

**EIGHTH PERIODICAL REPORT OF RWANDA  
TO THE AFRICAN COMMISSION ON HUMAN  
AND PEOPLES' RIGHTS  
2002-2004**

**March 2005**

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## ACRONYMS AND ABBREVIATIONS

OAU:	Organization of African Unity
RDC:	Democratic Republic of Congo
OG:	Official Gazette
MINEDUC:	Ministry of Education, Science, Technology and Scientific Research
ICRC:	International Committee for the Red Cross
UNICEF:	United Nations Children’s Fund
CLADHO:	The Umbrella of Leagues and Associations for Human Rights
C.C.O.A.I.B:	Consultation Council of Organizations for the Support to Basic Private Initiatives
L.D.G.L:	Leagues of Human Rights in the Great Lakes Region
NGO:	Non - Government Organization
FACT:	Forum for Activists against Torture
AVEGA:	Association of Genocide Widows
HAGURUKA:	Association for Women’s and Children’s Rights
COMESA:	Common Market for Eastern and Southern Africa
HIMO:	High Intensity of Manpower
PPMER:	Promotion of Small and medium – sized Enterprises in Rwanda
RAMA:	Rwanda Health Insurance
SORAS:	Rwandan Insurance Society
SONARWA:	New Insurance Society in Rwanda
COGEAR:	General Company of Insurance and Reinsurance in Rwanda
CORAR:	Rwandan Company of Insurance and Reinsurance
PNE:	Children’s National Program
COOPEDU:	DUTERIMBERE Saving and Credit Cooperative
PREPAF:	Poverty Reduction Programme for Women
PPMR:	Promotion of Small and Medium –sized Rural Enterprises
WHO:	World Health Organization
ARPA:	Rwanda Association for the Elderly
RIPA:	Rwanda Investment Promotion Agency
IEC/SIDA:	Information, Education, and Communication on HIV/AIDS
PNLT:	National Program for the fight against Tuberculosis
DOTS:	Direct Observed Treatment Short Course
ICCROM:	International Study Centre for the conservation and restoration of Cultural Property

## **INTRODUCTION**

As mentioned in the previous report, the African Charter on Human and Peoples' Rights was adopted on 27<sup>th</sup> June 1981 by the Organization of African Unity (OAU) and came into force on 21<sup>st</sup> October 1986. Rwanda signed it on 11<sup>th</sup> November 1981 and ratified it by law n° 10/1983 of 17<sup>th</sup> May 1983(O.G. 1983, P.343). Since its ratification up to now, most of its provisions have been introduced in the Rwandan law.

Pursuant to provisions of article 62 of the Charter, Rwanda submitted its initial report to the African Commission on Human and Peoples' Rights in 1990 and presented it during the 9<sup>th</sup> session of the African Commission which took place in Banjul – Gambia, in March 1991. It was among the first three countries, which presented their first reports to the African Commission. Faithful to this commitment, its seventh report for the period 2000 – 2002 was presented in November 2004 during 36<sup>th</sup> ordinary session that took place in Dakar, Senegal. The present report covers the period 2002-2004 and, like the preceding report, it comprises of two parts. The first part briefly recounts the Rwandan institutional system, as well as human rights' instruments to which Rwanda has subscribed or is yet to subscribe. The second part provides information about measures taken during the period of application of the African Charter on Human and Peoples' Rights, about difficulties encountered in its implementation as well as future perspectives.

## **PART ONE: INFORMATION ON THE INSTITUTIONAL SYSTEM AND HUMAN RIGHTS' INSTRUMENTS TO WHICH RWANDA HAS SUBSCRIBED**

Rwanda is landlocked Uganda in the north, Burundi in the south, the United Republic of Tanzania in the east and the Democratic Republic of Congo (DRC) in the west. It is located in the central part of East Africa. Due to its mountainous topography, it was named "The Country of Thousand Hills". The country spreads between 1° and 3° of latitude towards the south and 29° and 31° of longitude towards the east, hence its tropical mountainous climate. Its current population is estimated to more than 8,343,000 million on the surface area of 26,388 km<sup>2</sup>, that is, 337 inhabitants per km<sup>2</sup>.

After its independence in 1962, Rwanda was ruled by political regimes that were characterized by gross violations of human rights and the culture of impunity, which culminated in the 1994 genocide.

In July 1994, RPF stopped the genocide and, together with other parties that were not involved in the genocide, set up Government of National Unity and, later on in November of the same year, a National Transitional Assembly was put in place. The transitional period ended in June 2003 with the adoption of the Constitution and the establishment of the democratically elected institutions (see appendix 1).

### **CHAPTER ONE: CONSTITUTIONAL FRAMEWORK AND HUMAN RIGHTS' INSTITUTIONS**

Rwanda is a Republic endowed with a new Constitution dating back to the 4<sup>th</sup> June 2003(O.G. Special issue of 4<sup>th</sup> June 2003) organizing the country's institutions according to the democratic principle of separation of powers; that is separation of between executive, legislative and judicial powers. Different national commissions aiming at the promotion of human rights were provided for in the Constitution. Most of them are operational. The civil society, the Non-Government Organizations are active with respect to human rights.

#### **1.1. The Constitution**

The Constitution of the Republic of Rwanda of 4<sup>th</sup> June 2003 adopted by the referendum of 26<sup>th</sup> May 2003 constitutes a cornerstone for the end of the transition. This referendum was confirmed by the Supreme Court in its ruling n°772/12.06/2003. It deals particularly with fundamental liberties and rights recognized by Rwanda to every citizen. The basic principles of the new Constitution include:

- Fighting against dictatorship putting in place democratic institutions and authorities freely chosen by the people;

- Establishing the rule of law based on the respect of fundamental liberties and human rights setting up specialized commissions;
- Fighting against the genocide and the genocidal ideology by setting up a commission against the genocide;
- Ensuring equality between men and women by reserving to the woman an important role in the administration of public affairs and by establishing the National Women Council and the Gender Observatory;
- Promoting dialogue and consensus in the conflict resolution, etc.

## **1.2. Rwandan Institutions**

During and after the transitional period, the Rwandan institutions are organized in such a way that the three state powers are not vested in the hands of one and same person or organ. The legislative power is exercised by the Parliament; the Executive power is vested in the President of the Republic and the Government while the judiciary is conferred upon courts and tribunals.

### **1.2.1. The legislative power**

The Parliament of the Republic of Rwanda is bicephalous. It comprises of two chambers: the Chamber of Deputies and the Senate, composed in the respect of the principle of national unity and equal access of women and men to elective positions. Consequently, Rwanda has the highest number of female members of parliament in the world.

#### **a) The Chamber of Deputies**

The Chamber of Deputies is composed of eighty (80) members.

A person can be a candidate to the post of a member of parliament (MP) being proposed by a political party or as an independent candidate. Any imperative mandate is null and the right to vote for each Member of Parliament is individual.

A regime of parliamentary incompatibility, namely the one relating to the exercise of government duties tends to fully guarantee the independence of Parliament vis-à-vis public powers, or should the case arises, private interests.

#### **b) The Senate**

The Senate is composed of 26 members.

The Senators are either elected or appointed by the President of the Republic. Their appointment takes into account the national unity, and the representation of the category of people who were historically disadvantaged is constitutionally ensured.

In its relationship with the executive power, the Parliament exerts oversight of the government activities.

The President of the Republic can, after consultation with the Prime Minister, the Speaker of the Chamber of Deputies, the President of the Senate and the President of the Supreme Court, dissolve the Chamber of Deputies. This dissolution is only valid once during his/her presidential term of office.

In the event the President is unable or incapable of performing his/her duties, he/she is replaced in acting capacity by the President of the Senate; in the absence of the President of the Senate, by the Speaker of the Chamber of the Deputies and in the absence of both, the duties of the President are assumed in an acting capacity by the Prime Minister.

The President of the Republic takes the oath of office before the President of the Supreme Court. Conversely, the President and the Deputy Presidents of the Supreme Court take the oath of office before the President of the Republic in the presence of the Parliament. The Members of Parliament take their oath before the President of the Republic and in his/her absence before the President of the Supreme Court.

In the relationship between the Parliament and the Prime Minister, the latter has to present to the Parliament the government program and the ministers who are responsible for its implementation.

In its relationship with the Judiciary, the President and Vice - president of the Supreme Court are elected by the Senate for a single term of office of eight years by an absolute majority vote of its members from two candidates in respect of each post proposed by the President of the Republic after consultation with the Cabinet and the Supreme Council of the Judiciary. The same thing holds for the Supreme Court judges.

The Parliament comprises nine (9) permanent commissions. These commissions include the National Unity and Human Rights' Commission.

### **1.2.2. The Executive Power**

The executive power is collectively exercised through decisions taken in the Cabinet by the President of the Republic and Government. The latter is made up of the Prime Minister, Ministers, State Ministers and other members that the President of the Republic can appoint (art.116Const.). The Cabinet members are selected from political organizations on the basis of their seats in the Chamber of Deputies without excluding the possibility of appointing to Cabinet other competent people who do not belong to any political organizations. The political party holding the majority of seats in the Chamber of Deputies may not exceed 50% of all members of the Cabinet.

The President of the Republic and the Government exercise on a regular basis the normative function when they govern some matters through presidential and ministerial orders. As an exception, the President of the Republic can promulgate through decree-laws in case of emergency or when it is impossible for the Parliament to convene. It belongs conjointly to the Government and the Parliament to initiate laws.

### **1.2.3. The Judiciary**

The reform of the judicial system ended in 2004. New laws aim especially at strengthening principles such as independence of the judiciary and promoting the rule of law.

Courts and tribunals and other jurisdictions exercise the judicial power. Law n° 07/2004 of 25<sup>th</sup> April 2004 determining the judicial organization, functioning and competency (O.G. n° 14/2004 of 15<sup>th</sup> July 2004) put in place a new order of jurisdictions. In accordance with this law, ordinary jurisdictions are the District and Town tribunals, the Provincial and Kigali City tribunals, the High Court of the Republic and the Supreme Court while the specialized jurisdictions are Gacaca Courts and Military Jurisdictions namely the Military Tribunal and the High Military Court. No special courts shall be created.

#### **a) District and Town Courts**

Each province and Kigali City is divided into judicial areas called Districts and Towns. To each jurisdiction of administrative District and Town corresponds a jurisdiction of a District and Town Court. District and Town courts hear all criminal cases except those which are punishable by an imprisonment sentence exceeding five (5) years and those relating to the Highway Code. In Civil law, they take cognizance of all contentions between civil entities and individuals the value of which does not exceed three million Rwandan Francs (3,000,000RWF), legal actions relating to people's state and capacity and to families.

District and Town courts sit with a single judge for all cases submitted to them.

#### **b) Provincial and Kigali City Courts.**

In each Province, there is a Court called "Provincial Court and a Kigali City Court" the jurisdiction of which coincide with the administrative jurisdiction of a Province or Kigali City. Each Provincial Court hears criminal and civil actions. It also comprises specialized chambers: one for minors and another for administrative matters.

In Kigali City Court and in Butare and Ruhengeri Provincial Courts, two specialized chambers are instituted: one for commercial, financial and fiscal matters and another specialized chamber for social matters whose jurisdiction covers at least three provinces.

At the first degree, each Provincial Court sits with a single judge assisted by a clerk. However, concerning commercial and social matters at the first degree, the court shall sit with a single judge assisted by two assessors respectively coming from trade union and workers' associations and employers legally constituted.

In appeal, the Court sits with three judges assisted by a clerk.

Provincial and Kigali City Courts are competent to judge persons that the acts constituting the crime of genocide and crimes against humanity committed in Rwanda between 1<sup>st</sup> October 1990 and 31<sup>st</sup> December 1994 rank in the category of masterminds and organizers; persons having acted as authorities, notorious murderers as well as persons who committed rape, etc.

#### **c) The High Court of the Republic**

The jurisdiction of the High Court of the Republic corresponds to the whole Republic of Rwanda. Its headquarters are established in Kigali City. It is endowed with four specialized chambers that sit outside Kigali City.

It sits with a single judge for all matters submitted to it at the first degree with the assistance of a clerk. For appeals lodged against decisions passed by lower jurisdictions, it sits at least with three judges with the assistance of a clerk. It takes cognizance, at the first degree, of gross crimes including assassinations, murders, betrayal of national security, etc

It judges crimes called cross-border crimes including genocide, war crimes, terrorism, hostage-taking, etc...

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

The Supreme Court is the highest court in the country. The decisions of the Supreme Court are not subject to appeal save in terms of petitions for the exercise of the prerogative of mercy or revision of judicial decision. The organization, the functioning and competency of the Supreme Court are prescribed by the organic law n° 01/2004 of 29<sup>th</sup> January 2004 (O.G. n°3 of 1<sup>st</sup> February 2004). Pursuant to the new law, a President chairs the Supreme Court and a Deputy President appointed by the President of the Republic, while the judges of that court are appointed through the edict of the President of the Supreme Court.

To follow up closely activities of Courts and Tribunals, there is established in the Supreme Court a department in charge of inspection of Courts and Tribunals.

In its competencies known as ordinary, the Supreme Court decides on the appeals filed against decisions made at the first degree by the High Court of the Republic and, should the case arises, those lodged against decisions made at the second degree by this Court. It also has competencies known as extraordinary when it tries criminal cases filed against high-ranking authorities. It has other attributions including the power:

- to hear petitions on the constitutionality of organic laws, laws, decree-laws and international treaties and conventions;
- hear elections petition relating to referendum, presidential and legislative elections;
- administering the oath of office taken by the President of the Republic and the Prime Minister before assumption of their duties;

- resolve upon request, disputes relating to powers arising between different state organs;
- declare vacant of office of the President of the Republic in case of the President's death, resignation or conviction and sentence for high treason or grave and deliberate violation of the Constitution;
- provide authentic interpretation of custom which is unwritten and in respect of which the written law is silent;
- hear appeals for revision of decisions made by any jurisdiction in respect of criminal cases.

#### **e) Military Courts**

Military Courts are among the specialized jurisdictions. They comprise of the Military Tribunal and the Military High Court having competency all over the Republic. They are in charge of trying criminal cases committed by military personnel and their accomplices. The Military Tribunal is made up of at least 10 judges including a President and Deputy President.

To sit and try cases, the Military Tribunal shall gather an odd number of at least three judges assisted by a clerk.

The Military High Court is made up of at least nine judges including a President and Deputy President.

To sit and try cases, the Military High Court shall gather an odd number of at least three judges assisted by a clerk. The bench President shall have a rank that is at least equal to that of the defendant.

#### **f) The Gacaca Courts**

Article 143 of the Constitution of the Republic of Rwanda ranks Gacaca Courts among the specialized jurisdictions.

The Gacaca Courts were introduced in the Rwandan judicial system by the organic law n°40/2000 of 26<sup>th</sup> January 2001 which was dealt with in the preceding report. They were restructured by the organic law n° 16/2004 of 19<sup>th</sup> June 2004 determining the organization, competency and the functioning of Gacaca Courts in charge of prosecution and judgment of offences constituting the crime of genocide and other crimes against humanity committed between 1<sup>st</sup> October 1990 and 31<sup>st</sup> December 1994(O.G. Special issue of 19<sup>th</sup> June 2004).

A National Service of "Gacaca Courts" is charged with the follow-up, supervision and coordination of activities of Gacaca Courts. Its role is also to settle any conflict of competence arising between Gacaca Courts and issues instructions relating to the smooth running of these Courts.

It is important to recall, as it was mentioned in the preceding report, that the mission of these Gacaca Courts is to know the truth about what happened during the genocide, speed up the genocide trials, eradicate the culture of impunity, strengthen unity and

reconciliation of Rwandans as well as prove the capacity of Rwandans to resolve their own problems.

Within the framework of consolidating the national unity and in a bid to steer up reconciliation among Rwandans, this system especially comprises a procedure of confession and guilt plea according to which persons belonging to categories to be tried by Gacaca Courts having had recourse to these procedures benefit from a sentence commutation with possible benefit of community service for general interest as an alternative sentence to imprisonment (Presidential Order n°10/01 of 7<sup>th</sup> March 2005 determining modalities of implementation of community service for general interest as the alternative sentence to imprisonment).

The introduction in the process of the community service sentence will enable to decongest prisons, with all its possible positive aspects to all the national society in respect of human rights. An action plan was elaborated by the service in charge of the implementation of community service for general interest. Its implementation follows progressively the convictions passed by Gacaca Courts.

In June 2002, Gacaca Courts started with a pilot phase covering only 9% of the total number of courts, that is, 751 out of 90113 cell courts (the smallest administrative unit). Thus, the total number of Gacaca Courts at all levels total 12103, 9013 of which are located at the cell level as mentioned above, 1545 courts at the next superior level, that is, the sector and 1545 appeal courts at this level.

The results of the pilot phase of the Gacaca process mainly devoted to the gathering of useful information to elaborate files of persons who are accused at the cell level, forecast success of the mission assigned to Gacaca Courts. This pilot phase started in 2005.

#### **g) The Superior Council of the Judiciary**

The Superior Council of the Judiciary is made up of 32 persons. The composition is the following:

- 1° the President of the Supreme Court, who is the Chairperson;
- 2° the Vice-President of the Supreme Court;
- 3° one (1) judge from the Supreme Court elected by his or her peers;
- 4° the President of the High Court of the Republic;
- 5° one (1) judge from the High Court of the Republic elected by his or her peers;
- 6° judges from Higher Instance Courts elected by their peers representing High Instance Courts;
- 7° judges from Lower Instance Courts elected by their peers representing judges of the Lower Courts;

8° two (2) deans of the Faculties of Law of recognized universities and higher institutions of learning elected by their peers;

9° the President of the National Commission of Human Rights;

10° the Ombudsman.

It is homogeneous and autonomous Superior Council of the Judiciary, which manages the career of the bench magistrates of courts and tribunals other than the President, and the Deputy President of the Supreme Court. The Superior Council of the Judiciary has the following functions:

- to examine and, either on its own initiative, or upon request by another organ, to give advice on matters relating to the functioning of the justice system;
- to take decision relating to the appointment, promotion, transfer or removal from office of judges and management of the career in general and discipline of judges with the exception of judges of the military courts and President and Deputy President of the Supreme Court;
- to advise on all proposals relating to the establishment of new court or bill governing the status of judges and other judicial personnel for whom it is responsible

#### **h) The Prosecution Service**

The Organic Law n°03/2004 determining the organization, competency, functioning of the Public Prosecution (O.G. n° special of 20 March 2004) regulates the Parquet Général of the Republic and the Military Prosecution Department.

The Parquet Général of the Republic is placed under the authority of the Minister having justice in his/her attributions, but it enjoys financial and administrative autonomy.

Career Public Prosecutors and auxiliary Public Prosecutors exercise the Public Prosecution.

In ordinary jurisdictions, the prosecution is exercised by the Prosecutor General's Office and decentralized services of the Prosecution Service in Provinces and Kigali City as well as by Public Prosecutors working at the level of Districts and Towns. In military jurisdictions, the prosecution is exercised by the military prosecutors under the authority of the Military Prosecutor General who is assisted by the Deputy Military Prosecutor General.

The Military Prosecutor also comprises Judiciary Military Police Officers who are competent to record offences in the military jurisdiction, find out the authors and gather evidence.

Today, the Superior Council of the Prosecution headed by the Minister of Justice manages the Prosecutors' career and its composition is as follows:

- the Minister of Justice, who is the Chairperson;
- the Prosecutor General of the Republic;
- the Deputy Prosecutor General of the Republic;

- A National Prosecutor elected by his or her peers;
- the Commissioner General of National Police;
- the President of the National Commission of Human Rights;
- the Military Prosecutor General and his or her deputy;
- prosecutors at the High Instance and those from the Lower Instance Levels representing their peers;
- two (2) deans of the Faculties of Law of recognised universities and institutions of higher learning elected by their peers;
- the President of the Bar Association;
- the Ombudsman.

The General Prosecution of the Republic is endowed, in its new structure, with an inspection service composed of inspectors who have to be Public Prosecutors. Appointed in the same way as Public Prosecutors through the Prime Minister's Order upon proposal of the Supreme Council of the Prosecution, the inspectors are responsible for ensuring the follow-up and the control of the functioning of the Public Prosecution organs.

#### **i) The Independence of the Judiciary**

The Constitution guarantees the independence of the judiciary from other powers and an administrative and financial autonomy. It provides that legally binding decisions apply to all those who are concerned, be it public powers or individuals and should only be challenged through appeals and in accordance with legal provisions.

Judges appointed on permanent basis through the edict of the President of the Supreme Court are irremovable: they cannot be suspended, transferred, promoted, superannuated or removed from office except in cases provided for by law.

The composition of the Superior Council of the Judiciary, marked by the absence of the Executive Power representative and which brings in other members other than magistrates, evidences its independence and imperious quality of its decisions.

#### **J) The Rwandan Bar**

Since the enforcement of Law n° 3/97 of March 1997 establishing the Bar in Rwanda, lacunae that could not be detected at the moment of its adoption surfaced. Moreover, legislative reforms undertaken in the justice sector rendered certain provisions obsolete, contradictory or void when they are read in the light with new texts.

That is why a draft law modifying the current law establishing the Bar in Rwanda is at its last phase of study. This draft law tends to create a single bar whose members like those in the Judiciary and Public Prosecution have an advanced academic level and noticeable experience.

The geographical and economical accessibility of all the layers/walks of the population to services of the Bar members is one of the main challenges.

In short, given the fact that the function of the Judge or that of the Public Prosecutor is now reserved at least for Bachelor's degree holders in law, the Bar has to follow the move, in the concern to put actors of justice on the same footing and ensure a decision devoid of any injustice.

#### **d) Mediation Committees**

In a bid to unblock ordinary jurisdictions, an institution called "Mediation Committee" was provided for by the Constitution in its article 159. The Organic Law n° 17/2004 of 20<sup>th</sup> June 2004 (O.G. No special of 8<sup>th</sup> July 2004 P.15) determines the organization, competency and the functioning of these committees.

The mediation committee is an institution aimed at providing a compulsory mediation framework prior to the submission of a case to jurisdictions at the first degree sitting to try certain matters provided for by law.

The committees are competent both in criminal and civil cases within the limits determined by law.

The mediators who settle the case submitted to it write minutes thereof. The mediators and parties sign these minutes.

The party that is not satisfied with the decision of the mediators can file the case to a competent jurisdiction, which takes cognizance of the matter at the first degree.

### **1.3. National Commissions and Public Organs for Human Rights**

#### **1.3.1. The National Commission for Human Rights**

The Article 177 of the Constitution of the Republic of Rwanda provides for an Independent National Commission for Human Rights.

The missions, attributions and means of action for the Commission are explicitly detailed by Law n°37/2002 of 31<sup>st</sup> December 2002 modifying Law n° 04/99 of 12 March 1999 determining the establishment, organization and functioning of the Commission (O.G. No special of 16<sup>th</sup> January 2003) and described fully in the preceding reports.

The major activities realized by the Commission during 2002-2004 are the following:

- the preparation and elaboration of the new Constitution of the Republic of Rwanda which integrated in a whole Title with 41 articles "the Rwandan Charter of Human Rights" elaborated by the commission;
- the preparation of a report on the achievements of each country in the framework of implementation of recommendations of the African Charter of Human and Peoples' Rights;
- the research and preparation of a document on periodical reports made by Rwanda in the framework of implementation of the signed and ratified conventions;

- the oversight of the referendum on the Constitution of the Republic of Rwanda; electoral campaign of presidential candidates and Members of Parliament and the course of elections proper.

In a bid to promote human rights, sensitization was dispensed to prisoners who had just been released on bail following the notice from the President's Office dated 1<sup>st</sup> January 2003, members of executive committees at the grass' root level, security officers, religious people, youth associations and movements.

Particularly, in the framework of the promotion of child's rights, the Commission organized a national forum on child's rights and, in collaboration with the Ministry of Education, Science, Technology and Scientific Research (MINEDUC)- International Committee of the Red Cross (ICRC), it developed a program of integration of human rights' notions in the primary and secondary school curricula.

Training on the child's rights for the Rwanda Defense Force was organized in collaboration with UNICEF.

Within the framework of protection of human rights, the Commission conducted investigation on assassination and harassing perpetrated against the genocide survivors, who are witnesses in the genocide trials. A survey on their security is conducted in certain Districts of the country.

With a view to oversee the respect of the rights for the genocide victims, witnesses and the accused in the genocide trials, the Commission set up a mechanism of follow- up of trials in Gacaca Courts and makes a quarterly detailed report to the service in charge of Gacaca Courts.

It conducted, on its own initiative or on request, investigations on the violations of human rights in civil, political, cultural, economic and social matters.

In economic, social and cultural matters, the Commission deals with cases relating to violations of the right to private property, those concerning the labor code and those in relation to property of the genocide orphans as well as matters in respect of the right to education, etc.

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

The National Unity and Reconciliation Commission was established by Law n° 03/99 of 12<sup>th</sup> March 1999(O.G. n°6 of 15<sup>th</sup> March 1999).

The justification for the establishment, missions of the National Unity and Reconciliation Commission were developed in the preceding report. The emphasis is put on facts which marked the period after the submission of the preceding report.

For the National Unity and Reconciliation Commission, the following facts are to be considered:

- Organization of seminars and consultation workshops on the state program aiming at promoting unity and reconciliation;
- Extension of activities of civic education to all walks of the population;
- Elaboration of a program of civic education integrating unity and reconciliation in the secondary school curricula in collaboration with the Ministry of Education, Science, Technology and Scientific Research;
- Advocacy in public institutions in favor of categories of vulnerable persons and provide information on different programs set up in their favor.
- Monitoring of the process of reconciliation at all levels;
- Organization of a children national summit on future perspectives for sustainable peace;
- Presentation of a research paper on the origin of Rwandan conflict and formulation of recommendations and perspectives;
- Organization of seminars and training on the culture of peace (ingando in the local language) for students admitted in higher learning institutions in the country and for the former Rwanda Army Forces repatriated from exile.
- The fight against discrimination and sectarianism;
- The training of military people on the respect and protection of child's rights, initiated by UNICEF in collaboration with the National Commission of Human Rights;
- Promote dialogue between the accused and the genocide survivors.

The constraints encountered in the promotion and protections of human rights remain the same as the ones mentioned in the preceding report.

### **1.3.3. The Office of the Ombudsman**

The Office of the Ombudsman is an Independent Institution provided for in the Constitution dated 4<sup>th</sup> June 2003 and established by Law n° 25/2003 of 15<sup>th</sup> August 2003 (O.G, No special of 3<sup>rd</sup> September 2003).

Its responsibilities include the following:

- Acting as a link between the citizen, on the one hand, and public and private institutions, on the other hand;
- Preventing and fighting against injustice, corruption and other related offences in public and private administration;
- Receiving and examining, in the aforementioned context, complaints from individuals and independent associations against the acts of public officials or organs, and private institutions and to mobilize these officials and institutions in order to find solutions to such complaints if they are well founded;
- Receiving the faithful declaration of assets of the President of the Republic, the President of the Senate, the Speaker of the Chamber of Deputies, the President of the Supreme Court, the Prime Minister, other members of the Cabinet before their oath – taking and after they leave office.

Since its inception, the Office has just examined many a case, and many of them found solutions. It succeeded in attracting the trust of the population.

#### 1.3.4. The National Commission for the Fight against Genocide

This is an autonomous public institution whose draft law determining its establishment is under examination in the Parliament. Its responsibilities shall include the following:

- organizing a permanent framework for the exchange of ideas on genocide, its consequences and the strategies for its prevention and eradication;
- initiating the creation of a national research and documentation centre on genocide;
- advocating for the cause of genocide survivors both within the country and outside;
- planning and coordinating all activities aimed at commemoration of the 1994 genocide;
- liaising with other national and international institutions with a similar mission.

#### 1.3.4. The Public Service Commission

This is an Independent Public Institution provided for by Article 187 of the Constitution which shall be responsible for ensuring equal opportunities to access public service. It shall carry out research on the laws, regulations, human resource requirements, the terms of reference of posts and other matters relating to the management and development of human resources and advise the Government accordingly;

It is also important to note that there exists a project of establishing The Labour National Council that shall work as a partnership forum between employers and employees.

#### 1.3.5. The Gender Monitoring Office

The Gender Monitoring Office is an independent national institution provided for by the Constitution in its article 185. It shall be responsible for following:

- to monitor and supervise, on a permanent basis, compliance with gender indicators of the program for ensuring gender equality and complementarity in the of the vision of sustainable development and to serve as a reference point on matters relating to gender equality and non discrimination for equal opportunity and fairness;
- to submit to various organs recommendations in the framework of the vision of gender.

#### 1.3.6. National Council of Women

The Law n° 27/2003 of 18<sup>th</sup> August 2003 (O.G. No special bis of 3<sup>rd</sup> September 2003) determines the organization, attributions and functioning of the National Council of

Women. This is an institution endowed with legal personality and enjoying a financial and administrative autonomy. It constitutes a forum for conviviality where Rwandan women exchange their ideas in order to resolve in consultation their problems and, thus, participate in the national development.

Its main responsibilities include:

- collecting ideas from Rwandan women without any distinction;
- training Rwandan Women on analyzing and resolving in consultation their problems;
- sensitizing the Rwandan woman on patriotism and serving the country;
- empowering Rwandan women in their action;
- representing Rwandan women in the governance of the country in order to enable them to participate in the government program;
- encouraging Rwandan women to fight for equality and complementarity between men and women;

Organs of this institution are located at the national, provincial and district level.

### **1.3.8. National Youth Council**

The National Youth Council provided for by the Constitution in its article 187 is instituted by Law n° 24/2004 of 14<sup>th</sup> August 2003 (O.G. No special bis of 3<sup>rd</sup> September 2003) determining its organization and functioning.

It is endowed with the legal personality and enjoys financial and administrative autonomy.

The National Youth Council is a forum for exchange of ideas among youth in order to contribute to their development and to that of their country.

Its main attributions are the following:

- gathering the youth together, training them on civic education and initiate them to the Rwandan culture, sports and leisure;
- sensitizing youth on productive activities aiming at contributing to their own development and to that of their country;
- supporting youth associations and find them support;
- initiating youth to resolve their problems themselves, initiate and prepare them to participate in decision- making organs;
- advocating for youth before decision – making organs relating to the youth and facilitate their participation in the decision – making process of these organs in order that problems faced by the youth are taken into consideration;
- sensitizing youth on avoiding what can lead them to futilities;
- teaching youth science, technology and initiate them to create jobs;
- collaborating with those who have in their attributions activities aiming at promoting youth;
- sensitizing youth on the protection against HIV/AIDS and other pandemics;

- tying relations between the Rwandan youth and youth in foreign countries;
- tying relations between the youth organizational structures and other organizations.

### **1.3.9. Other Public Institutions**

One cannot end this part without mentioning that other government agencies participate in one way or another in the development of human rights. Among these agencies are: The National HIV/AIDS Control Commission, The National Electoral Commission, The Secretariat for Beijing Follow-up.

## **1.4. Civil Society and Human Rights' Defense**

### **1.4.1. Non – Government Organizations for Human Rights**

The most known umbrellas almost remain the same as in the preceding reports. These are the Umbrella of Leagues and Associations for Human Rights in Rwanda (CLADHO), The Umbrella for Women's Liberty and Rights in Rwanda (PROFEMMES/TWESE HAMWE), The Council for Consultation of Organizations for Support to Basic Private Initiatives (C.C.O.A.I.B) and IBUKA. They pursue their efforts aiming at the promotion of the rule of law and development.

International Organizations for the defense and/or promotion of human rights also work in Rwanda. These are among others, League of Human Rights in the Great Lakes Region (L.D.G.L), Human Right's Watch, African Right's Watch, Amnesty International, etc...

Achievements by these umbrellas through its members include:

#### **I. CLADHO**

- The umbrella CLADHO is involved in activities relating to the process of democratization and the end of transition including oversight of referendum and institutional elections which marked the end of transition at the end of 2003.

In these activities of promotion, the outstanding activities of this umbrella are:

- Organization of workshops on the planning of activities of CLADHO technical advisor on Gacaca Courts;
- Contribution of CLADHO and its member associations to Gacaca process in the form of sensitization, follow-up, research and education on peace;
- CLADHO and its member associations also continued their activities of protecting human rights dealing with and following up complaints of the population wronged in their rights and organizing seminars;

This umbrella for human rights plans to follow up and strengthen the acquired performances during almost 10 years of activities.

More particularly, the courageous initiative undertaken to establish a Gacaca consultation on the national level having been a success, CLADHO plans to strengthen this platform and mobilize complementary funds for its extension. Moreover, it plans to make special efforts on the commemoration of the Universal Declaration of Human Rights which falls on 10<sup>th</sup> December every year.

## **II. Profemmes – Twese Hamwe**

The background of the establishment and missions of the umbrella PROFEMMES – TWESE HAMWE were developed in the preceding report. From the time it was released up to now, many activities have been carried out, these include:

- Organization of a consultation meeting between civil society organizations with a view to contribute to the process of Gacaca Courts.
- Profemmes – Twese Hamwe member Associations have continued their activities of protection and promotion of human rights as defined in the Universal Declaration of Human and Peoples’ Rights such as:
  - Training administrative leaders of the decentralized structures on human rights, women’s and child’s rights, on marriage settlement, liberalities and inheritance;
  - defending in courts of law women and children;
  - Developing mechanisms of economic promotion for women especially supporting technically and financially income generating activities;
  - Initiating programs of advocacy for formal or informal education for the girl child, providing her with all necessary support to that end;
  - Contributing to the sensitization and monitoring of the constitutional referendum, presidential and legislative elections and to the process of integration of woman into the decision – making and good governance organs.

Particular challenges faced by the umbrella include:

“Profemmes – Twese Hamwe” and its member associations are the same as those recounted in the preceding report. These are namely women’s poverty, ignorance of every person’s rights and the burden of tradition.

Despite these challenges, “Profemmes – Twese Hamwe” and its member associations plans to pursue inexorably its actions.

## **III. Ibuka**

As mentioned in the preceding report, “Ibuka” was created by its members to deal with all problems caused by the genocide, bring a solution to the concern of coordinating all the activities relating to problems faced by the genocide survivors and represent the latter vis – à – vis the third party.

In addition to its objectives, activities developed in the preceding report, the challenge for this umbrella has been to sensitize the genocide survivors on the massive participation in

the process of Gacaca Courts and on the fundamental role to play in the success of this process.

It has continued to fight for the welfare of the survivors namely in the domain of education for the destitute children, health and in any other socio – cultural domain within the interest of survivors.

The umbrella has continued to pursue interests of survivors in the trials of persons accused of genocide.

### **1.5. Other Organizations working in specific domains**

It goes without saying, one cannot end this part without pointing out that the human rights' sector has other associations, in the domain of civil society whose actions and activities are remarkable. These include but not exclusively:

The General Association for the Handicapped in Rwanda (AGHR), the umbrella which groups associations of people living with HIV/AIDS, the association which brings together the elderly, the umbrella Imbaraga (Strength) which groups associations for the defense of farmers' and breeders' rights, the Central Trade Union in Rwanda (CESTRAR) and the confederation of Independent Syndicates, both of which deal with the workers' rights.

### **1.6. The Press and Human Rights in Rwanda**

The chapter tackling the press was sufficiently developed during the presentation of the preceding report. However, after the adoption of Law n° 18/2002 of 17<sup>th</sup> May 2002 regulating the Press (O.G. n° 13 of 1<sup>st</sup> July 2002), conducive to the liberalization of the written and audiovisual press, today there is an evolution of the written press (newspapers) and the setting up of private and community radios.

Private radios include:

- Radio 10 at Kigali;
- Radio Flash at Kigali;
- Contact FM at Kigali;
- Adventist Radio at Kigali;
- City Radio at Kigali;
- Radio Maria in Gitarama Province;
- Radio Izuba in the Kibungo Province;
- Community Radios in Butare, Gisenyi and Cyangugu Provinces.

Many of these organizations plan to open up television channels in near future.

It is important to note that the High Council of the Press that was provided for by the law n° 18/2002 regulating the press has been operational since the last quarter of 2003. It was reaffirmed by the Constitution dated 4<sup>th</sup> June 2003 its article 34. Its main mission consists in ensuring liberty and protection of the press.

One of its major objectives is to promote liberty of the press and devise mechanisms of equitable regulation.

## **CHAPTER II: HUMAN RIGHTS' INSTRUMENTS RATIFIED AND YET TO BE RATIFIED BY RWANDA**

### **2.1. Human Rights' Instruments Ratified by Rwanda**

The preceding report described, by and large, international human rights' instruments ratified by Rwanda. It is clear in the preceding and present reports that Rwanda is party to several international and regional instruments relating to the promotion and protection of human rights. Instruments ratified during the period 2002-2004 are the following:

#### **a) General Instruments**

- The Protocol relating to the African Charter of Human and Peoples' Rights establishing the African Court for Human and Peoples' Rights ratified on 27<sup>th</sup> March 2003 (P.O. n° 12/03/2003, O.G. No special of 28<sup>th</sup> April 2003);
- The Protocol of closure of the Convention for the repression of the trade of human beings and exploitation of the prostitution of another person, ratified on 31<sup>st</sup> December 2002 (P.O. n° 16/01 of 31<sup>st</sup> December 2002; O.G. n° 12ter of 15 June 2003) ;
- Convention for the repression of the trade of human beings and exploitation of the prostitution of another person, ratified on 31<sup>st</sup> December 2002(P.O. n° 161/01 of 31<sup>st</sup> December 2002; O.G. n° 12 of 15 June 2003);
- Additional Protocol to the Convention of the United Nations against organized cross- border criminality aiming at preventing, repressing and punishing the trade of persons, especially women and children, ratified on 31<sup>st</sup> December 2002(P.O. n° 163/01 of 31<sup>st</sup> December 2002; O.G. n° 12 of 15 June 2003);
- The African Union Convention on Preventing and Combating Corruption ratified by (P.O. n° 12/01 of 24<sup>th</sup> June 2004; O.G. No special of 24 June 2004);
- Protocol to the African Charter of Human and Peoples' Rights establishing the Court of Law of the African Union ratified by (P.O. n° 13/01 of 24 June 2004; O.G. No special of 24 June 2004);
- Protocol establishing Peace and Security Council of the African Union;

#### **b) Instruments relating to woman and child**

- Convention on marriage on the assent with marriage, minimum age of the marriage and record of the marriages, ratified by O.G. n° 159/01 of 31<sup>st</sup> December 2002 (O.G.n° 12ter of 15 June 2003);
- Convention on the political rights of women ratified by P.O n° 160/01 of 31 December 2002 (O.G. n° 12 ter of 15 June 2003)
- Convention on the nationality of the married woman, ratified by P.O n° 160/01 of 31<sup>st</sup> December 2002 (O.G.n° 12ter of 15 June 2003);

- Protocol to the African Charter of Human and Peoples' Rights on the Rights of Women in Africa, ratified by P.O. n°11 of 24 June 2004; (O.G. No special of 24 June 2004);

#### **c) Instruments relating to Humanitarian Right and to Refugees**

- Geneva Convention for the improvement of the fate of the causalities, the patient; Rwanda became party to this convention on 21<sup>st</sup> March 2004

#### **d) International Instruments relating to the Fight against Terrorism**

- Protocol for the repression of illicit acts against the safety of fix platforms located on the continental plateau, ratified on 14<sup>th</sup> April 2002 (P.O. n°42/01 of 14 April 2002; O.G. n°15 July 2002);
- Convention of the United Nations against organized transnational criminality ratified on 31<sup>st</sup> February 2002 (P.O. n°158/01 of 31<sup>st</sup> December 2002; O.G. n° 12 ter of 15 June 2003);
- Convention on the Marking of Plastic Explosives for purpose of detection, ratified on 14<sup>th</sup> April 2002 (P.O. n°44/01 of 14 April 2002 n° 14 of 15<sup>th</sup> July 2002);
- Convention for the Repression of Illicit Acts against the Safety of Marine Navigation, ratified by P.O. n° 46/01 of 14<sup>th</sup> April 2002 (O.G. n°14 of 15<sup>th</sup> July 2002);
- Additional Protocol to the United Nations Convention against Transnational Criminality aiming at Preventing, Repressing and Punishing the Trade of Persons, especially Women and Children, ratified by P.O. n°163/01 of 31<sup>st</sup> December 2002; O.G. n° 12 ter of 15<sup>th</sup> June 2003);

#### **e) International Instruments relating to Environment**

- Convention creating African Commission of Energy, approved and ratified by P.O. n° 99/01 of 20<sup>th</sup> November 2003 (O.G n°6 of 15<sup>th</sup> March 2004);
- Reviewed African Convention on the Conservation of Nature and Natural resources, ratified by P.O. n° 13/01 of 24<sup>th</sup> June 2004 (O.G No special of 24<sup>th</sup> June 2004);
- Convention on Finalizing, Fabrication, Storage and Use of Chemical Arms and on their Destruction, ratified by P.O.n°32 ter/01 of 17<sup>th</sup> October 2003 (O.G. n°7 of 01 April 2004);
- Amendment of Montreal Protocol relating to Substances Impoverishing Ozone Layer, ratified by P.O. n° 30/01 of 24<sup>th</sup> August 2003 O.G n°20 of 15<sup>th</sup> October 2003;
- Cartagena Protocol on Biosecurity to the Convention on Biological Diversity, ratified on 29<sup>th</sup> December 2003;
- Treaty on Complete Prohibition of Nuclear test, ratified by P.O. n° 32bis/01 of 17<sup>th</sup> October 2003 (O.G.n°7 of 1<sup>st</sup> April 2004);

- Rotterdam Convention on the prior Consent Procedure with full knowledge applicable to certain Chemical Products and Dangerous Pesticides on the International Market, ratified by P.O. n° 28/01 of 24<sup>th</sup> August 2003(O.G. n°20 of 15<sup>th</sup> October 2003);
- Bâle Convention on the Control of Cross- border Movement of Dangerous Wastes and their Elimination, ratified by P.O. n°28/01 of 24<sup>th</sup> August 2003 (O.G n°20 of 15<sup>th</sup> October 2003);

## **2.2. International Human Rights' Instruments to be ratified by Rwanda**

Rwanda being one of countries which want to establish the rule of law, it is satisfied with the fact that it has been party to several international, regional and sub-regional instruments of promotion or protection of Human rights, but, it is aware that it still has a long way to go in order to achieve this ideal situation. Thus, Rwanda will continue to sign and ratify conventions and protocols to which it is not yet party.

Some draft laws of ratification are already ready to be examined, while others are being elaborated.

These include:

- Treaties of the United Nations relating to space;
- Convention against Torture and other Inhumane or Degrading Sentence or Cruel Treatments;
- Supplementary Convention relating to Abolishment of Slavery Trade of Slaves and Institutions and Similar Practices to Slavery;
- Convention relating to Reduction of Cases of Stateless Persons;
- Convention relating to Stateless Persons;
- Optional Protocol relating to the Convention on Elimination of all Forms of Discrimination against Women;
- Convention on the Conservation of Migrating Species belonging to Wild Fauna, Authorized for Ratification by Law n°35/2003 of 29<sup>th</sup> December 2003 (O.G n°5 of 1<sup>st</sup> March 2004);
- Ramsar Convention of 2<sup>nd</sup> February 1971 relating to Humid Areas of International Importance, particularly as Habitats of Water Birds, Authorized for Ratification by Law n° 37/2003 of 29<sup>th</sup> December 2003 (O.G.n°5 of 1<sup>st</sup> March 2004);
- Kyoto Protocol of 6<sup>th</sup> March 1998 to Framework Convention on climate change, authorized for Ratification by Law n° 36/2003 of 29<sup>th</sup> December 2003 (O.G. n°5 of 1<sup>st</sup> March 2004).

## **SECOND PART:**

### **MEASURES TAKEN FOR THE IMPLEMENTATION OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS**

The presentation of this report to the African Commission on Human and Peoples' rights for Rwanda is an occasion to reassert its commitment to respect, and make respect the rights provided for in the Charter. The 2002-2004 period covers the passageway from the political transition period to the period of activities of the new democratic institutions determined to restore the rule of law in Rwanda based on the respect of fundamental personal liberties and rights, pluralism democracy, fair power sharing, tolerance and conflict resolution through dialogue.

It is notably in this framework indicated by the Constitution of June 04, 2003, that the Government does not cease to protect the human rights, prevent and repress their violations by whomever and to promote them by all means. It is in that framework that a human rights commemoration day, of 10<sup>th</sup> December has been observed. It is an occasion for the Republic of Rwanda to inform the public about the Content of the Universal Declaration, the source of general principles of the African Charter of Human and Peoples' rights.

The implementation of the African Charter of Human and Peoples' rights in Rwanda is not limited to the domain contained in the protocol; rather it is also extended to concrete actions and commitments in the legal institution and operational field.

#### **CHAPTER ONE: IMPLEMENTATION MEASURES**

Public liberties recognized to an individual persons and to the groups of people vis –à-vis the State and the authorities representing it, take a dominating place in the Constitution of June 04, 2003 in its title II entitled “The fundamental human rights and the rights and duties of the citizens.”

##### **1.1 Civil and Political Rights**

###### **1.1.1 The equality of all before the law (article 2 and 3 of the Charter)**

The Constitution of the Republic of Rwanda of June 04, 2003, has reiterated in its article 11, this fundamental principle stipulating that: “All Rwandans are born and remain free and equal in rights and duties.” Its paragraph 2 stipulates that: “Discrimination of whatever kind based on, inter alia, ethic origin, tribe, clan, color, sex, region, social, origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law.”

By creating the Ombudsman Office for which the details concerning the mission are described in the part one of the present report, Rwanda intended to eliminate all sources of inequality between individuals among others discrimination and corruption either in the public or the private sector. This Office, which turned into an Organ of appeal for all individuals or groups of individuals estimating that they are victims of any kind of injustice, has resolved many situations. This has cost the Office to gain the confidence of the population and the esteem of authorities. To its service are two basic instruments:

- Law n° 42/2001 relating to the repression of crimes of discrimination and the practice of sectarianism;
- Law n° 23/2003 of 07/08/2003 relating to the punishment of corruption and other related offences;

This Office has sensitively reinforced the action of the National Commission for Human Rights in the process of proceeding and investigation, on complaint or automatically, on cases of injustice and the violations of human rights in general.

The restructuring of the judicial sector through a fundamental reform of the judicial system, has led to the creation of a legal and institutional framework favorable to the prevention and the fight against injustice and all sorts of inequalities.

The tendency is to reduce legal exceptions relating to treatment of people in similar conditions like the privilege of jurisdiction reserved exclusively to a certain category of the high ranking personalities among others: the President of the Republic, the President of each of the Chambers of Parliament, the President of the Supreme Court and the Prime Minister.

### **I.1.2. Right to Life, Liberty, and to Security of individuals (articles 4 and 6 of the Charter)**

#### **a) Right to Life**

Article 10 of the Constitution of June 04, 2003, stipulates that “the human person is sacred and inviolable.” to involve sufficiently the organs of the State is obliged to, first to deal with the security of the population, the paragraph 2 stipulates that “The State and all public administration have the absolute obligation to respect, protect and defend him or her.” This principle is consolidated by article 12, which stipulates, “Every person has the right to life. No person shall be arbitrarily deprived of life. ”

It is in that context that fight against the culture of impunity is necessary because it was cultural of impunity that led to the 1994 Genocide, that claimed more than one millions of lives, that the law relating to the punishment of the crime of genocide has been promulgated.

Also, considering the complexity of the crime of Genocide and the crimes against humanity, the International Criminal Tribunal for Rwanda (ICTR) based in Arusha in

Tanzania, and the Gacaca Courts have been established. There are performing their duties.

The revisionism, negationism and trivialization of Genocide are, according to the Constitution of June 04, 2003, also crimes punishable by the law.

The crime of genocide has not overshadowed other ordinary crimes undermining human lives that are also prosecuted and punished by laws and competent courts.

#### **b) Right to liberty and to security**

Article 18 of the Constitution stipulates, “The person’s liberty is guaranteed by the State. No one shall be subjected to prosecution, arrest, detention or punishment on account of any act or omission which did not constitute a crime under the law in force at the time it was committed.” The right to liberty implies the right to free movement and free establishment inside the country. The principle of presumption of innocence (article 19 of the Constitution) and that of non-retroactivity of the criminal law (article 20 of the Constitution) remain into force.

The pretrial detention is only put into practice only in exceptional cases provided for by article 94 of the code of criminal procedure notably when it is based on serious indications of guilt, the fact reproached to the suspect seems to constitute an offence punishable with an imprisonment which is less than 2 years but exceeding one month, if there is a fear that he or she can escape or, if his particulars are unknown or doubtful or if there are strong, unusual and exceptional circumstances that urgently require detention pending trial in the interest of public security in the following cases:

- 1° If the pretrial detention is the only means to preserve evidences or to stop either the accused from putting pressure on witnesses and complainants or fraudulent consultation between the accused persons and their accomplices;
- 2° If such detention is the only means to protect the accused, to ensure that the accused will be available whenever he or she is needed by judicial organs, to put a halt to the commission of an offence or prevent its recurrence;
- 3° If, considering the gravity of the offence, circumstances under which it was committed and the extent of harm caused has led to exceptional unrest and disruption of the law and order in which case detention becomes the only means to put them to an end.

The law N° 13/2004 of 17/5/2004 relating to the code of criminal procedure (O.G special issue of July 31/07/2004) decreases in case of legal proceedings the duration of arrest and detention for the purpose of investigation by the police or by the Prosecution Service to 72 hours (article 37 and 96). The possibility of transaction for an offence which is

punishable by at least 2 years imprisonment is opened as an alternative measure to detention.

The main innovations of this Law remain however that the pretrial detention must necessarily be ordered by the Judge, contrary to the former Law which allowed the prosecutor to detain preventively in custody an accused person, it limits the order of the judge authorizing the pretrial detention to one month maximum period for minor offences, to six months maximum period for offences and to twelve months maximum period for crimes; from now on, it particularly recognizes the bail, it also authorizes the Judge to condemn without any further ado the officer who detained the person in contravention of the law, by the order of the temporary release (article 88 and 89). In this matter and other similar to it, the practice is more formal at such a point that, currently, we notice with satisfaction a noticeable decline of illegal or arbitrary detention.

Regularly Judicial and penitential authorities make sure that nobody remains in detention for an additional period, even of one day, to the imprisonment period that the law or the court ruling assign to them.

The communiqué of 01/01/2003 of the President's Office of the Republic provided the conditional release notably for:

- Persons prosecuted for genocide who resort to confession procedure and were about to remain in preventive detention for more than the time provided for by the law if they were condemned;
- Persons who were minor when the genocide was committed;
- Old people of more than eighty years old and all persons prosecuted for "common law" offence for whom the period of punishment was about to be superior to the one they would incur after conviction.

In the execution of this communiqué 24.000 detained suspects were released in 2003 and 4.000 in 2004.

### **c) The Prohibition of torture and ill treatment (article 5 of the Charter)**

Obviously, the fight against torture is a major concern for the Republic of Rwanda. Thus, it is important to underline that international convention against torture, inhuman or degrading and other cruel treatments is among international instruments for which ratification procedure is being carried out.

Various provisions relating to torture are included in legal texts among others the Constitution and the Penal Code. Thus, for example, article 15 of the Constitution stipulates, "Every person has the right to physical and mental integrity. No person shall be subject to torture, physical abuse or cruel, inhuman or degrading treatments. No one shall be subject to experimentation without his or her informed consent. The modalities of such consent and experiments are determined by the Law".

The penal code "punishes" corporal torture in its art 388.

Article 5 and 6 of the law N° 15/2004 of 12/06/2004 governing evidences in case of instruction, prohibits torture and other similar practices as a means to collect testimonies.

Because of serious psychological and physical consequences for the victim of torture, the preventive action holds an essential place in Rwanda. In this framework, training in matters concerning the fight against torture are given notably to police officers, judicial personnel involved in criminal investigation, to physicians and in schools. The sensitization campaigns were conducted by Government institutions and national and international NGOs such as Forum for Activists Against Torture (FACT), “Association of Genocide Survivors (AVEGA), Association for Woman’s and Child’s Rights (HAGURUKA), etc.

### **1.1.3 The right to a fair trial (article 7 of the charter).**

In general, the Government of Rwanda yearns for effective, quick, fair justice accessible to all. It is the rationale behind the judicial reform undertaken since 1999.

Article 19 par. 2 of the Constitution of 4<sup>th</sup> June 2003 stipulates, “Nobody shall be denied the right to appear before a Judge competent by the law to hear his or her case”.

The right to be informed of nature and motives for accusation and the right to defense are absolute at all levels and degrees of proceedings before administrative, judicial and all other decision-making organs.

The right to defense does not allow any form of restriction even to the destitute citizens; be it for “defenders” or litigants. The National Fund of Judicial aid and legal assistance is about to be created.

A draft law modifying the law establishing the Bar in Rwanda obliges barristers to assist the destitute persons. It reminds Lawyers to respond to new imperatives aiming to promoting fair Justice by prohibiting to them the use of corruption means or to engage themselves in incompatible activities to their profession.

It is in a bid to eradicate corruption in judicial organs that the profound reform of the judicial sector was undertaken and that inspection service has been established in the Supreme Court and in the Parquet Général of the Republic.

### **1.1.4 The freedom of religion, conscience, profession, opinion, expression and information, association and movement (article 9, 10, 11, and 12 of the Charter)**

In the Constitution of June 04 2003, the freedom of religion, conscience, profession, opinion, expression and information, association, assembly with others, and movement are guaranteed (article 33).

The law n° 20/2000 of 26 July 2000, recognizes legal personality to religious confessions, which request for it and allows them to work freely.

Professional activity is exercised in total independence. Some professionals: specific laws protect physicians, Lawyers, bailiffs and soon notaries.

The freedom of thought is guaranteed. Various newspapers and private radio stations do testify. In the implementation of article 34 of the Constitution, the Law n° 18/2002 of 11 may 2002 instituted the High Council of the Press. It is already operational.

However, in order to maintain public order, good morals, youth and children protection, the right of every citizen to honor, good reputation and privacy of personal and family life, the Constitution imposes some restrictions to this freedom of press (art. 34. al.2).

The right to receive information is developed throughout the Government policy to promote the information and communication technology. The access to internet and intranet has become a usual practice in private and public institutions as well as for individuals.

The freedom of association is guaranteed by article 35 of the Constitution, the prior authorization is required only for security reasons, law and order or public health. Thus article 36 stipulates, “The freedom of peaceful assembly without arms is guaranteed if it is not inconsistent with the law”

According to article 23 of the Constitution, all citizens have the right to move and to circulate freely and to settle freely on the national territory and that of leaving and returning to it. This right to go outside of the country is guaranteed by a general and easy delivery of travel documents.

No residence permit is required and no prior authorization is required to travel within the country. This freedom is also characterized by an easy delivery of travel document to foreigners who meets required formalities (procedures). Rwanda is free zone of the common market of Eastern and southern Africa (COMESA), this will enhance the freedom to circulate for persons and goods. However, this right shall be restricted only by the law for reasons of law and order or state security, in order to deal with a public menace or to protect persons in danger.

### **1.1.5 The right to participate freely in the government of the country. (Article 13 of the Charter)**

In respect of article 13 of the Charter, Article 45 of the Constitution stipulates that, “all citizens have the right to participate in the government of the country, whether directly or through freely chosen representatives in accordance with the law” In other words, the Constitution uses fundamental principles of democracy stipulating that the government shall be based on peoples’ consent expressed through regular, free, transparent and fair elections.

Thus the years 2002-2004 have been characterized by active participation of the population especially in the referendum of 26/05/2003 of the new Constitution and in other elections that marked the end of political transition in Rwanda in 2003 notably:

- The presidential and legislative elections;

- The elections of local administrative authorities;
- The members of the National Women Council elections;
- The National Youth Council elections.

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

### **1.2.1. Right to employment (article 15 of the charter)**

Article 37 of the Constitution stipulates, “Every person has the right to free choice of employment and persons with same competence and ability have right to equal pay for equal work without discrimination”. As to salary, this article is echoed by art 84 of the labor code, when it stipulates that “all employees have right, without any discrimination, to an equal salary”. The right to salary is thus ensured by the Constitution and by the labor code at such a point that any deduction cannot be operated to salary except provided for by the law.”

In the same framework, paragraph 2 of article 45 of the Constitution stipulates, “all citizens have the right of equal access to public service in accordance with their competence and abilities”.

Article 99 of the law N° 51/2001 establishing the labor code, provides for employees the right to payment before any other debt settlement even when such debt is owed to the government in case of bankruptcy or legal liquidation of the company. The employee is protected from producing evidence, for it is not up to him/her to produce evidence for unpaid salary he/she is claiming for in court.

The recruitment system to the public service posts and other employment is based on competition and offers equal chances and conditions for all candidates.

The public service commission responsible for ensuring the respect of these principles will soon be functional.

In the framework of job creation, projects such as “High Intensity of labor force (HIMO)”, “Promotion of Small and Medium – sized Enterprises in Rwanda” (PPMER), Rural Sector Support Project (RSSP), etc, have been initiated. Institutions such as Rwanda Investment Promotion Agency (RIPA) “Support Centre to Small and Medium – sized Enterprises in Rwanda”(CAPMER) ensure their follow up.

The government of Rwanda is setting up a public sector restructuring policy for employment leading to a new shaping of public administration to the benefit of private sector.

As a result of this public sector reform policy, the Ministry of Labor has just set up a program of reconversion and reintegration of the retrenched employees into effective economic operators and/or private sector employees. Scholarship will be granted to some of them to pursue their further studies.

To compensate for eventual drawbacks of this process of reconversion for the retrenched employees, various actions are undertaken:

- A common training will be given to all these employees;

- A capacity building training shall be organized in favor of all employees who want to be integrated into the private sector;
- The reintegration into other production sectors as economic operators or as private sector employees will be realized;
- The facilitation of access to credit shall be ensured;
- The supervision and follow up of the program beneficiaries will be ensured by a specialized cell.

It should be noted that during this process employees would benefit from all that is provided for by the Rwandan law about job suppression and will have chance to access credit for self-employment.

### **1.2.2. The right to form syndicate and to go on strike**

The right to form trade union is guaranteed by the Rwandan Constitution in its article 38 in the following terms: “The right to form trade-unions for the defense and promotion of legitimate professional interests, is recognized. Any worker may defend his or her rights through trade union action under the conditions determined by the law”. The trade unions or employees organizations cannot be dissolved or suspended by an administrative decision, except upon the will of their members or the decision by a judicial authority (Art. 147 of labor code).

Finally, article 39 of the Constitution consecrates the right to strike in these terms: “The right of workers to strike is permitted and shall be exercised within the limits provided for by the law, but the exercising of this right should not interfere with the freedom to work which is guaranteed for every individual”.

As it was explained in previous report, workers’ strikes are scarce.

### **1.2.3. The Right to security and social insurances (article 16.2 of the Charter)**

The social security is actually governed by the new law N° 06/2003 of 22/03/2003 (O.G N° 12 bis of 15/06/2003). According to this new law (article one), the social security regime is responsible for:

- allowance provision in case work accident and professional disease ( branch of professional risks)
- old age pension , invalidity and death pension service (branch of pensions)
- capital or allowance in case of retirement, invalidity or death (branch of supplementary pensions)
- any other social security benefits to be created later in favor of salaried workers

People concerned by those provisions of that law are:

- workers governed by the provisions of the labor code;
- political representatives not yet retired;
- Civil servants governed by the law on general statutes for Rwanda Public Service.

The amount or allowances given to the beneficiaries of the pensions have been increased. As far as social insurances are concerned, The Rwanda Health Insurance (RAMA) instituted by law n° 24/2001 of 27/04/2001; a public corporation contributing to the social security of public civil servants and their family members is currently active all around the country. The Mutual Health Insurance is promoted and organized among the population. They function in the form of pre-payment system and the big majority is made up of families that do not have enough means to provide themselves for their social needs. A draft law has been initiated to organize modalities of functioning of mutual health insurance.

It is worth to note that the Insurance Companies SORAS (Rwandan Insurance Company, SONARWA (Rwanda New Insurance Company, COGEAR (Rwandan General Insurance and Reinsurance Company), CORAR (Rwandan Insurance and Reinsurance Company) have also initiated a system of health insurance, life insurance, loan insurance. Education insurance for which also the objective is to provide social security to the population.

The Government initiated a draft law establishing military health insurance.

#### **1.2.4 Right to property (article 14 of the charter)**

The property's inviolability principle is guaranteed by the Constitution. Article 29 stipulates, "every person has a right to private property, whether personal or owned in association with others". Its paragraph 2 stipulates that "private property, whether individually or collectively owned is inviolable. It may not be interfered with except in public interest, under circumstances and procedures determined by the law and subject to fair and prior compensation." Such compensations are notably given in case of expropriation for city planning or "viabilisation (water conveyance, power distribution, building of roads...)

The law N° 01/82 of 26/01/1982 (O.G. 1982. p. 227) relating to expropriation for public interest consecrates also this Constitutional principle.

The post genocide illegal occupants of other people's houses have been evacuated. Moreover, the State accepts to compensate owners of missed requisitioned possessions or have been so illegally.

##### **a) Land property**

The draft bill on land reform is under discussion in parliament. This reform grants advantage, notably to customary owner, of temporary property under emphyteotic. It also aims as mentioned in previous report at the social well-being and the national economic growth.

##### **b) Intellectual property**

The revision of the law governing intellectual property protection is at an advanced step. Meanwhile the National police have not ceased to nail those engaged in piracy of artistic,

intellectual and cultural works. Complaints against brand robbers or other violations of industrial rights are scarce.

### **c) Trade and industry**

As mentioned in the previous report, since 1990 trade in Rwanda has been largely liberalized. The privatization policy is within the framework of economic reform to promote private initiatives.

The government encourages foreign investors to whom the law grants preferential treatment and for whom a favorable legal framework have been created on exchange and investment matters and by the creation of a service (RIPA) which has to concentrate on foreign investment.

Concerning consumers' protection, actions to promote consumers' associations are supported by the Government. The National Bureau of standard was created in 2002 to be in charge of testing products' quality, evolution of norms of metrology in order to protect consumers and give expected results.

The revising of the legal framework has promoted with sufficient efficiency the trade and industry function. Thus specialized chambers responsible for judging commercial, financial and fiscal matters have been instituted within jurisdictions and traders, in the capacity of assessors, play a big role in court ruling involving their peers.

The arbitration which is one of the mechanisms to promote the private sector has been developed and organized by the new code of civil, commercial, social and administrative procedure.

In the framework of COMESA, Rwanda joined the free trade zone. It also applied to join the East African Community, which guarantees to all its members free circulation of goods and services. The national policy considers trade and industry as one of the six main pillars of development.

#### **1.2.5 The right to the family and vulnerable groups protection. (Article 18 of the Charter)**

Article 27 of the Constitution stipulates, «The family, which is the foundation of Rwandan society, is protected by the State». For the first time the fundamental act of the Republic of Rwanda, this Constitution has mentioned the protection of vulnerable groups like survivors of humanitarian catastrophes such as genocide, disabled persons, indigents, elderly (article 14) to whom is added members of historically underprivileged communities.

The task for the State to put in place legislation and appropriate institutions for the protection of the family, minors and especially the mother for their blooming is guaranteed by the Constitution.

The revising of laws governing the subject aims at strengthening this protection.

#### **a) Children's Legal protection**

The Rwandan legislation protects the minor in a peculiar manner. Article 28 of the Constitution stipulates "every child is entitled to special measures of protection by his or her family, society and the State that are necessary, depending on the status of the child, under national and international law».

In Rwanda, minors are more protected against all kinds of violence, especially sexual and domestic violence (see law n° 27/2001 of 28/04/01).

Article 4 of the new organic law n° 29/2004 organizing the Nationality code (O.G n°1 of 01/01/2005) grants automatically the Rwandan nationality to children of whom one of the parents is at least a Rwandese.

Its article 6 of the above named law stipulates that « every child born in Rwanda from unknown or stateless parents or from one of the parents whose nationality cannot be given to the child».

It is the same for every child found on the Rwandan territory who is considered as born in Rwanda.

Article 11 of the same law stipulates that « acquires automatically the Rwandan nationality, a child of foreign nationality or stateless child, who is a non emancipated minor, recognized or adopted by a Rwandan» while article 12 stipulates that, « acquires automatically the Rwandan nationality at equal level as his or her parents, and on condition that its filiation is established in accordance with Rwandan laws, a minor who is not emancipated whose father or mother acquires Rwandan nationality».

The civil code strongly consecrated the right of the child to be registered in the civil status register upon his or her birth. This guarantees to him or her filiation right, hence the inheritance right.

The specialized chambers for minors have been created within provincial courts. A judicial aids fund viewed by the new draft law on the Bar will play a big role in trials involving minors.

The penal procedure code in its articles 184 and 192 provides for a peculiar procedure for prosecutions against minors.

To improve the minors' welfare and development in general and especially orphan and vulnerable minors in particular, the Government has approved the National Child Program (PNE) aiming at social, economical and family reintegration of minors, set up by the Ministry having social affairs in its responsibilities. Two reasons justified this Programme, which are.

- Rwanda commitment to set up a plan of action in favor of children;
- the plurality of actors and diversity of fields in which the minors' rights are involved, made necessary the integrated and coordinated approach of actions.

The coordination of policies aiming at the total social reintegration of minors has led to the reduction of the numbers of reception centers for orphan and vulnerable children and hence, to the reduction of the number of children living within these centers. Many of them have returned to their families or reception families or have found their tutors.

## **b) Woman's rights protection**

It was pointed out in the previous report that, Rwanda is involved in process aiming at Gender equality and the total integration of the latter in the development of the country. In this perspective, Rwanda undertook important strategic actions aiming at promoting women situation in legal, political, social and economical field.

### **1) Legal domain**

The political will aiming at the suppression of all kinds of discrimination towards women within legal texts and practically within the sectors of private and public life has been supported by the Constitution and various specialized agencies are responsible for the protection of Gender equality within the State life. These texts include:

- -The Constitution provides for the creation of The Gender monitoring office and The National Council of Women.
- -The law organizing the National Council of Women is in force since August 2003. The members of the Council have been elected by their peers;
- -A bill on land reform considers the integration of Gender;
- -The new law n°29/2004 on Nationality code rules out all kinds of discrimination against women for the acquisition or transmission of the nationality;
- -The protection by the family code, labour code has been developed in the previous reports.

Other actions have been carried out and measures have been taken in this field one can mention:

- A list of discriminatory laws to be revised has been elaborated;
- The Ministry responsible for Gender has elaborated a document in the framework of executing the Convention against all sorts of violence perpetrated against women (CEDAW).
- Regional and international conventions relating to the rights of women have been ratified.

### **2) Economic and social domain**

- The establishment credits and security Fund allow the grant of small credits to women;

- The establishment of associations for the promotion of women aiming at the reinforcement of economic capacities: Savings and Credits Cooperatives( SCC), Limited Company of Micro-credit (DUTERIMBERE), etc.;
- The support of different projects: Women poverty reduction program (PREPAF), the promotion of rural small and medium-sized enterprises (PPMR), High Intensity of Labor force (HIMO) brings in an economical and financial support to women.

Concerning health, strategies are undertaken for better maternal health; HIV positive women are treated to improve their chances to have healthy children.

### **3) Political domain**

Concerning women participation in the government, since 2003, a decentralization policy favoring women representativeness at different administrative levels has been noticed. Thus the representativeness in decision making organs is evaluated at:

- 32.1% of women in the Cabinet;
- 48.8% of women in the Parliament;
- 30% of women in the Senate
- 8.3% of women in provincial and Kigali city administrations
- 7.55% of women in district and Town administrations
- 62.5% of women in the Ombudsman Office.

Rwanda currently has the highest number of female Parliamentarians in the world.

Rwanda has given necessary securities to women to ensure that they peacefully enjoy their rights. In fact, not only women elected as judges of GACACA courts are many, but they are also many in classical courts where they represent 35.8%. Figures are again more revealing in the provincial and Kigali city courts and in the High Court and the Supreme Court where out of a total number of 129 magistrates 45 are women. It is worth noting that the High Court Vice President is a woman and 4 out of 12 Presidents of Provincial and Kigali city courts are also women.

The integration of Gender in State programs and policies is one of the six pillars of the national development as enshrined in « Vision 2020» a guide of all governmental actions. It cannot go unnoticed and the government budget considers it among its priorities.

In the same context, women are interested in entrepreneurship and in private sector activities, which contributes to help them extricate from poverty, turning them to be more independent from men.

An intensive campaign against sexual violence on women whose perpetrators are punished according to the law is underway. It is the same thing for domestic violence in the sense that it essentially affects women.

The fight continues to reduce the illiteracy rate and to raise the education level which is still low in women.

### **c) The protection of the elderly persons**

The category identified as elderly persons (beyond 55 years old) was evaluated at 7.2% in 2002.

The government has initiated in 1998 a public awareness and consultation campaign on the rights of elderly persons. It was thus revealed that this category of the population was sensitive to problems relating to the welfare, health, legal framework, culture, education, to integration in the national programs and others. The pension scheme is subject to a peculiar care and development project concerning elderly persons and often managed by them are present in different provinces of the country.

The law n 22/2002 of 9/7/2002 on general statutes for Rwanda Public Services (O.G n 17/2002, p.78) boosts the retreat age from 55 to 65 years to allow elderly persons to enjoy the right to employment and other related rights up to an advanced age.

The non governmental organizations and especially religious communities are more active in this field of the protection of elderly persons.

The Rwandan association of elderly persons (ARPA) founded in 1996 have got branches in different provinces of the country. The ARPA, other associations and establishments in charge of promotion and protection of elderly persons' rights grouped under an umbrella get support and assistance from the government in the framework of aids and assistance program to indigents.

Social assistance in order to fight against their isolation is ensured by NGOs such as Help Age International.

### **d) The protection of handicapped persons**

The World Health Organization (WHO) estimates at 3.5% the disabled persons' rate in Rwanda. The government mainly deals with the prevention of physical and mental deficiency agents acquired throughout sickness or by accidents. Specialized hospitals and psycho-social centers (Ndera, Kabutare) are set up to care for mentally sick persons. The rehabilitation centers exist in Gatagara (southern region), in Kigali (The Capital).

The Government intervenes also in the framework of assistance and support to private centers and care foundations in charge of rehabilitation and care for the disabled persons. In this field benefactors and NGOs are active. Disabled persons are themselves grouped in associations or are sensitized to do so to find by themselves solutions to some of their problems.

To make sure disabled persons are not victims of whatever, a national policy has been initiated in their favor by the Ministry having social affairs in its responsibilities. A draft

law governing the protection of disabled persons is being elaborated. This law imposes to the Government and private institutions to behave in accordance with the protection, respect and privileges that must be enjoyed by disabled persons.

Their representativeness is ensured in the Parliament by a Constitutional provision according to which: «one member elected by the Federation of the Association of Disabled» becomes automatically a member of the Parliament.(article 76,4°).

#### **e) The communities that have been historically underprivileged**

Rwanda is not a country where native populations (autochthones) can be identified in the western meaning of the term. Debates often took place for Batwa's reintegration, a marginalized category since long ago. Their awake, in order to participate actively in the national life, is the Government priority.

The Government is conscious that these communities have rights like other citizens and that politically they must enjoy a peculiar care like other vulnerable groups. It is in this way that the Constitution insists on their representativeness in the Parliament when it provides «eight members appointed by the President of the Republic who shall ensure the representation of historically marginalized communities. »(Article 82, 2°).

However, in view of facts that led to 1994 Tutsi genocide, Rwanda refrains from recognizing in this or that category of Rwandese, communities willing to identify themselves under ethnic form or under any grouping presenting itself as having some inborn rights that other Rwandese cannot have.

On the other hand, the national program against poverty is a global development plan based on economic and social recovery starting with the lowest level layers of the population without considering their ethnic, religious, regional or other belonging. Thus, national communities that have been historically marginalized are the first to enjoy this program.

#### **f) Protection of foreigners**

The Rwandan hospitality is traditional; Rwanda makes no discrimination among Rwandese residents and foreigners in compliance with the national legislation with regard to enjoyment of fundamental rights.

There exist an outstanding will to create legal conditions favorable to the blooming of foreigners at the national, regional and international level. The Constitution provides, «every foreigner legally residing in the Republic of Rwanda shall enjoy all rights save those reserved for nationals as determined under this Constitution and other laws.

In the exercise of rights and enjoyment of freedoms, every person shall only be subject to the limitations set by the law in order to ensure the recognition and respect of others' rights and freedoms, good morals, public order and social welfare which characterize a democratic society». (articles 42 and 43 of the Constitution of the Republic of Rwanda).

The forms provided for foreigner workers are nothing else than simple administrative measures that will later justify his/her income transfer. In fact no legal authorization

engaging a foreigner worker has ever been refused, and no conditions are imposed on the employer in this matter.

The requirements to obtain the Rwandan nationality have been noticeably lightened by the organic law n° 29/2002 n°29/2004 of 03/12/2005 governing the nationality code.

### **1.2.6 The right to enjoy the best state of health (Article 16 of the charter)**

The Constitution of the Republic of Rwanda provides that every individual shall have the right to enjoy the best attainable state of physical and mental and social health.

To ensure the full exercise of this right, Rwanda has engaged itself to take the following measures:

- To grant basic health care, in other words, to put at the disposal of every individual and families essential medical aids,
- Health services' expansion up to the administrative level
- Immunization from principal infectious diseases
- To inform the population about the prevention and treatment of those diseases;
- To help more exposed and vulnerable groups

In Rwanda the main morbidity and mortality agents remain infectious and parasitic diseases such as malaria, HIV/AIDS, tuberculosis, respiratory instances of infection and parasitosis.

The promotion of mosquito-nets, the execution of the new policy of treatment and subsidies of anti - malaria has been basic strategies to fight efficiently against malaria.

Even though statistics show that more than 80% of Rwandans are aware of AIDS, efforts are to be made in the sensitization field in order to change behaviors.

These efforts are principally concentrated on the promotion of antiretroviral accessibility for which the cost has noticeably cut from 200.000frws to 15.000frws per month with possibilities of a free offer to indigents, as well as on the prevention and protection against HIV/AIDS transmission from a mother to a child of which the program currently covers all health provinces and districts of the country.

The antiretroviral cost reduction during the year 2003 has increased accessibility to treatment at such a point that on 31<sup>st</sup> December 2003, more than 3000 ill persons were under treatment.

The National AIDS Control Commission and the State Secretariat against some diseases and other epidemics exist since 2001.

Persons living with HIV/AIDS are organized in associations, not only to ameliorate their health state but also improve their living conditions.

Those hundreds of associations are gathered in an umbrella.

In this field other activities have to be taken into account:

- the setting up of adolescent and youth reproductive health centre project;

- the creation of the Youth Anti-AIDS Forum facilities, which are operational in all districts of the country;
- the creation of Anti-AIDS Clubs which are actually active in schools and other youth organizations;
- the setting up of information ,education, communication program on AIDS within schools(IEC/ Sida Ecole) which has been integrated into the curricula in force within schools.

To fight against tuberculosis, The National Program for the Fight against Tuberculosis has continued its integration in health services at such a point that all health centers currently give treatment to patients.

The execution of DOTS strategy (Direct Observed Treatment Short Course) shows, during the year 2003, a tremendous regress of that pandemic.

During the year 2004, a meningitis scourge hit more than half of the country, which led to a massive vaccination.

Other epidemics such as cholera, diarrhea have been noticed, but appropriate measures have been taken to stop their spread.

These various actions have been taken in respect of non discrimination principle and equal treatment.

### **1.2.7. Right to education (Article 17.1 of Charter)**

Article 40 of the Constitution stipulates “Every person has the right to Education”.

The second paragraph of this article consecrates the freedom of learning.

According to the third paragraph; primary education is compulsory. It is free in public schools.

The uncut rate of schooling at the primary and secondary school level has been noticeably increased in these years.

In primary, the number of registered pupils of the schooling year 2003-2004 rose up to 1.752.588 pupils, of whom 890.432 are girls. This represents an increase of 116.025 pupils, that is to say the increase rate of 7.1% in relation to previous years.

Secondary education experiences a sustained growth, because the number of schools increased from 405 to 504. This increase is due to the fact that the public sector opened 69 additional schools, while 27 subsidized private schools have been opened.

In relation to previous years, the secondary education experiences an advance of 13.3%. Girls at the secondary level are quite less in number than boys (97.011 against 106.540 that is to say a proportion of 49.1%).

In Higher education, the statistic inventory results of the academic year 2003-2004 shows that Rwanda has got 14 higher education institutions of which 8 are private and 6 public. These figures are of course going to increase because many other private institutions have introduced their application requesting for their approval.

In relation to the previous year, the higher education institutions increased up to 33.6%. The distribution per sector shows that many girls’ students are in private, where they

represent 52.2% of student; while in public girls are not many because they represent only 29.3%.

**a) Primary education**

The basic statistics of the primary system were progressively presented as follows:

	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
Number of pupils	1.534.510	1636563	1752588
Number of schools	2.172	2203	2262
Number of teachers	26.024	24890	26192
% of qualified teachers	81.2%	85.2%	88,2%

	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>
1. Number of pupils	1534.510	1636563	1752588
2. Number of boys	163.277	810585	862156
3. % of boys	49.8%	49.5%	49.2%
4. Number of girls	771.233	825978	890432
5. % of girls	50.2%	50.5%	50.8%
6. Children sent to school (7 to 12)	1.101.861	1162955	1339845
7. Age population	1.479.940	1274836	1339845
8. Uncut schooling rate	103.7%	128.4%	130.8%
9. Boys	105.8%	129.0%	130.6%
10. Girls	102.3%	127.8%	131.0%
11. Net schooling rate	74.5%	91.2%	93.0%
12. Boys	74.0%	90.1%	91.5%
13. Girls	74.9%	92.4%	94.5%
14. Survivor Rate	-	-	-
15. Transition rate	-	45.0%	-
16. Promotion rate	66.2%	64.2%	
17. repeating rate	17.2%	20.6%	
18. Desertion rate	16.6%	15.2%	-

The situation of the primary school is characterized by an increase of the schooling of youth and the qualification of the teaching body members

### b) Secondary education

At the level of secondary school one can note the following statistics for the indicated school year.

School year	2001/02	2002/03	2003/04
Public schools	185	190	286
Private schools	208	215	218
PUPILS			
<b>Total pub+private</b>	157.210	179.153	20.3551
Pupils (pub+ subsidized priv.	88.641	95.833	113800
Private pupils	68.569	83.320	89.751
<b>Total boys</b>	79.422	93086	106540
<b>Boys (Pub +Ls)</b>	49.567	55.220	66404
<b>Boys (Private)</b>	29.765	37.869	40.136
<b>% Boys (Pub+Ls)</b>	56%	59%	62%
<b>Total Girls</b>	77.788	86.064	97.011
<b>Girls (public)</b>	38.984	40.613	47.633
<b>Girls (private)</b>	38.808	45.451	49378
<b>% Girls (public)</b>	44.0%	47.2%	49.1%
<b>% Girls (private)</b>	56.6%	52.8%	50.9%

#### Note:

- **Pub** : Public schools
- **Private** : Private schools
- **L s** : Private subsidized schools

### c) Higher education

At the of higher education level, one can note the following statistics:

Students	2001/02	2002/03	2003/04
Public students	102211	12211	14456
Private student	5714	8182	12787
<b>Total pub+private</b>	15940	20393	27243
Total boys	10497	12896	16447
% Boys	65.9%	63.2%	60.4%
<b>Boys (Public)</b>	7690	8934	10217
<b>Boys (Private)</b>	2807	3962	6230
<b>% Boys (Public)</b>	73%	69%	62.1%
<b>% Boys (Private)</b>	30.7%	37.9%	37.9%
<b>Total Girls</b>	5443	7497	10796
<b>Girls (public)</b>	2536	3277	4239

<b>Girls (private)</b>	2907	4220	6557
<b>% Girls (public)</b>	47%	44%	39.3%
<b>% Girls (private)</b>	53.4%	56.3%	60.7%
<b>Total of public and private institutions</b>	10	9	14
<b>Public institutions</b>	6	5	6
<b>Private institutions</b>	4	4	8

**Source:** Statistic census, academic year 2003-2004, Ministry of Education, Science, Technology and Scientific Research, Direction of Study and Planning.

### **1.3. Peoples' rights**

Rwanda is aware of the fact that its people cannot develop without a regional and international participation. In that manner Rwanda is honored by the confidence entrusted to it by the African Community by electing it to the post of the Vice President in the African Union.

#### **1.3.1. All the people are equal (article 19 of the charter)**

By signing and ratifying the African Charter on Human and Peoples' rights, Rwanda engaged itself to respect the principle of equality of peoples and consequently their sovereignty.

In its regional behavior, it advocates the self-determination of neighboring peoples in a political and democratic environment.

It supports notably the process of political restoration in Burundi and encourages the Democratic Republic of Congo to act in that way.

#### **1.3.2. Peoples' Right to a satisfactory environment (Article 24 of the Charter)**

Article 49 of the Constitution stipulates, "every citizen is entitled to a healthy and satisfying environment. The paragraph 2 of that article devotes the duties of everyone and the duties of the State in regard of the environment. In that way it stipulates, "every person has the duty to protect, safeguard and promote the environment."

The protection of the environment is considered by Rwanda not only as a purely humanitarian obligation, but more particularly as an unavoidable imperative for the survival of the Rwandan people and the people of Africa and the whole world. In order to fight against the desertification, Rwanda is engaged in various actions aiming at the re-establishment of a favorable environmental weather.

In that way it has institutionalized the "tree day", at the occasion, every major Rwandan must plant at least one tree in order to reforest the country at a large scale. Rwanda being a country with high mountains is under the threat of the effects of erosion. It is in that way that the protection of the soil against erosive factors is also a priority for Rwanda. In that context strategies are set up and sensitization campaigns organized for the fight against any action leading to the deterioration of ecosystems.

A large number of International Conventions in that field has been signed, those which were in the process of preparation for signature at the period of the last report have been signed.

These include:

- The Rotterdam Convention on chemical products and dangerous pesticides;
- The Stockholm Convention on organic persistent pollutants;
- The Ramsar Convention relating to humid Zones of International Importance, particularly like the Sauvagine population, Ramsar, 1971;
- The Convention on the Conservation of Migratory Species belonging to Wild fauna, Bonn 1979;
- The Cartagena Protocol on the Bio-security to the Convention on the Biological Diversity;
- The Kyoto Protocol on the UN Framework Convention on Climate change;
- The Amendments on the Montreal Protocol relating to Ozone Degenerating Substances.

As far as the environment protection in the national framework is concerned, a draft law on environment is under the process of adoption in the Parliament. It provides, among other things, the creation, as it is the case around the world, of more appropriate measures for the effective protection of the soil, the fauna and the plant life, water sources, lakes and rivers.

One can note at this point that, the former natural forest of Nyungwe has acquired the status of a national park and will be surrounded by a tampon zone for which the size has been determined.

Other actions have been performed. One can mention among others:

- the draft policy on the natural resources management;
- the elaboration of a document of environmental and tourism policy;
- the inventory of the biodiversity of the Akagera National Park;
- the preparation of sector-based policy in the field of environment protection;
- sensitization and education of the population on the protection of water resources and draining;
- strong protection of the natural spaces and tourist sites...

### **1.3.3 Peoples' right to peace (article 23 of the Charter)**

The will of Rwanda to fight for peace in the world, in Africa, particularly in the sub region is shown in actions and agreements to which it is party (Lusaka agreement, Pretoria agreement, etc)

The international conference on peace, security, democracy and development in the region, under preparation, is among the perspectives of Rwanda to reinforce the right of peoples to peace.

As proof, Rwanda has quickly ratified the Protocol on the Creation of the African Union Peace and Security Council on April 06, 2003. Moreover its high ranking authorities are committed to the seeking of peaceful solution to conflicts in the sub region and doing every thing possible to ensure that the Darfour intervention in which members of Rwanda Defense Forces take part is crowned by success as expected, that is the unity of Sudanese people, as a basis of the respect of human rights in that country.

#### **1.3.4 Right to participate in the cultural life, enjoy the scientific progress, and the protection of other peoples' authors' interests (article 22 of the Charter)**

Article 50 of the Constitution stipulated that every citizen has the right to activities that promote the national culture.

The State has, according to the Constitution, the duty of safeguarding and promoting national values of civilization and cultural traditions which are not opposed to human rights, to the public order and good morals. It is also charged with the conservation of the national cultural property and the memorial genocide sites.

Rwanda seeks to extend its culture. Dancing troupes are sent in internationals competitions and come up with success.

It receives, troupes, artists and hosts each year different exhibitions.

It maintains the National Museum of Rwanda, improves each year genocide memorial sites or build new ones.

The law n° 06/2004 of 27/03/2004 (J.O n° special of 30/03/2004) has authorized the ratification of the statute of the International center of Study on the conservation and the restoration of cultural property (ICCRUM).

## **CHAPTER II: THE CONSTRAINTS ON THE IMPLEMENTATION AND FUTURE PERSPECTIVES**

Rwanda is responsible for the destiny of its people. In this regard, it has an obligation to make a careful choice in the every matter concerning the promotion of human and Peoples' rights.

Commitments already made for this purpose are surely ambitious but not unachievable, considering that some have already been executed in the country despite some constraints that are hard to overcome.

### **1. The difficulties encountered**

The obstacles of Rwanda in the field of Human Rights are permanent and are all tackled in the Vision 2020 document which highlights the objectives to be attained in 15 years. From now on, the country is facing poverty, ignorance of the population and setbacks of

the national culture. The fight is a long-term task, the political will remains strong but obstacles to overcome are still present.

**a) Poverty**

Poverty among the Rwandan population constitutes a real hindrance to the respect of Human Rights.

The apparent economic aspects break the process of quick promotion of human rights either in the legal field or the field of sensitization. The financial and human capital constitutes a major obstacle to the achievement of the projected ideal. The sensitization campaign of the population in order to create psychological conditions of receptivity to change requires financial and logistic means for the multiplication of workshops on basic education and the necessary trainings. It is also generally known that poverty is a bad advisor in terms of respect of human rights because it generates undue lust, jealousy and hatred.

**b) Ignorance**

Campaigns and alphabetization programs in favor of the population are well initiated by the Government all around the districts of the country. Even if this struggle is well carried out, there is still a long way to go in order to achieve total victory.

The illiteracy among our population remains at its higher level. Despite the presumption according to which “ignorance of law has no defense” a need for making the population aware of the existence of the legal texts, and that they guarantee their rights but also punish whoever violates them, remains in Rwanda.

The rejection of equality and harmony, contempt of human person life in any of its form, race, and morphology is still found in the Rwandan mentality.

**c) The influence of the Rwandan culture**

The majority of the Rwandan population remains dominated by customs inculcated in the mentality and by taboos, and stereotypes. This does not facilitate a quick change as desired.

Men and women and the youth must be used to fight for the elimination of persistent stereotypes in our society, because definitely all Rwandans are imperatively called to live in mutual respect and without discrimination.

**d) The culture of divisionism**

A long-standing culture of divisionism and discrimination is among the Rwandan community. Hence, again a large-scale sensitization and training for human rights at all the levels of the population.

#### **e) The consequences of the genocide**

The consequences of the 1994 genocide, which led to the enlargement of the existent gap. The National Commission for the Fight against Genocide needs to be reinforced, in order to fully ensure the rights and interests of genocide survivors by material and moral support.

#### **f. The influence of the genocide suspects on refugees**

Genocide suspects influence Rwandan refugees in foreign countries to the extent that Refugees failed to come back home. The international community should participate more actively in the arrest of the suspect perpetrators of the genocide and encourage refugees to return home.

### **2. Future perspectives**

#### **a) Future perspectives**

Rwanda's determination for good governance and its policy of decentralization by moving the power from Central Government to Local Government and allowing population to participate in the decision making for example in education programs, program of fighting against illiteracy and poverty reduction.

Rwanda is aware of the fact that nothing will be realized suddenly in our judicial, economic, social and cultural future, without our strong daily efforts. Thus it has engaged itself in an elementary race towards global development on the basis of which it will be easier for Rwanda to ensure for its citizens and foreigners the respect and the promotion of their rights in the framework of a long term vast program named 2020 Vision for which the main pillars are:

1. The Nation ;
2. The State ;
3. The human resources ;
4. Environment and natural resources ;
5. Infrastructures and town and country planning;
6. The development of the private sector and the civil society;
7. agriculture and livestock ;
8. gender ;
9. regional integration ;

## 10. Sciences, Information and communication technology.

All along the way, the components of the Rwandan society shall not have seized to:

- Efficiently fight against harmful traditions and discriminatory attitudes towards some Rwandan communities,
- Fight against values and models that were represented in the former regime and which contributed to inequality and inferiority of some Rwandans, and carry out an integrated information campaign; all this for the promotion of the rights of Rwandans and of other peoples of the globe;
- Militate so that the media, either written or audiovisual, public or private play a very important role in the vulgarization and the information of all measures already taken in the previous chapters;
- Inculcate, through bimonthly meetings and gatherings to the population the respect of human rights and fundamental liberties, and principles contained in the Charter.
- Encourage Teaching Institutions and the Media to adopt and teach a constructive and not stereotype - based moral on races, ethnicities in the country or those of the African countries in general and those of the neighboring countries (region) in particular.
- Team up closely with other regional and international organizations and associations, and other living forces of the civil society with the same objective of promoting human rights
- Strongly support actions of the members of different organizations and associations and other living forces of the civil society aiming at the promotion and the protection of human rights.
- Organize dialogue meetings, reflection days with different religious leaders in the country with different leaders of those organizations and associations and those of foreign partners in order to evaluate situation of the respect of human rights in the country,
- Ensure a large diffusion of the content of the charter.
- Translation of the instruments in national language so as to facilitate the training and the diffusion of the international instruments relating to human rights on the national level shall make the main point of the promotion,
- Promote principles of human rights, as stated in the sector based policy and strategies.

## **CONCLUSION**

The Government of Rwanda, despite the difficulties encountered in the implementation of the measures undertaken to promote human and peoples' rights in the country, intends to get more involved in that fight to make efficient and effective that common inheritance of the humanity as it has been introduced by the African Charter of Human and Peoples' rights.

It remains grateful to the African community and the world for various decisions and positions taken in different situations to recognize the particular situation of Rwanda after the 1994 genocide and manifest their support to the efforts that it makes and continue to make for the promotion of human rights in the country and in Africa. It solicits understanding and advices instead of reproaches and blames concerning the way of performing its policy of seeking for the necessary solution or welfare and the blooming of its entire people.