. Several meetings have been held with writers and artists in order to exchange ideas on the application of the law, on the protection of copyrights and the conditions of artists.

In order to ensure the participation of the largest possible number of persons to information and scientific progress, the Government created a National Commission on Information and Communication Technology through Prime Ministerial Decree No. 49/03 of the 10/11/2000 (O.G. no. 24 of the 15/12/2000, p. 23). An autonomous Office of Information and Communication Technology has just been created by Law No. 32/2002 of the 02/10/2002 (O.G. spec. edition of the 12/11/2002, p. 13) for the same purpose. It is responsible for ensuring, in information and communication technology, the following activities, among other things:

- To coordinate the activities and programmes aimed at determining and promoting the policies and strategies of government and to ensure the follow-up of the execution of the national plan on information, communication and technology, and the setting up of the website and the State's Government Net page.
- To effect, coordinate and execute the research activities and to be the source of information for the country in the area of information and communication technology;
- To sensitize the Rwandan population, give advice, train and provide benefits linked to information and communication technology;

The Ministry of Education's field of activities has just been extended to cover science, technology and scientific research and Government Policy requires that each Ministerial Department have a service unit for information, communication and documentation technology.

**CHAPTER II: THE DIFFICULTIES ENCOUNTERED IN THE APPLICATION OF THE CHARTER AND THE ENVISAGED SOLUTIONS.**

**2.1. The Difficulties encountered**

**2.1.1. Poverty**

Rwanda is a low-income country, but it does not intend to remain so. Nonetheless, this apparently economic aspect influences all the other sectors of national life and is a handicap to the rapid promotion of human rights. In effect, the setting up of legal instruments is problematic due to the slowness of administrative procedures, whereas it would have been possible to entrust this work to independent technicians paid for this purpose. However this is not easy in view of the very small budget available. Even Civil Society deplores this situation without being able to do anything about it. Indeed, the resources of Rwandan Non-Governmental Organizations engaged in the battle for the respect of human rights are limited. At times, without assistance from outside, they could hardly survive.

**2.1.2. Ignorance**

Considering the terrible tragedies which tore the Rwandan Society apart, up to the point of perpetrating large-scale genocide in 1994, it can be said that the Rwandan population never benefited from education in human rights issues under the previous political regimes.

Instead, over the years, the Rwandan Community has known multiple and serious human rights violations in general and international humanitarian law in particular. From all indications, the understanding, human dignity and the respect for others did not exist.

Thus, it would be difficult to first of all put an end, in such a short time, to the negative consequences of this sad tradition, and then to inculcate in the minds of a still ignorant population its rights and the rights of others, and new ideas relative to the respect for human rights.

The illiteracy rate is still very high and it would be difficult for the sensitization efforts to provide the expected results in the required time, even though it is considered to be one of the most effective promotional methods in the field of human rights in a traditionally oral society where the art of writing has been known only in the past century.

**2.1.3. Taboos and Stereotypes.**

Customs, tradition, taboos and stereotypes, which are contrary to the principles of the respect for human rights, still exist in Rwandan community, although changes in mentality and behaviour of the categories of persons who are to benefit from this are

likely to take a long time. Such a slow pace will necessarily be detrimental to the required rapidity for the promotion of respect for human rights.

However, the sensitization and educational campaigns of the population will surely result in the progressive elimination of the cases of human rights violations caused by this situation.

Besides, legislation often replaces customary law by provisions whose application, more and more eliminates the negative practices of the past. Thus the absurd legitimization of certain inequalities or of certain forms of violence under customary law will end by disappearing from peoples' mentalities.

#### **2.1.4. The various difficulties**

Several other difficulties, including the consequences of genocide, the insecurity in the sub-region, the lack of resources, the ignorance of the population of the legal and regulatory provisions guaranteeing or protecting its rights constitute a handicap to any action of rapid promotion of human rights.

#### **2.2. Future Perspectives.**

Rwanda has just adopted a broad short, medium and long-term plan of poverty alleviation. This plan is based within a more general programme, that of the "Vision 2020" which is itself based on the principles of good governance and decentralization of the decision-making bodies. All of the nation's living agents are invited to participate in it in a highly active manner. All sectors, public and private, the entire civil society and the population have been sensitized on this subject. It is in this manner that the country hopes to get out of an economic situation, which bogs down development, an essential engine for the respect of human rights.

The country has also embarked on a fight against corruption considered as a major obstacle to the promotion of human rights. For this reason an Independent National Commission for the fight against corruption is to be set up in the near future, as well as a draft law on professional ethics and another draft law relative to the prevention and repression of corruption and related offenses are to be adopted. In this perspective, the Government is engaged in a series of meetings aimed at realizing the adoption of a Convention of the African Union on the control of corruption.

The Government and other human rights promoters have found an effective mechanism in the permanent sensitization, training and collaboration methods, for setting up the foundation for the development of the field of human rights.

Legislative reform will continue so long as the last provision contrary to the principle of the respect for human rights has not been eliminated from national legislation. The current legal reform will be pursued in order to make the activities being carried out in relation to human rights more effective.

The GACACA process will be gradually perfected to eradicate impunity relating to human rights violations and to really reconcile Rwandans so that they can respect the rights of each individual more than is the case at present.

The Government will increase the means of controlling human rights violations and will continue to do so by setting up measures of control of corruption and injustice (Ombudsman), as well as any other practice or source of human rights violation by whomsoever.

## **CONCLUSION**

Rwanda is developing a policy of institution and strengthening of state organs responsible for the promotion of the respect for human rights and for the monitoring of the development of those components of civil society which can promote respect by all, of the rights and liberties stipulated by the African Charter of Human and Peoples' Rights.

The Government is working at the creation of an appropriate legal framework for the application of the essential principles, which are indispensable for the promotion of these rights and will spare no effort for the realization of these objectives. In this context, the National Commission for the fight against Corruption which is in place and which is under the aegis of the Ministry of Justice and Institutional Relations continues, in collaboration with the public Ministry, to discourage all individuals with the tendency to engage in corruption in all sectors generally and in the legal sector in particular.

Nonetheless, constraints independent of the political will and often superior to the available means of action tend to slow down the process without however stopping it.

For this reason, the Rwandan Government is once again seizing this opportunity to call on the international community in general, to on the African countries in particular, to encourage and support the effort of Rwandans in their struggle to defend human rights, and especially in the context of the GACACA process whose activities have already been officially launched.

The Government finally seizes this opportunity to thank once again, the Bureau of the African Commission on Human and Peoples' Rights and in particular its Secretary for the advice relative to the improvement of the quality of Reports to be submitted.

**LIST OF ANNEXURES**

- I. Law No. 27/2001 of 28/04/2001 relative to the rights and protection of the child against violence.
- II. Law No. 51/2001 of the 30<sup>th</sup> December 2001 establishing the Rwandan Labour Code.
- III. Law No. 47/2001 of the 18/12/2001 on the repression of crimes of discrimination and the practice of sectarianism.
- IV. Law No. 18/2002 of the 17/05/2002 governing the Media.
- V. Law No. 22/2002 of the 9/7/2002 establishing the General Statutes of the Rwandan Public Service.
- VI. Law No. 32/2002 of the 02/10/2002 establishing the Office of Information and Communication Technology.
- VII. The Laws setting up the “GACACA Courts”
  - Organic Law No.40/2000 of the 26<sup>th</sup> January 2001 creating the Gacaca Courts and the organization of proceedings for constitutive offenses of crimes of genocide against humanity committed between 1<sup>st</sup> October 1990 and 31<sup>st</sup> December 1994.
  - Organic Law No. 33/2001 of the 22/6/2001 amending and completing the organic law No. 40/2000 of the 26<sup>th</sup> January 2001 which created the “Gacaca Courts” and the organization of proceedings for constitutive offenses of the crime of genocide and crimes against humanity committed between 1<sup>st</sup> October 1990 and the 31<sup>st</sup> December 1994.
- VIII. The prospectus on the “GACACA Courts”.