

REPUBLIC OF RWANDA



INITIAL REPORT OF THE GOVERNMENT OF RWANDA ON THE OPTIONAL  
PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD  
PORNOGRAPHY

Kigali, August 2008

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# ABBREVIATIONS

ADPA : Association for Development and Peace in Africa

AGOA: African Growth Opportunity Act

Art. : Article

ASC : Christian Trade Unions

AVEGA : Association of Genocide Widows

CCSAP : Civil, Commercial, Social and Administrative  
Procedure

CRC : Convention on the Rights of the Child

CEPEX : Central Public Investment and External Finance  
Bureau

Cfr : Compared to

DHS : Demographic and Health Survey

EDPRS : Economic Development Poverty Reduction Strategy

HIV/AIDS : Human Immunodeficiency Acquired Syndrome

ICRC : International Committee of the Red Cross

KURET : Kenya, Uganda, Rwanda, Ethiopia Together

MIFOTRA : Ministry of Public Service and Labour

MIGEPROF: Ministry in the Office of the Prime Minister in charge  
Of gender and Family Promotion

MININTER : Ministry of Internal Security

MINISANTE: Ministry of Health

MINECOFIN: Ministry of Finance and Economic Planning

N° : Number

NCW : National Council of Women

NHRC : National Human Rights Commission

NACC : National AIDS Control Commission

NGO : Non Governmental Organisation

NURC : National Unity and Reconciliation Commission

O.G. : Official Gazette

PACFA : Protection and Care of Families against Aids

PC : Penal Code

STD : Sexually Transmitted Diseases

OVC : Orphans and Vulnerable Children

Para : Paragraph

PD : Presidential Decree

PP : Public Prosecutor

UNDP : United Nations Development Programme

RTV : Rwanda Television

UNICEF : United Nations Children Fund

USAID : United Nations Agency for International Development

## SUMMARY

1. Rwanda ratified the Optional Protocol to the Convention of the Rights of the Child on the sale of children, Child Prostitution and Child Pornography by the presidential Decree N° 32/01 of 26 February 2002<sup>1</sup>. The ratification was registered in the United Nations System on 15 March 2002.
2. In the national legislation, the Optional Protocol is more binding than national organic Laws and ordinary Laws (Article 190 of the Constitution).
3. Even before its ratification, national legal provision especially the Law N° 27/2001 of 18 April 2008 relating to the Rights and Protection of Children against Violence and the Penal Code repressed offences stipulated in the Optional Protocol. In particular, the first Law specifies measures of rehabilitating child victims. In addition, it safeguards the identity of children and victims and the principles of the CRC such as non-discrimination, the superior interests of the child, the right to life and development and the opinion of the child.
4. Following the ratification of the Protocol, the Process of harmonization of the internal legislation to the Protocol continues with the adoption of the 4 June 2003 Constitution whose provisions stipulate increased protection to the child and the Law on the prevention and repression of gender based violence (GBV).
5. In connection with offences specified in Paragraph 1 of Article 3 of the Optional Protocol, the Organic Law N° 7/2004 of 25 April 2004 on the Code governing Judicial Organization, Administration and Competences as it was amended and completed to date, provides for the prosecution of any person, including foreigners, found on the Rwandan territory, who have committed abroad offences qualified as trans-border crimes, including in particular drug trafficking, human trafficking, especially children, slavery, as well as other offences in connection with the latter.
6. International Conventions with the same objectives as those of the Optional Protocol were ratified of which the last ratification is that of the Convention on the Protection of Children and cooperation in the area of international adoption, adopted in the Hague, The Netherlands, on 29 May 1993.
7. Bills in connection with the Optional Protocol are being elaborated such as:
  -  The bill on the prevention, prosecution, repression of human trafficking. This bill intends to repress:

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<sup>1</sup> O.G. Special Issue of 26 February 2002

- Illegal adoption for commercial purposes;
- The implication of children in armed conflicts;
- The use of children in begging, illegal drug and arms trafficking and smuggling;

✚ The bill on reproductive health;

✚ The bill of the Penal Code whose intention is to integrate repressive texts for offences committed against children. It provides for the repression of offences in connection with the Optional Protocol which were not stipulated in the other repressive texts in force namely:

- Adoption of a child for purposes of sale;
- The use of children in the prostitution, kidnapping of people and child trafficking as regards the repression of international crimes;
- The recording and the diffusion of images or voice of a minor with pornographic character;
- Child Pornographic advertising;
- Indecent assault committed against a child;
- Child slavery;
- Guilty silence in relation to offences committed against children;
- The responsibility for moral persons.

8. A national policy on orphans and other vulnerable children was adopted (2003). It is in line with strategic plans.

9. Mechanisms for the protection of the rights of the child were put in place as follows:

- An observatory of the rights of the child;
- Committees for the protection of the rights of the child in the community;
- A system of community policing;
- Child and protection Unit; as well as Gender Based Violence Unit within the National Police;
- A National Children's Forum;
- A National Consultative committee on Child Labour;
- Specialized Chambers for minors in courts and the child benefits from free legal assistance during the trial, with the assistance of the Bar;
- Victims and Witnesses Protection service within the General Prosecution Office.

10. Coordination structures for the application of the Optional Protocol exist within several Ministries, in particular in the Ministry in The Office of the Prime Minister in charge of Family Protection and Gender (MIGEPROF) and the Ministry of Justice (MINIJUST).

11. Dissemination activities were not dissociated from those of the dissemination of the CRC. Several activities in connection with the Optional Protocol were carried out:
  - Public awareness campaigns through radio broadcasts, conferences, debates, meetings and training seminars were organised for children, authorities, legal officers, human rights activists, the media, security officers, etc;
  - Sensitisation tools were developed. In particular, the text of the Optional Protocol was translated in national languages, multiplied and widely disseminated at the national level.
12. Rwanda signed a memorandum to fight trans-border criminality with Kenya and Uganda. As for Burundi, it is planned to sign a memorandum on gender and the protection of the rights of children.
13. There is no specific budget for the application of the Optional Protocol. Nevertheless, budgets of several government departments contribute directly or indirectly to this application, in particular in areas of:
  - Investigations on violations of the rights of the child;
  - Protection and promotion of human rights;
  - Fight against family violence;
  - Etc.
14. There are constraints related to poverty, consequences of the 1994 Tutsi Genocide and of HIV/AIDS pandemic, which is the cause of a very high number of OVC.

## **I. INTRODUCTION**

***Paragraph 1 of Article 12 of the Optional Protocol: presentation of the report in the two years following the coming into force of the Protocol.***

15. The Protocol was ratified by PD. N° 32/01 of 26 February 2002<sup>2</sup>. It is clear that the initial report should have been submitted in 2004 but the country was occupied with submitting the report on the Convention to the Rights of the Child, 1989 and to submit the initial report on the implementation of the African Charter of the Rights and Welfare of the child<sup>3</sup>.

***2. Paragraph 3 of Article 12 of the Optional Protocol; 3. Information on:***

***a) The place of the Optional Protocol in national legislation and its applicability before national jurisdictions;***

16. The Constitution of the Republic of Rwanda<sup>4</sup> stipulates that international treaties or agreements formally ratified or approved<sup>5</sup> are more binding than national organic and ordinary Laws, once they are published in the Official Gazette. Indeed, Rwanda practises a monist system: a Convention duly ratified, becomes a Law in the national legal system.

17. Some provisions of the Optional Protocol are reflected in the Law N° 27/2001 of 28 April 2001 on the Rights and Protection of Children against Violence;

18. There are some Laws whose provisions are in harmony with those of the Optional Protocol, namely:

- a) Decree-Law N° 21/77 of 18 August 1977 on the 1977 penal Code;
- b) Law N° 27/2001 of 28 April 2001 on the Rights and Protection of Children against violence

19. There are bills that promote the application of the Protocol:

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<sup>2</sup> Presidential Decree N° 32/01/ of the 26 February 2002 On the Approval and ratification if the Optional Protocol to the Convention of the Rights on the Child on Child sale, Child Prostitution and Child Pornography , O.G. Special Issue of 26 February 2002, P 27

<sup>3</sup> Republic of Rwanda, Ministry in the Office of the Prime Minister in charge of Family Promotion and Gender, Initial report on the Implementation of the African Charter on the Rights and Welfare of the Child, Kigali, October 2005

<sup>4</sup> Republic of Rwanda , Official Gazette, Special Issue of 4 June 2003, the Constitution of the Republic of Rwanda

<sup>5</sup> The Optional Protocol to the Convention on the Rights of the Child on Child sale, Child Prostitution and Child Pornography was ratified by the Presidential Decree No 32/01 of 26 February 2002 published in the Official Gazette of the Republic of Rwanda , Special issue of 26 February 2002, p 27

- a. The bill on the Prevention, Prosecution and Repression of the human trafficking;
- b. The bill of the penal Code.

*b) If necessary, the intention of the State Party to waive reserves on the Optional Protocol.*

20. Rwanda has ratified the Optional Protocol without any reserves.

*c) Government organizations or services responsible for the application of the Optional Protocol and the coordination of their action with those of local and regional authorities and the civil society, the private sector, the media, etc;*

### **Coordination Organisations**

- 21. The Ministry in the Office of the Prime Minister in charge of Family Promotion and Gender (MIGEPROF) coordinates actions of government organisations, NGO's and the civil society involved in the implementation of the Protocol.
- 22. The Ministry of Public Service and Labour (MIFOTRA) coordinates activities related to the prevention of the worst forms of child labour.
- 23. The Ministry of Justice (MINIJUST) coordinates activities and programmes related to children in conflict with the Law.
- 24. The Stakeholders' Forum ensures the dialogue and coordination of activities of stakeholders involved in the application of the Optional Protocol. It is composed of stakeholders from the public sector, the private sector, NGO's and the civil society.
- 25. The Consultative Committee on Child Labour is composed of government and non governmental stakeholders and NGO's. It gives opinions on preliminary Law drafts (bills) and policies in areas of prevention, and rehabilitation of child victims of the worst forms of child labour.

### ***Application***

- 26. The National Human Rights Commission (NHRC)<sup>6</sup> is assigned by the Law N° 27/2001 of 28 April 2001 on the Rights and Protection of Children against Violence, in its Article 24:

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<sup>6</sup> National Human Rights Commission was created by the law N° 04/99 of 12 March 1999 as it was amended and completed by the law N° 37/2007 of 31 December 2007

- To apply policies and programmes in the area of the protection of the rights of the child;
- To examine violations of human rights;
- To sensitize and educate the population on human rights;
- To initiate legal actions, if required;

27. The Public Prosecution Department and the National Police Force constitute bodies that ensure prosecution and prevention of offences related to the Optional Protocol.

***d) Dissemination of information on the provisions of the Optional Protocol to the general public, in particular to children and parents, by all appropriate means, education and training:***

28. At various degrees, stakeholders, both public and NGOs contributed to information circulation on the provisions of the Optional Protocol.

29. The Ministry in The Office of the Prime Minister in charge of Family Promotion and Gender, in collaboration with Save the Children/U.K., launched training manuals for children, adults, trainers and authorities, on the rights of the child as stipulated in the CRC and the Optional Protocol. These manuals contain national Laws in the area of the protection of children, the CRC and its additional Protocols, the Convention 182 on the Worst Forms of Child Labour and national policies on the protection of children. They were written in the three official languages of Rwanda, namely English, French and Kinyarwanda. About 3,000 booklets on the CRC and its Protocols translated into Kinyarwanda and French were distributed.

30. Since 2004 NHRC has been organising seminars, training workshops and conferences for 20, 245 primary school pupils, 19,712 ex-prisoners, 724 representatives of associations, 2,127 human rights activists and 1,773 representatives of the population in selected Districts<sup>7</sup>.

31. The Public Prosecution Department, in collaboration with Lawyers without Borders, published a collection of International Conventions in English, French and Kinyarwanda, including the Optional Protocol. 1000 copies in Kinyarwanda and 500 in French were distributed to all legal actors and other stakeholders, in particular NGO's., universities, etc.

***e) Dissemination of the Optional Protocol and training proposed to members of all professional categories which work with children and advocate for***

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<sup>7</sup> NHRC, 2004-2005 Report

*them and all other interested groups (Immigration service officers, persons in charge of the application of Laws, social workers, etc);*

32. From October 2004 to January 2008, with the support of UNICEF, a team of four technicians of the Ministry in the Office of the Prime Minister in charge of Family Promotion and Gender (MIGEPROF) combed the entire country for 72 days, organising sensitisation meetings on:

- The CRC and its Optional Protocols;
- The Law N° 27/2001 of 28 April /2001 on the Rights and Protection of Children against Violence;
- The national policy on Orphans and Other Vulnerable Children, 2003<sup>8</sup>.

During this activity, they were able to:

- Visit companies;
- Participate in popular meetings convened for this purpose, to give lectures in classes, organise meetings for teachers, social workers, the personnel of districts;
- Meet local NGO's, associations and local leaders of various religious confessions;
- Organise special training sessions of local government authorities.

About 21,000 participants directly benefited from the aforesaid training sessions.

33. MIGEPROF trained representatives of the National Youth Council of Provinces<sup>9</sup> and Districts on international Laws and Conventions on protection of orphans and other vulnerable children. It organized national training programmes for its personnel (N=37) on the CRC and its Protocols, the African Charter on the Rights and Welfare of the child, the Convention 182 on the Worst Forms of Child Labour, the Law N° 27/2001 of 28 April 2001 on the Rights and Protection of Children against violence, the National Policy on Orphans and other Vulnerable Children.

34. Since the year 2004, NHRC organised seminars, training sessions and conferences for 16,325 local authorities, 1, 627 security officers, 827 legal officers, 551 judges and 20,085 arbitrators.

*f) Mechanisms and means used to regularly evaluate the application of the Optional Protocol as well as major difficulties encountered until now:*

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<sup>8</sup> Source: MIGEPROF Report, 2005

<sup>9</sup> Rwanda is divided into four Provinces and Kigali City and into 0 Districts , which are in turn divided into sectors and then Cells and the smallest administrative unit is the Village (Law N° 29/ of 31 December 2003 on Administrative Entities of the Republic of Rwanda, Art 2-8

35. The Ministry in the Office of the Prime Minister in charge of Family Promotion and Gender (MIGEPROF) has since January 2006, officers in charge of Gender and Child Protection at the level of Districts<sup>10</sup> whose mission and duties are to promote the rights of the child and family and monitor the application of Laws related to the CRC and its Protocols. Each year, these workers submit reports to MIGEPROF and monitor the application of relevant recommendations by the concerned authorities.
36. In 2007, the National Human Rights Commission created an Observatory of the rights of the child<sup>11</sup> in the framework of monitoring the respect of the rights of the child. Since then, members of the `Observatory received trainings on monitoring of violations of the rights of the child and have been provided with working means such as telephones, bicycles, etc. They will be producing periodic reports.
37. **The National Children's Summit:** At the level of the village *"Umudugudu"* in each Cell, children aged less than 18 years elect their representatives aged between 16 and 18 years. The elected children in turn choose a committee among them, composed of chairperson, a vice-chairperson and a councillor.

The committees at the level of *"Umudugudu"* compose an assembly which elects a committee at the Cell level. . The cell committees then elect a committee at the Sector level. The sector committees in turn elect a committee at the District level.

The representatives of children at the level of the Districts meet each year in a *"National Children's Summit"*. It deliberates on issues related to the respect of the rights of the child, calls upon decision-makers to promote the rights of the child and make recommendations to various stakeholders.

38. At the national level, the police have a special unit in charge of the rights and violence committed against children. At the level of each District, it has an officer specifically in charge of the protection of children *"Child and Family Protection Unit"* and *"Gender Based Violence Unit"*.

This service is provided with two non-paying telephone lines available to the public 24 hours a day. These telephone lines enable violence victims, especially rape and defilement victims to immediately contact the Police. At the level of each Police Station, there is a criminal investigation officer specifically in charge of these issues.

39. The Ministry of Public Service and Labour (MIFOTRA) has labour inspectors at the level of each District (30 Districts). Their role is to ensure effective application of conventions and laws related to worst forms of child labour.

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<sup>10</sup> Rwanda has 30 Districts

<sup>11</sup> The Observatory has a structure operating at the national, district and Sector level

40. The Ministry of Justice (MINIJUST) regularly organizes conciliation meetings on the sexual violence committed against children and women. It coordinates a National committee to follow-up the implementation of the directives against the violence committed to the children. It makes the monitoring of the strategies, evaluates the activities, puts forth recommendations with the stakeholders and submits a report/ each year.

*4. To what extent, does the application of the Optional Protocol conform to the general principles of the Convention on the Rights of the Child, namely non-discrimination, the superior interests of the child, the right to life and development and the respect of the opinions of the child? To what extent does the application of the Optional Protocol contribute to the implementation of the provisions of the Convention on the Rights of the Child, in particular Articles 1,11,21,32,33,34,35 and 36? The role played by governmental institutions and organizations or non government organizations in the drafting and the dissemination of the text in the process of establishment of the report?*

*4.1. To what extent does the application of the Optional Protocol conform to the general principles of the Convention on the Rights of the Child, namely non-discrimination, the superior interests of the Child, the right to life and development and the respect of the opinions of the child?*

41. The application of this Protocol respects the principles specified above and those contained in constitutional provisions, Laws and policies of Rwanda.

**42. Non discrimination:**

The Constitution of the Republic of Rwanda of June 4, 2003, in its Article 11, stipulates that discrimination of whatever kind based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by Law.

The Law N° 27/2001 of 28 April 2001 on the Rights and Protection of children against violence in its Article 2, Para 2, stipulates that all the rights and protection provided by this Law are recognized for all children.

There is also the Law N° 47/2001 of the 18 December 2001 on the Repression of crimes of discrimination and the practice of sectarianism<sup>12</sup>.

**43. Superior interest of the child:**

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<sup>12</sup> O.G. N° 4 of 15 February 2002

The Law N° 27/2001 on the Rights and Protection of Children against Violence stipulates, in its Article 9, that in all decisions involving the child, its interests must prevail. Parents or guardians of the child must advise it and guide it in right direction to ensure the protection of its rights in accordance with its interest (Article 13, Para. 2).

#### **44. Life and Development:**

According to Article 12 of the Constitution of the Republic of Rwanda, *every person has the right to life. No person shall be arbitrarily deprived of life.* According to Article 27, Para 2-3, *both parents have the right and duty to bring up their children. The State shall put in place appropriate legislation and institutions for the protection of the family and the mother and child in particular in order to ensure that the family flourishes.* According to Article 28, *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.*

The Law N° 27/2001 on the Rights and Protection of Children against Violence, in its Article 14, stipulates that every child has inherent right to life since its conception.

Article 14 of this Law stipulates that, depending on their means, parents, the guardian or any other person responsible for upbringing and care of the child, must guarantee to the child the right to wellbeing, the best possible state of health and medical care and to education for its physical, mental, spiritual, moral and social development. The Ministry in charge of Social Affairs shall ensure the application of these rights. It shall elaborate a support programme to materially assist children with indigent parents.

According to Article 20 of the same law, appropriate administrative legal, social and educational measures must be taken to reinforce the protection of any child against any form of violence, or physical or mental attack, brutality, abandonment or negligence, stress or exploitation. In addition, the child should not be subjected to torture or to cruel punishments or inhuman or degrading treatment.

#### **45. Opinion of the child:**

The Law N° 27/2001 on the Rights and Protection of Children against Violence, in its Article 9, Para .2-3, states that the child has the right to freely express his/her opinion on any question of interest. It must be heard in any legal or administrative procedure interesting it either directly, or via its representative. In its Article 11, this Law stipulates that, subject to the laws and the culture of the country, and taking into account its age and its maturity, the child has the right to freely express its ideas.

One of the aspects of translating this principle into practice is the periodic organisation of National children's forums<sup>13</sup>. During their annual forums<sup>14</sup>, children express their opinions on the application of their rights and make recommendations on other aspects of the national life.

***4.2. To what extent does the application of the Optional Protocol contribute to the implementation of the provisions of the Convention on the rights of the child, in particular Article s 1,11,21,32,33,34,35 and 36?***

***Article 1/CRC: A child is every human being below the age of eighteen.***

46. The Law N° 27/2001 on the Rights and Protection of the Child against Violence<sup>15</sup>, in its Article 1, stipulates that within the meaning of this Law, the child is every human being old below eighteen years of age unless the law stipulates otherwise.

***Article 11/CRC: To fight illicit foreign transfer and non return of children.***

47. The country ratified the Convention on Slavery and Human Trafficking<sup>16</sup> and its Additional Protocol repressing and punishing the sale and trafficking of children and women.

48. The bill on the Prevention, Prosecution and Repression of Human Trafficking is in the process leading to adoption. Punishments are provided for in cases of:

- illegal adoption;
- Removal of an organ of the body of a child for the purpose of using the child for begging;
- Involvement of children in an illegal trafficking both within a country or abroad;
- Trafficking of body organs.

49. The draft Law of the Penal Code provides for punishments for any person who will have contributed to the adoption of a child for purposes to selling it. When the person adopting is a foreigner, whether resident or non resident, the punishments are heavier.

***Article 32: Protection against work that is dangerous or prejudicial to the health and physical and mental development of the child – Minimum age, working conditions and sanctions***

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<sup>13</sup> MIGEPROF and UNICEF, Raporo y'Igihugu y'Abana, Umwana mu Rwanda muri Gahunda y'Amajyambere Rusange y'Igihugu, Jali Club, 30-51 Nyakanga 2007

<sup>14</sup> O.p Cit, 1,2, f)

<sup>15</sup> O.G. N° 23 of 1 December 2007

<sup>16</sup> It was ratified by the Law N° 161/01 of 31 December 2002

50. The Law N° 27/2001 of 28 April 2001 on the Rights and Protection of the Child against Violence, in its Article 18, fixes the minimum age of admission to employment at 14 years.
51. The Law N° 51/2001 of 30 December 2001 on Labour Code stipulates, in its Article 65 that the child may work from the age of 14 years. However, between 14 and 16 years, it can carry out only light work that does not harm its health, education, blossoming and development.

*Articles 34 and 35: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials.*

*States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*

#### *National Measures*

52. Adoption of the Law N° 27/2001 of 28 April 2001:
- In its Article 33, it stipulates that all sexual relations or any practice based on sex with a child whatever the form and means used, constitutes a defilement committed against the child;
  - in its Articles 33-38, it provides for sanctions in the case of sexual violence and sexual exploitation of the child and its inducement in exploitative or unlawful sexual activities or prostitution;
  - In its Articles 39-40, it provides for punishments for those who manage and finance houses for exploitative use of children in prostitution and pornographic performances or materials;
  - In its Article 41, it punishes offenders of kidnapping, sale and trafficking of children.
53. The penal Code envisages sanctions in the following cases of the facilities for the prostitution (Article 371-373 of the Penal Code) and of the incentive to the prostitution (Articles 364-367 of the Penal Code);
54. Adoption of a law of the Repressing sexually based Violence;
55. The bill on the Prevention, Prosecution and Repression of Human Trafficking prohibits and punishes trafficking in children, the involvement of a child in trans-national conflicts,

illegal adoption, early marriage, etc. Sanctions are also specified for people who refuse to give information on the sale and trafficking of children;

56. Adoption of the National Policy on Orphans and other Vulnerable Children. This policy was harmonised with strategic plans for the rehabilitation of street children and OVC, in general;
57. The national five-year plan to fight against the worst forms of child labour;
58. Public awareness campaigns on the Optional Protocol throughout the country, including the sensitisation carried out by *Imbuto Foundation*<sup>17</sup> on the following themes:
  - *“Care for every child as you would care for your own”*
  - *“Adults who infect children, denounce them”;*
  - *“Speak about sexuality to your children”.*

#### Bilateral measures

59. Rwanda is member of the global international police network against international criminals “International organization of Criminal Investigation Police (IOCP) commonly known as “Interpol”. This co-operation is used when a witness must be interrogated abroad, to carry out preliminary investigation, to communicate rogatory commissions.
60. Rwanda and Burundi plan to sign a memorandum on Gender and the protection of the rights of children<sup>18</sup>. Particularly concerning the protection of children, a draft agreement aims at curbing human trafficking, especially children and women and more particularly the trafficking of street children from districts bordering the two countries.

#### Multilateral measures

61. The country ratified almost all conventions related to the trafficking, child sale, exploitative use of children in prostitution and pornography performances and materials:
  - The Convention n° 182 on the Worst Forms of Child Labour and Immediate Action, 1999 ratified by P.D. N° 39 bis/01 of 30 September 1999 (Ratification deposited on 21 May 2000);

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<sup>17</sup> Imbuto Foundation replaced PACFA (Protection and Care of Families against AIDS. This initiative was born seven years ago from the Summit of Sub-Saharan African First Ladies held in Kigali to comfort and care for vulnerable groups affected by HIV/AIDS

<sup>18</sup> Letter 0373/2/2003/Beijing/08 dated 29 May 2008 of the Ministry in the Office of the Prime Minister in charge of Gender and Family Promotion to the Minister of foreign Affairs and Cooperation

- The Convention on Slavery and Human Trafficking, 1950 (Ratified by P.D. N°161/01 of 31 December 2002);
- The Protocol of closing the Convention on the Repression of Human Trafficking and Exploitation of Prostitution of others, concluded on 31 March 1950, New York and ratified on 31 December 2002;
- The Additional Protocol to the Convention of the United Nations against Organized Trans-national Crime aiming at preventing, repressing and punishing human trafficking, in particular women and children, concluded in New York on 15 November 2000, and ratified by the PD. N°161/01 of 31 December 2002;
- The African Charter of the Rights and Welfare of the Child, ratified in July 1990;
- The Convention N° 29 on Forced Labour, 1930, (Ratification deposited on 23 May 2001);
- The Convention N° 105 on the Abolition of Forced Labour, 1957 (Ratification deposited on 18 September 1962);
- Rwanda has just ratified the Convention on the Protection of Children and co-operation in international adoption, adopted in The Hague, The Netherlands, on 29 May 1993.

***Article 36: States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare***

62. The Law N° 27/2001 on the Rights and Protection of Children against Violence, provides for sanctions against:

- any person who directly or through another person, operates, manages or knowingly finances a child prostitution house (Art. 39);
- Any person who shares proceeds from child prostitution or knowingly receives subsidies from prostitution (Article 40, Para. 1);
- Any person found guilty of exploitative use of children in prostitution or other unlawful sexual practices; and in pornographic performances and materials (Article 40, al. 2);
- Any person found guilty of kidnapping, child sale or trafficking in children (Art. 41);
- Anyone person found guilty of inducing children to take drugs, use of children in drug or arms trafficking or smuggling (Article 42).

63. At the level of each District, there is an officer specifically in charge of the protection of children "***Child and Family Protection Unit***" and "***Gender Based Violence Unit***". This service is equipped with two non-paying telephone lines available to the public 24 hours a day;

64. There exists a system of "***Community Policing***" to such an extent that the community is organized in such way that each member who witnesses the violation of the rights of

the child, reports the offence to other members of the community and to competent authorities.

65. NHRC created an observatory of the rights of the child in the framework of monitoring violations of the rights of the child<sup>19</sup>.

***4.3. Part played by the organizations or government organizations and nongovernmental in the drafting and the dissemination of the text in the process of establishment of the report.***

66. The elaboration of the present report involved active participation of representatives of the Government, international organizations, the media, NGO's and the civil society:

- ✚ **The Government:** MIGEPROF, MINAFFET, MINIJUST, MINALOC, MININTER, MINISANTE, NHRC, Prosecution General, First Instance Court, Kigali City Council, NCW, National Unity and Reconciliation Commission, National police, Districts;
- ✚ **International organizations:** UNDP, ICRC, UNICEF;
- ✚ **International NGO's:** Save the Children/U.K. and Word Vision, Dignity in Detention (Dide);
- ✚ **National NGO's:** HAGURUKA, Sharing Rwanda, ASC Umurimo and ADPA;
- ✚ **The Civil society:** The Bar Association, Human Rights Watch;
- ✚ **The Media:** Health Unlimited-Urunana, public media (RTV and Radio Rwanda) and private media (Radios and written press);
- ✚ **Other government organisations and nongovernmental institutions (NGO's) and the civil society were contacted for the collection of information for compilation of the present report.**

***5. In addition, for all areas specified in these directives, the Committee invites State Parties to provide:***

- a) Information on the progress recorded in the application of the rights stipulated in the Optional Protocol.***

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<sup>19</sup> NHRC, o.p, Cit,f)

67. Mechanisms for the prevention and protection of children against violence<sup>20</sup> were put in place:

- The Observatory of the Rights of the child;
- Child Protection Committees;
- *“Community policing”* System ;
- Child and Family Protection Unit and Gender Based Violence Unit within the National Police.

68. Harmonization of the internal Laws with the international instruments:

- Adoption of the law on the prevention and repression of gender based violence;
- The draft of the Penal Code and the Law N° 27/2001 of 28 April 2001 on the rights and protection of children against violence;
- The bill on prevention, prosecution and repression of human trafficking ;
- The bill on reproductive health<sup>21</sup>;
- The elaboration of the draft of the Ministerial Order implementing Article 65 of the Rwandan Labour Code on the nature, categories of enterprises and the list of forms of labour prohibited to the children.

69. Policies:

A national policy on orphans and other vulnerable children was elaborated in 2003. This policy identifies various categories of vulnerable children that need special assistance and attention including children victims of sexual exploitation and/or sexual abuses, working children, child headed households (CHH), children in indigent households, street children, etc.

Strategic policy documents in connection with this policy are<sup>22</sup>:

- Strategies/programmes for the implementation of the policy on OVC for the 2006-2011 period;
- Directives and strategic plan in favour of street children;
- Five-year action plan to fight against the worst forms of child labour.

There is also the draft policy and strategies to fight against violence committed against women and children.

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<sup>20</sup> Op. Cit f)

<sup>21</sup> The text focuses on sexual violence in general and violence against children and minors, in particular

<sup>22</sup> NATIONAL HUMAN RIGHTS COMMISSION, Amategeko Mpuzamahanga n'ay'u Rwanda yerekeranye n'Uburenganzira bw'Umwana n'uburyo Ashyirwa mu Bikorwa

**70. Following mechanisms were put in place:**

- The Observatory of the rights of the child;
- Monitoring committees on the respect of the rights of the child (National Children's Forum) and advisory National Child labour committee;
- Specific units for the protection of the child were created in the National Police;
- Specialized Chambers for minors were created in the courts of law to expedite the trial of cases involving children and in the most suitable manner in the respect of the rights of the child.

***b) Analysis of factors and possible difficulties that may prevent the State Party from fully fulfilling obligations provided for in the Optional Protocol;***

71. Despite of the political will of the Government to fully apply the obligations provided for in the Optional Protocol, there were indeed some constraints. The most outstanding are those related to poverty of the country and families that hinder full satisfaction of the rights of the child, the (1994) Tutsi Genocide, whose consequences include among others, a very high number of OVC and HIV/AIDS pandemic which more and more increases OVC.

***c) Information on the budget allocated to various activities of the State Party vis-à-vis the implementation of the Optional Protocol;***

72. There is no specific budget for the Optional Protocol. Nevertheless, according to the Law N° 64/2007 of 31 December 2007 on Public finance, for 2008 Financial Year<sup>23</sup>, budgets allocated to the operation of the Senate, the Office of the Prime Minister, Public Prosecution Department, several ministerial departments (MIGEPROF, MINIJUST, MIFOTRA) include a component on the application of the Optional Protocol:

-  Protection of the rights of the child: 49,767,000 Rwandan Francs;
-  Protection of the child: 860,03,820 Rwandan Francs;
-  Support to the National Children Commission: 22, 480,000 Rwandan Francs;
-  Gender and family promotion: 490,495,000 Rwandan Francs;
-  Investigations on violations of the rights of the child: 55,352,000 Rwandan Francs;
-  Human rights monitoring: 35,050,000 Rwandan Francs;
-  Protection and promotion of human rights: 766,250,000 Rwandan Francs;
-  Prosecution of specific offences : 25,000,000 Rwandan Francs ;

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<sup>23</sup> O.G. Special Issue of 31 December 2007

- ✚ Promotion of Community programmes on human rights and legal assistance: 186,750,000 Rwandan Francs ;
- ✚ The family rights and the promotion of education: 35,846,600 Rwandan Francs ;
- ✚ The prevention of family violence: 22,883,400 Rwandan Francs ;

73. The Ministry of Public Service and Labour (MIFOTRA) granted to NGO's for the 2003 - 2006 period, financial support amounting to 100 Million Rwandan Francs to fight against the worst forms of child labour. The proportion that was allocated to the fight against child prostitution was of 30,963,000 Rwandan Francs.

74. For the year 2006, the budget allocated to the project on the Protection of victims and witnesses of wilful acts of violence in the Office of the Prosecutor General was 200,000 Euros, while the estimated budget for the year 2008 was 300,746 Euros.

***d) Detailed Data;***

75. Child sale and trafficking of children, child pornography: These cases have not yet been recorded. Child prostitution: no statistical data.

***e) Specimens of the principal legislative texts, administrative instructions, court orders and other relevant texts and research tasks.***

76. The following texts are posted on the website [www.amategeko.net](http://www.amategeko.net)

- The 4 June 2003 Constitution of the Republic of Rwanda, as it was amended to date<sup>24</sup>;
- The Organic Law N° 07/2004 of 25 April 2004 on the Code governing Judicial Organization, Administration and competence , as it was amended to date<sup>25</sup>;
- The Law N° 47/2001 of 18 December 2001 on the Repression of crimes relating to Discrimination and the Practice of sectarianism<sup>26</sup>;
- The Law N° 27/2001 of 28 April 2001 on the Rights and Protection of the child;
- The Law N° 51/2001 of 30 December 2001 on the Labour Code;
- The Law N° 42/1988 of 27 October 1988 on the Civil Code, Preliminary Title and Book One of the Civil Code (O.G.1989, p. 9);
- The Law N° 18/2004 of 20 June 2004 on the Code governing Civil, Commercial, Social and Administrative Procedure, as amended to date<sup>27</sup>;

<sup>24</sup> The Constitution of the Republic of Rwanda, O.G. Special Issue of 04 June 2003, Revision N° 02 of 8 December 2006

<sup>25</sup> Amended by the Law N° 14/2006 of 22 March 2006, O.G, Special Issue of 23 March 2006

<sup>26</sup> O.G. N° 4 of 15 February 2002

- The Law N° 47/2001 of 31 December 2001 on the Repression of Crimes relating to Discrimination and the Practice of Sectarianism;
- The Law n° 13/2004 of 17 May 2004 on the Criminal Procedure Code as it was amended to date;
- The Decree-Law N° 21/77 of 18 August 1977 on the Penal Code (O.G. 1979, N° 13 bis, p.1) as amended to date;
- The National Policy on Orphans and other Vulnerable Children, adopted in 2003.

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<sup>27</sup> Amended and completed by the Organic law No 09/2006 of 2 March 2006. O.G. Special Issue of 05 April 2006

## **II. PROHIBITION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY AND CHILD PROSTITUTION**

77. As regards the repression of offences related to the sale of children, child prostitution and child pornography, three texts are applicable and are complementary. These are the Penal Code (Decree-Law N° 21/77 of 18 August 1977), the Law N° 27/2001 of 28 April 2001 on the Rights and Protection of the Child against Violence and the Labour Code (Law N° 51/2001 of the 30 December 2001).

It should be stressed that the draft of the Penal Code intends to integrate repressive texts on the protection of the child against violence and exploitation. It provides for new offences that were not stipulated in the Law in force such as:

- The exploitative use of children in prostitution, kidnapping of persons, and the trafficking of children in the area of the repression of international crimes;
- The recording and the dissemination of image or voice of a minor in pornographic performances and materials;
- The exploitative use of children in pornographic performances and materials
- The indecent assault committed against a child.

***6. Information on the provisions of the Criminal Law that deal with acts and activities specified in Paragraph 1 of Article 3 of the Optional Protocol and which define them. In this respect, to provide information on:***

***a) The age limit at which a person is regarded as a child in the definition of each of these offences;***

78. The Law N° 27/2001 of 28 April /2001 on the Rights and Protection of the Child against Violence defines, in its Article One, a child as any human aged below 18 years except if the law provides otherwise<sup>28</sup>.

79. The Penal Code<sup>29</sup> does not define explicitly the child: it uses the term "minor" to mean any person aged below 18 years but the draft of the Penal Code reiterated the definition of the Law N°27/2001 of 28 April 2001.

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<sup>28</sup> Concerning criminal accountability, minimum age for criminal accountability is 14 year. However, between 14 and 18 year, the minor that is criminally accountable benefits from the minority excuse (Article 77 of the Decree-Law N° 2/77 of 18 August 1977 governing the Penal Code , Book I and II, P. 390, 416-418 whereas the civil majority age is 21 years inclusive (Article 431 of the Civil Code.

<sup>29</sup> Decree-law N° 21/77 of 18 August 1977 governing the Penal Code in O.G. No 13 bis, P. 1, amended by the law No 23/81 of 13 October 1981, P. 940, Article 77, P. 394.

***b) Sanctions applicable to each one of these offences and what is regarded as aggravating or mitigating circumstances:***

80. The fact of offering, of putting or of accepting a child, whatever means used, for purposes of prostitution.
81. According to Article 370 of the Penal Code, shall be punished by a prison sentence ranging from one year to five years and a fine of Twenty Thousand Rwandan Francs to one Hundred Thousand Rwandan Francs any person who lives with people practicing prostitution and cannot justify his/her incomes or helps to justify proceeds from prostitution.
82. According to Article 39 of the Law N° 27/2001 of 28 April 2001 on the protection of the child against violence, it is stipulated that he shall be punished by a prison sentence of one year to five years and a fine of Twenty Thousand Rwandan Francs to One Hundred Thousand Rwandan Francs whoever, directly or through another person, operates and manages, or knowingly finance or contributes to finance a child prostitution house.

Shall be punished by a prison sentence ranging from five to twelve years and a fine of Two Hundred Thousand to Five Hundred Thousand Rwandan Francs, anyone who will have used or will have used exploited children in prostitution or the production of pornographic performances or materials.

83. According to Article 40 of the same law, he/she shall be punished by the same punishments as above, any person who shares proceeds from child prostitution or knowingly receives subsidies from child prostitution of a child.

***Transfer of organs of the child for the payment***

84. There are no provisions that explicitly repress offences in cases of the transfer of organs of the child for payment. Nevertheless, the bill on the prevention, prosecution and repression of human trafficking provides that anyone who will have sold organs of a living person, even if it has been proved that this person is dying, shall be punished. Shall be punished anyone who will have sold organs of or body organs contrary to scientific regulations in force.

***Forced Labour***

85. According to the Labour Code (Law N° 51/2001 of 30 December 2001) in its Article 4, forced labour or compulsory work is absolutely prohibited. By the term "***forced labour***", the Law specifies any work or service required of an individual under threat of a punishment and for which the said individual did not offer on his/her free will.

The offender of the crime shall be punished by a fine of Ten Thousand to Fifty Thousand Rwandan. In addition, to the fine, the recidivist shall be punished by a prison sentence between fifteen days and six months (Art. 194 of the Labour Code).

86. The bill on the prevention, prosecution and repression of human trafficking punishes:

- ✚ Anyone who involves a child in armed conflicts and sports that are harmful to its health;
- ✚ Anybody who for his/her interest, involves a child in begging;
- ✚ Anyone who involves a child in an illegal drug or arms trafficking and smugglings;
- ✚ The fact of producing, of distributing, of circulating, importing, of exporting, offering, selling or holding child pornographic materials.

(Public indecent assault to moralities: Articles 377-378 of the Penal Code).

87. The Penal Code did not provide for specific provisions on the aforementioned offences when they are committed against a child. However, the following provisions of the Penal Code apply to all people:

- ✚ Whoever will have produced, exposed, sold or distributed songs, pamphlets, or other forms of writing, printed or not, figures, images, emblems or other objects contrary to morality, shall be condemned to a prison sentence ranging from eight days to one year and a fine of One Thousand to Ten Thousand Rwandan Francs, or only one of these punishments.
- ✚ Shall be punished by the same punishments whoever will have, for publicity, trade or for distribution, held, imported or made imported, transported or made transported, given to a freight or distribution agent, advertised by any promotional means songs, pamphlets, writing, figures, images, stamps, or objects contrary to morality.
- ✚ The author of the writing, the figure, or the image, anyone will have printed or reproduced them and maker of stamps or objects will be punished by a prison sentence of one month to one year and a fine of Two Thousand to Twenty Thousand francs, or only one of these punishments.

88. The draft of the Penal Code reiterates the same provisions of the Penal Code in force but provides for more severe sanctions.

### ***Exploitation of children by sale and trafficking***

89. Under the terms of Article 41 of Law N° 27/2001 of 28 April 2001 on the Protection of the Child against Violence, it is stipulated that any person who is found guilty of kidnapping, sale or trafficking children shall be punished by a prison sentence ranging from five years to perpetuity and a fine of Two Hundred Thousand to Five Hundred Thousand Rwandan Francs.

90. The project of the Penal Code provides for new offences. It punishes:

- ✚ Any person found guilty of inducing a minor for the purpose of illegally taking it abroad;
- ✚ Any person found guilty of kidnapping a child for the purpose of sale as a slave or subjecting it to slavery;

***What is regarded as aggravating circumstances in the light of the Penal Code (Law in force)?***

91. The Penal Code in force does not provide for any specific provisions for offences committed against children in connection with the Optional Protocol.

The following aggravating circumstances were provided for by the Penal Code regarding inducement to prostitution, exploitation of prostitution and facilitating prostitution (Article 374):

- ✚ If the offence is committed against a minor aged below 18 years;
- ✚ If the offence is committed by an elder relative of the victim, a servant of the victim, a person who has authority on the victim, a civil servant or a religious leader;
- ✚ If the person against whom the offence is committed has been engaged or was induced to engage in prostitution outside the national territory, or has been engaged in these acts on this territory since his/her arrival from abroad or on a date close to this arrival;
- ✚ If the offence is committed against several people;
- ✚ If the offence is committed by several authors, joint offenders accomplices;
- ✚ If the offender carries an apparent or hidden weapon;
- ✚ If there is repetition.

***What is regarded as Mitigating Circumstances (Penal Code, Law in force)?***

92. There are no specific provisions for the children. Concerning repression of offences in general, the law does not specify mitigating circumstances. It is up to the judge to appreciate these circumstances (Article 82 of the Penal Code). In his/her capacity, the judge appreciates preceding, accompanying or subsequent circumstances that mitigate the guilt of the offender. (Art. 75). The judge may in particular mitigate the sentence when:

- ✚ The defendant will have, before initiating the prosecution, expressed by acts, sincere repentance, in particular when he/she repairs the damage as much as it can be expected of her/him;
- ✚ He/she will have reported him/herself to competent legal authorities, before or during the investigation;
- ✚ From the beginning of the court proceedings, the defendant will have pleaded guilty by sincere confession;
- ✚ The consequences of the offence are benign.

93. According to the bill of the Penal Code, minority constitutes a mitigating circumstance i.e. when the offender or an accomplice of the offender is aged between 12 and 18 years at the time of committing the offence.

*c) Prescription of each of these offences<sup>30</sup> :*

94. The offences in connection with the Protocol are prescribed in the following way:

- ✚ To operate and manage, or knowingly to finance or contribute to finance a child prostitution house, directly or through another person, constitute a crime and are punishable by a prison sentence of ten years inclusive;
- ✚ To use or make exploitive use of children for the purpose of child prostitution or pornographic performance or materials constitutes a crime and are punishable by a prison sentence of ten years inclusive;
- ✚ To kidnap, sell or trafficking in children constitute a crime punishable by a prison sentence of ten years inclusive;
- ✚ To share proceeds from child prostitution or to knowingly receive subsidies from child prostitution constitute an offence punishable by a prison sentence of three years inclusive;
- ✚ To live with people practising prostitution and not to be able to justify one's income or to help to justify proceeds from prostitution constitute an offence punishable by a prison sentence of three years inclusive;
- ✚ Forced labour constitutes an offence punishable by a prison sentence of three years inclusive;
- ✚ The fact of producing, distributing, circulating, importing, exporting, offering, selling or holding child pornographic materials constitute an offence punishable by a prison sentence of three years inclusive.

***Sexual Relations with Children***

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<sup>30</sup> The offences are stipulated by the provisions of the Law N° 27/2001 of 28 April 2001 whereas the determination reference to the prescription is made in Articles 18-20 Of the Pena Code. referred to

95. Article 33 of the Law N° 27/2001 of 28/April /2001 on the protection of the child against violence stipulates that any sexual relations or any sexual practice made with the child whatever the form and means used, constitutes a defilement committed against the child.

This is a legal presumption of absence of consent of the child aged below 18 years. The expression<sup>31</sup> **“Any relation”** means that a man can defile a boy or a girl; a woman can defile a girl or a boy. The expression **“any practice”** implies that means of penetration and the object of penetration do not matter (a finger, an object, etc).

- d) All other acts or activities on the issue that criminal law of the State Party qualifies offences and which are not stipulated by Paragraph 1 of Article 3 of the Optional Protocol;***

### ***Guilty Silence***

96. According to Article 28 of the Law N° 27/2001 of 28 April 2001 on the Rights and Protection of the Child against Violence, anyone who witnesses acts of violence, including child sale, trafficking, prostitution and child pornography and does not report them to administrative institutions, shall be punished by a prison sentence ranging from six months to five years and a fine of Twenty Thousand to One Hundred Thousand Rwandan Francs or one of these punishments.

97. The bill of the Penal Code on the Prevention, Prosecution and Repression on Human Trafficking provides for the punishment of guilty silence.

- e. The accountability of moral persons for acts and activities specified in Paragraph 1 of Article 3 of the Optional Protocol, including the definition which is given to moral persons in the State Party; and:***

98. The Penal Code in force and the Law N° 27/2001 of 28/April /2001 on the Protection of the Child against Violence did not provide for criminal accountability of moral persons.

99. The Decree-Law of 19 November 1973 on the moral conservation of the youth provides for the punishment of closing of a bar or drinking place that accept access by unaccompanied minors.

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<sup>31</sup> In this area, the provisions of the Law No 27/2001 considerably differ from the provisions of the Penal Code since rape and defilement only means that committed by a male person against a female person through normal means. Certain acts classified as indecent assaults by the penal Code are considered as rape or defilement cases by the said law

100. The bill of the Penal Code, without however defining the moral person, is evolutionary on the matter. Moral persons, both public and private, are held accountable for offences provided for when they are committed by their representatives or those with positions of responsibility among them and acting for the account of these moral persons on this basis:

- ✚ have the powers of representation;
- ✚ Have the powers of decision making;
- ✚ Have supervisory powers;
- ✚ Those who have been accomplices or those who have induced others to commit them.

Criminal accountability of moral persons does not exclude individual criminal prosecutions of their representatives or their accomplices.

- ✚ punishments applicable to moral persons governed by the public law or private law re:
  - The dissolution;
  - A fine;
  - Temporary prohibition to exercise one or more professional activities;
  - Temporary prohibition to exercise one or more activities in a given field;
  - Permanent closure of establishments that were used to commit these crimes ;
  - Exclusion from participating in public tenders, permanently or for one period not exceeding five (5) years;
  - Prohibition to offer cheques, credit cards or any other legal tender in Rwanda;
  - confiscation of the material that was used in committing or was intended to commit the offence or of the thing which is the product of the offence;
  - Placement under legal surveillance;
  - Publication of the decision declared in the Official Gazette of the Republic of Rwanda and by means of the press.
  - The fine applicable to moral persons is double (2) that specified to natural persons by the provision which represses the offence.

***f) The qualification, in the criminal law of the State Party, of attempts to commit, complicity in the commission or participation in the commission of any of the above-mentioned offences .***

***Attempt to commit the offence***

**101.** There are no provisions specific to attempts to commit the above-mentioned offences. If necessary, the provisions of the Penal Code common to all offences are applied.

According to the Penal Code (PC), there is punishable attempt when the resolution to commit an offence was expressed by external acts, not ambiguous, forming beginning of execution and whose direct and immediate consequence to consume the offence, were suspended or did not produce the intended effect only due to circumstances beyond the control of the offender (Article 21 of the PC).

The attempt is punishable even if the intended objective could not be attained because of a factual circumstance ignored by the offender (Article 22 of the PC)).

If the offender voluntarily abandons the action, he/she incurs punishments only if acts already committed constitute by themselves an offence (Article 23 of the PC).

Attempts to commit crimes or offences are regarded as the crime or the offence itself (Article 24 of the PC).

***7. Concerning the adoption (par. 1 a) II) of Article 3), to indicate bilateral and multilateral agreements applicable to the State Party as well as measures taken by the State Party to ensure that all people involved in the adoption of a child act in accordance with the provisions of these international agreements.***

**102.** Rwanda has just ratified the Convention on the Protection of Children and Co-open in the area of international adoption, adopted in The Hague in The Netherlands, on 29 May 1993. According to the Constitution, this Convention is in internal legislation, more binding than organic laws and ordinary laws (Article 190 Constitution). The laws are accordingly in the process of being harmonised and a Ministerial Order is being prepared.

**103.** The Law N° 27/2001 of 28 April 2001 on the Protection of the Child against Violence stipulates, in its Article 16, that the adoption must be done in the interest of the child.

**104.** The bill on the prevention, prosecution and repression of human trafficking provides for sanctions for anyone who will have contributed to illegal adoption for commercial purposes.

### **III. PENAL PROCEDURE**

#### **III.1. Competence**

**8. Legislative, legal and administrative Measures taken by the State Party to establish its competence for purposes of prosecuting offences specified in Paragraph 1 of Article 3 of the Optional Protocol in the following cases:**

**a) When these offences are committed on its territory or on board ships or aircraft registered in the State Party:**

**105.** According to Article 6 of the Penal Code, any offence committed on the Rwandan territory by Rwandan citizens or foreigners, is punished in accordance with the Rwandan law, subject to diplomatic immunity provided for in the international Conventions or international users.

According to Article 7, is considered to have been committed on the Rwandan territory, any offence committed whose act characterising one of its components was executed in Rwanda.

According to Article 8, the Rwandan territory means terrestrial space, river, lake and air, included within the limits of the borders of the Republic. Is considered to have been committed on the Rwandan territory any offence perpetrated by or against a Rwandan citizen in a place that is not subjected to the sovereignty of a State, or by any person either on board a ship flying Rwandan flag and found outside the waters subjected to the sovereignty of a State, or on board of an aircraft registered in Rwanda, if he/she is on flight outside territories subjected to the sovereignty of a State.

**b) When a suspected perpetrator of the offence is not a citizen of a State Party, or is not a usual resident in the territory of the State Party:**

**106.** According to Article 9 of the Penal Code, any Rwandan citizen who, outside the territory of the Republic, commits an act qualified as a crime punishable by the Rwandan law, may be prosecuted and judged by Rwandan jurisdictions.

Any Rwandan citizen, who outside the territory of Republic, commits qualified act punishable by the Rwandan law, may be prosecuted and judged by Rwandan jurisdictions if the act is punishable by the legislation of the country where it was committed (Article 10).

A foreigner who usually resides on the Rwandan territory and who commits an offence will be punished in accordance with the Rwandan law, subject to diplomatic immunity stipulated by international Conventions or users (Article 6 of the Penal Code).

107. Concerning particularly offences stipulated in Paragraph 1 of Article 3 of the Optional Protocol, the organic Law N° 7/2004 of 25 April 2004 on the Code governing judiciary organization, administration and competence as it was amended and completed to date, in its Article 90 stipulates that the High court of the Republic is competent to rule on charges preferred against any person, including foreigners, found on the Rwandan territory, who will have committed abroad, trans-border qualified crimes, including particularly drug trafficking, human trafficking and child trafficking, in particular, slavery, as well as other related crimes.

*c) When the victim is a citizen of the State Party;*

108. According to Article 8 of the Penal Code, an offence perpetrated by Rwandan or against a Rwandan citizen is assumed to have been committed on the Rwandan territory. Therefore, when the victim is Rwandan citizen regardless of where the crime is committed, the Rwandan criminal law may be applied.

*e) The suspected offender of the offence is present on his/her territory and does not extradite towards another State Party with the reason that the offence was committed by one of its nationals. In this case, to indicate if a request for extradition is necessary before the State Party establishes its competence.*

109. According to the Constitution in its Article 25, al. 3, and the Penal Code, in its Article 16 stipulate that no Rwandan citizen shall be extradited<sup>32</sup>. The request for extradition before or after the establishment of competence does not matter. Indeed, Rwanda established its competence to prosecute, judge and punish offences committed by its citizens both within the country and abroad (Article 8 of the PC).

*9. To indicate, if necessary, other provisions in force at the national level, in particular legislative, legal and administrative measures that governs the penal competence of the State Party:*

110. Anyone who is on the territory of the Republic of Rwanda and becomes an accomplice to a crime or an offence committed abroad, shall be prosecuted and judged by Rwandan jurisdictions if the act is punishable both by the foreign Law and the

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<sup>32</sup> The quality of a citizen is appreciated at the time of the offence for which the extradition is required (article 16 of the penal Code).

Rwandan law, in the event the act constituting a crime or offence was subjected to a definite decision of a foreign jurisdiction (Art. 12 of the Penal Code).

111. According to Article 17 of the Penal Code, a foreign sentence can, at the request by the Public Prosecution or by the victim of the offence, be recognized in Rwanda, if the sentence renders civil judgments whose execution must be prosecuted on the Rwandan territory.

112. Repressive jurisdictions hear punishable offences by the Rwandan legislation<sup>33</sup>, committed by any person even if he/she is outside the Rwandan territory and that he/she was not interrogated by the Public Prosecution or Criminal investigation department (Article 146 of the Organic Law n° 07/2004 on judicial organization, administration and competences as it was amended and completed to date<sup>34</sup>).

### **III.1. Extradition**

*10. Information on the policy of the State Party in the area of extradition in case of offences stipulated in Paragraph 1 of Article 3 of the Optional Protocol, by referring specifically to various situations specified in Article 5 of the Optional Protocol.*

*For each situation concerning the State Party to indicate, by taking account of the formulated request in Paragraph 5 d) of these directives, the number of extradition requests which were received from or sent to interested States, and to provide detailed data on offenders as well as on victims of offences (age, sex, nationality, etc).*

*To also provide information over the duration of the procedure and the extradition requests that were sent or received and which were not successful.*

*To provide information on the policy of the State Party in the area of extradition in cases of offences stipulated in Paragraph 1 of Article 3 of the Optional*

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<sup>33</sup> According to Articles 6,7,8,9 and 10 of the Penal Code, the offences punishable by the Rwandan legislation are:

- When they have been committed on the Rwandan territory;
- When elements constituting the acts were committed in Rwanda;
- When the offences have been committed on a territory that is not subjected to the sovereignty of another state;
- When they have committed by or against Rwandans;
- . When they have been committed on board of a vessel flying the Rwandan flag or on board of an aircraft registered in Rwanda, in a air space that is not subjected to the sovereignty of another state.

<sup>34</sup> O.G. N° 14 of 15 July 2004.

*Protocol, by referring specifically to various situations specified in Article 5 of the Optional Protocol*

113. The Constitution, in its Article 25, al .3, stipulates that no Rwandan can be extradited. The penal Code, in its Article 10, specifies that the request for extradition of a Rwandan citizen shall never be granted. (art. 10 of the Penal Code).

Nevertheless, the Rwandan law provides for the prosecution of offences specified in Paragraph 1 of l' Article 3 of the Optional Protocol whatever the nationality of suspected offender or accomplice to these offences or place of their commission, if they are found on the Rwandan territory.

Indeed, the High court of the Republic is competent to rule on charges preferred against any person, including foreigners, who while on the Rwandan territory, commits abroad offences qualified as "trans-border crimes" , including in particular human trafficking, especially child trafficking... and slavery as well as other related offences (Organic Law N° 7/2004 of 25 April 2004 on the Code governing Judicial Organization, Administration and Competence as it was amended to date, in its Article 90).

*For each situation concerning the State Party to indicate, by taking account the request formulated in Paragraph 5 d) of the present directives, the number of extradition requests that were received from or sent to interested States, and to provide detailed data on offenders as well as on victims of offences (age, sex, nationality, etc).*

114. Cases not yet recorded.

*To also provide information on the duration of the procedure and the extradition requests that were sent or received and which were not successful.*

115. Cases not yet recorded.

*III.3. Seizure and confiscation of goods and products and closing of premises*

*II. To provide information on measures taken, in particular on legislative, legal and administrative measures; to enable:*

*a) The seizure and confiscation of goods or products specified in Article 7 a) of the Optional Protocol;*

116. The Penal Code, in its Article 52, al. 2, stipulates that in the event of crime or offence, special confiscation of goods that constitute the act of the offence, or which

were used or suspected to have been used or intended to commit the said offence, or which were produced due to the offence, shall incidentally be punished by the principal sentence, when the aforesaid goods belong to person convicted.

117. As an example, the National Police shall monitor film projection houses in order to fight the projection of child pornographic films. It shall proceed, if necessary, and for purely conservatory purposes, to seizures and confiscation of material in anticipation of the legal decision.

118. The bill on the prevention, prosecution and repression of human trafficking stipulates that premises or other places used by a person for illegal benefit may be confiscated by competent authorities until the court renders a final decision on their confiscation or their return to the owner.

*b) Temporary or permanent closing of buildings used to commit offences specified in Paragraph 1 of Article 3 of the Optional Protocol.*

119. Currently, there are specific provisions on the matter. However, the bill on the prevention, prosecution and repression of human trafficking stipulates that the court may close the centre where the offence was committed for a specified duration not exceeding three years from the date when penal judgement was finally rendered.

#### IV. PROTECTION OF THE RIGHTS OF CHILD VICTIMS

*12. Taking into account Paragraphs 3 and 4 of Articles 8, 9 and 10 of the Optional Protocol, to provide information on measures taken, in particular legislative, legal and administrative measures to protect the rights and interests of child victims from practices proscribed by the Optional Protocol at all stages of penal procedures, by guaranteeing the rights of the accused to fair and impartial trial and to indicate measures taken:*

*a) To ensure that in internal laws and regulations that govern the manner in which the criminal justice system treats child victims, supreme interest of the child are accorded the first priority:*

120. Article 9 of the Law N° 27/2001 of 28 April 2001 on the rights and the protection of children against violence stipulates that in all decisions interesting the child, its interests shall prevail. The child has right to freely express its opinion on any question of its own interest. The child must be heard in any legal or administrative procedure interesting it either directly or through its representative.

*b) To ensure that criminal investigations are opened, even in the case where the real age of the victim may not be established, and indicate measures taken to determine this age;*

The age of the victim does not determine the initiation of the prosecution. When there is doubt about the age, the birth certificate is compensated by a birth certificate established by an officer in charge of civil registration in the district of residence or birthplace on production of two witnesses for its identification (Law N° 42/1988, Preliminary Titre and Book One Persons and the family)<sup>35</sup>.

*c) To adapt procedures as to take into account the vulnerability of the child, in particular the sense of its dignity and value as well as the environment of origin, in particular procedures applied to examine, interrogate, judge and counter-interrogate child victims and witnesses; the right of the parent or the perpetrator to be present; and the right to be represented by a legal counsel or to request for free legal assistance. On this issue, to indicate legal consequences to a child who has committed an offence applicable to the Rwandan law that is directly linked to practices proscribed by the Optional Protocol;*

**Procedures applied to examine, interrogate, judge and counter-interrogate child victims and witnesses**

121. The public Prosecution of the Republic established a service in charge of the protection of victims and witnesses of violence.
122. Specialized Chambers were created at the level of First Instance Courts (the second degree of jurisdiction of the country) to try in the first degree, criminal cases involving children. These courts were provided with psychological and expert judges, specialized in the rights of the child;
123. At the decentralized level of the Public Prosecution, there are criminal investigation officers specifically in charge of cases concerning children; preferably, a female criminal investigation officer. He/she is in charge of *inter alia* the expeditiousness of the procedure;
124. According to the Law n° 13/2004 of 17/05/2004 on the Code governing criminal procedure<sup>36</sup>, the prosecuted minor must be assisted by a legal counsel. In the absence of a counsel for the minor or her/his legal representatives, the Public Prosecution requests the President of the bar Association to automatically designate a counsel (Article 185);

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<sup>35</sup> National University of Rwanda, faculty of law Codes et Lois du Rwanda, Law No 42/1998, Title I and Book I “Persons and Family”, Volume I, Ed. 995, P. 1995.

<sup>36</sup> O.G., Special Issue of 30 July 2004

125. The Specialized Chamber for minors will take, depending on the case, protection, assistance, monitoring and education measures that seem appropriate (190). The Chamber for minors will make a ruling after having heard the child, witnesses, parents, foster parents or the guardian, the Public Prosecution and its counsel. The Chamber will be able to hear co-offenders or accomplices (Article 189).

***Legal consequences confronting a child who has committed an offence according to the applicable law which is directly linked to practices proscribed by the Optional Protocol:***

126. According to the Penal Code, the criminal responsibility is effective from the age of 14 years. Between 14 years and 18 years, mitigating circumstances of the minority are applicable that commute the punishments (Article 77).

127. According to the Organic Law N° 07/2004 of 25 April 2004 as it was amended and completed to date<sup>37</sup>, in its Articles 74-75, the suspected minor can be tried only before the Chamber for minors of the court. The Specialized Chamber for minors, in addition to specified sentence, will decide, depending on the cases, protection, assistance, monitoring and education measures that seem appropriate.

***d) To keep the child informed throughout all legal procedures and to indicate people responsible for this task;***

128. The Constitution, in its Article 18, al .3, stipulates that to be informed of the nature and reasons for the charge, the right to defence constitutes absolute rights at all stages and degree of the procedure before administrative and legal authorities and before all decision making authorities<sup>38</sup>.

129. According to the Law N° 13/2004 of 17 May 2004 on the Code governing Criminal Procedure, in its Article 185, the minor shall be informed by his/her counsel or parents, foster parent or guardian.

***e) To enable the child to express its opinions, its needs and its concerns:***

130. Article 9 of Law N° 27/2001 of 28 April 2001 on the protection of the child against violence stipulates that the child has the right to freely express its opinion on any question of its own interest. It must be heard in any legal or administrative procedure in its interests, either directly or through its representative.

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<sup>37</sup> O.G. N° 14 of 15 July 2004.

<sup>38</sup> According to the International NGO Droit et Dignité, (DIDE) founded by former members of ICRC which has been intervening since 2004, in collaboration with the Ministry of Internal Security (MININTEER) in favor of child prisoners, about 764 children (Boys=717; Girls=47) are in detention.

*e) To provide appropriate services support to child victims at all the stages of the legal procedure:*

131. The Public Prosecution Department provides medical care, transport costs and free legal assistance.

*f) To protect, if it is necessary, the private life and the identity of child victims;*

132. The bill amending the Law N° 27/2001 of 28 April 2001 on the rights and protection of children against violence stipulates that during the trial, when required by circumstances, the child or its representatives or witnesses shall be examined or interrogated in separate sessions or in closed sessions to protect their identity.

*h) To guarantee, if necessary, the security of child victims as well as the security of their families, people who testify on their behalf, people/organizations which are engaged in the prevention and/or protection and rehabilitation of child victims, by protecting them from acts of intimidation and reprisals;*

133. In the Public Prosecution Department of the Republic, there is a service in charge of the protection of victims and witnesses of intentional acts of violence. There exist also initiatives to provide care and protection of child victims of violence.

*i) To ensure that all child victims have access to procedures that enable, without discrimination, to claim compensation for damage suffered from legally accountable people and to avoid any undue delay in rendering the judgement and the execution of court orders or decisions granting them compensation:*

134. The legislation is silent on this subject. However civil society organisations assist children in claiming compensations to which they are entitled for damages suffered.

135. According to the Law N° 18/2004 of 20 June 2004 on the Code governing Civil, Commercial, Administrative and Social Procedure (CCASP), in its Article 200, court orders and deeds with enforceable powers shall be applied within a period not exceeding three months from the date on which the party which won the judgement, order or ordinance or which the appeal has been exhausted, applies for it or from the date the depiction of the act r becomes reinforce able.

The non-observance of the time-limit provided for shall be sanctioned by a fine without prejudice to compensation and interests to which the injured party may be entitled and other sanctions provided for by the law (Art. 201 CCASP).

The non-application of the judgement decision by a court bailiff may be sanctioned by compensation and interests.

*j) To provide child victims with relevant and appropriate assistance, in particular their full social rehabilitation and their full physical and psychological reintegration:*

136. The Law N° 27/2001 of 28 April 2001 stipulates, in its Article 22, Para. 2, that the Minister in charge of Social Affairs adopts measures enabling the help and the assistance to victims of violence, so that their perpetrators are prosecuted by competent authorities.

137. The Bill on the prevention, prosecution and repression of human trafficking provides for a Ministerial Order of the Minister in charge of Family that determines modalities for monitoring victims of offences provided for by this law, their care and their social integration.

138. At the level of the Ministry of Health (MINISANTE), there exists several programmes whose objective is to improve the living conditions of the child: in its unit in charge of *“Maternal and Child Health”* and *“Expanded Immunisation Programme”*:

Concerning sexual violence committed against children and women, a Ministerial Instruction (MINISANTE) was issued so that medical services are systematic and free for all cases, as well as expertise medical reports.

As for psychological rehabilitation, the Psychosocial Consultation Service is particularly involved in cases of trauma caused by the violence committed against children, cases of orphans, etc<sup>39</sup>.

139. The civil society intervenes in social rehabilitation of child victims such as AVEGA, ARCT<sup>40</sup> Ruhuka and Pro-Femmes Twese Hamwe.

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<sup>39</sup> (Demographic and health Survey , 2005)

<sup>40</sup> ARC RUHUKA whose mission is to contribute to the rehabilitation of persons who have been victims of psychological trauma in the view to reintegrate them into active life their self o promotion and their participation in the construction of Rwanda.

## V. PREVENTION OF CHILD SALE; CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

13. Taking into account Paragraphs 1, 2 and 5 of Article 9 and of Paragraph 1 of Article 10 of the Optional Protocol, to provide information on:

- a) Measures taken, including legislative, legal and administrative measures as well as policies and programmes adopted to prevent offences stipulated in the Optional Protocol. Information on the children who are subjected to these preventive measures as well as on the provisions taken to protect children who are particularly exposed to such practices;

Legislative, legal and administrative measures as well as policies and programmes adopted to prevent offences stipulated in the Optional Protocol:

### *Legislative Measures:*

140. According to the Constitution of the Republic of Rwanda of 4 June 2003: The State shall enact appropriate legislation and establish institutions for the protection of the family, of the child and the mother in particular, to ensue the development of the child (Article 27);

Every child has the right to special measures of protection required by its condition, in accordance with the national and international law (Article 28); by the family, the society and the State.

141. The Law N° 27/2001 on the rights and protection of children against violence, provides sanctions for:

- Any person who, directly or through another person, operates, manages or knowingly finances a child prostitution house (Art. 39);
- Any person who shares proceeds from child prostitution or knowingly receives subsidies from prostitution (Article 40, Para. 1);
- Anyone who makes exploitative use in child production, child pornographic performance or pornographic materials (Article 40, al. 2);
- Any person who is found guilty of kidnapping, sale or trafficking children (art.41);
- Anyone who gives drugs to children uses children or employs children in drug or arms trafficking and smuggling (Article 42).

142. The law on gender-based violence.

143. The draft of the Penal Code which provides for new sanctions not stipulated in the previous Code such as:

- Exploitative use of children in prostitution, kidnapping of people and child trafficking in the area of the repression of international crimes;
- The recording and circulation of images or voices of minors in pornographic materials;
- The publicity of child pornographic images and materials;
- Indecent assault committed against a child.

144. The bill on the prevention, prosecution, repression of human trafficking is in the process of being adopted. It provides for:

✚ The prohibition of human trafficking;

✚ Punishments :

✚ **Illegal adoption:**

- Against any person who forces a child to have removed an organ of its body for the purposes of begging;
- For involving children in illegal trafficking both inside the country and abroad;

✚ **For trafficking of organs of the body:**

- Drafts of Ministerial Orders on the application of the Labour Code, elaborated to harmonize it with the text of Convention 182 on the worst forms of child labour, including trafficking child, child sale, sexual exploitation of children and child pornography.

### *Legislative Measures:*

145. Specialized Chambers for minors were created within courts of law to expedite trials involving children and in the way that ensures the respect of the rights of the child and each child must be assisted by a defence counsel.

### *Policies*

146. The following documents were adopted:

- The National Policy on Orphans and other Vulnerable Children;
- Strategic documents related to this policy such as:
  - Strategies/programs for the implementation of the OVC policy for the 2006-2011 period;
  - Directives and strategic plans for street children;
  - Five-year action plan to fight against the worst forms of child labour.

### ***Administrative Measures:***

131. The following measures were taken:

- ✚ The Observatory of the Rights of the Child;
- ✚ Monitoring Committees of the respect of the rights of the child (National Children Forum) and the national Consultative Committee on Child Labour;
- ✚ Specific Child Protection Units were created in the National Police;
- ✚ The " Community Policing" System;
- ✚ Child and family Protection Unit and Gender-Based Violence protection Unit in the National Police.

### ***Bilateral Treaties Concluded:***

147. Rwanda and Burundi plan to sign a Memorandum of Understanding on Gender and the Protection of the Rights of Children.

Concerning particularly the protection of children, the draft agreement provides for the fight against human trafficking, especially child and women trafficking, and trafficking in street children from Districts bordering the two countries.

#### ***b) Means used to sensitize the general public on offences proscribed by the Optional Protocol. To provide detailed data concerning in particular:***

Various public awareness campaigns and debates are regularly organised by various national institutions:

148. Meeting, seminar, formation and sensitisation marches:

- ✚ Marches by children to sensitize the population to fight against sexual exploitation of minors and the violence committed against children;
- ✚ Meetings with owners and managers of hotels and night clubs to oblige them to prohibit access of minors not accompanied by parents/guardians to prevent inducing minors into prostitution;
- ✚ Training of representatives of professional associations throughout the country (371 representatives of professional associations have just been trained);
- ✚ Training of District Committee coordinators, Town Council Committees and Provincial Committees and representatives of associations of the informal sector (respectively 34 and 105 trained);
- ✚ National workshop (*Ingando*) of prostitutes who wished to quit prostitution to ensure their socio-economic reintegration. Six hundred prostitutes of all ages

inclusive took part in this workshop (by MINALOC<sup>41</sup>, in collaboration with the Ministry of Gender and Family Promotion, National AIDS Control Commission, Kigali City Council, PSI, World Food Programme and the National Police).

- ✚ Visits to child working sites and associations of social reintegration of child domestic workers and sexually exploited children.
- ✚ Training of students in secondary schools (12 schools) in Kigali City on the rights of the child and the dangers of prostitution;
- ✚ "Children corners", meetings during which the rights of the child are discussed.

#### 149. *Radio Broadcast Programmes and Debates*

- ✚ Conference-debate broadcast on the radio and televised on Rwanda Television organized by the Ministry of Family Promotion and Gender (MIGEPROF), the Ministry of Health, the Ministry of Public Service and Labour, the Ministry of Education and National AIDS Control Commission (NACC) and NHRC;
- ✚ Weekly radio programme called in the national language "*Uburenganzirwa iwacu*", which means "our rights" in English, sponsored by NHRC;
- ✚ Radio broadcasts called "WICECEKA" (=Do not keep quiet, say it now) for the adults to talk to the youth about issues related to sexuality in order to protect them against HIV/AIDS, STD, and unwanted pregnancies.

#### 150. *Production of Sensitisation Tools.*

- ✚ The document titled: "Rwanda and Major International and regional instruments related to Human Rights (cfr NHRC);
- ✚ Training manuals for children, adults, trainers and authorities on the rights of the child. These manuals treat national laws, ratified Conventions, international Protocols (the CRC and its Additional Protocols and the Convention 182 on the worst forms of child labour) and national policies on the protection of children.

They are written in English, French and Kinyarwanda. About 3.000 booklets on the CRC and its Protocols in the national language "Kinyarwanda" and French, have been distributed.

- ✚ The booklet "solidarity Movement" Child for child – let us support the right of participation by children";

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<sup>41</sup> The workshop was jointly organized by Kigali City Council, National AIDS Control Commission (NACC), National Human Rights Commission (NHRC), National Police, Ministry Of gender and Family Promotion PSA?HIV/AIDS Control,. The workshop cost about 20 Million Rwandan Francs contributed by the co-organizers.

**151. Studies**

The study on violence against women<sup>42</sup> by MIGEPROF with the support of IRC<sup>43</sup> and USAID;

***The Targeted Public:***

**152. The public targeted is the following:**

-  Children;
-  Authorities;
-  Owners or managers of bars;
-  Associations concerned;
-  Children and adults in general;

**153. Participation of government organizations and non governmental organizations, enterprises, the press, etc:**

- **Government organizations:** MIGEPROF, MIFOTRA NACC, NHRC, National Police, NYC, MINEDUC.
- **International NGO's:** Save the Children, World Vision/KURET<sup>44</sup>, and Care International.
- **Local NGO's:** Sharing Rwanda, ADPA<sup>45</sup>, ASC Umurimo, and HAGURUKA.

**154. The participation of children / child victims and/or communities;**

-  Secondary school students (N= 14053);
-  Primary school children ;
-  Working children;

**155. The range of these activities (local, regional, national and/or international);**

The communities were sensitized for the protection of the rights of the children such a way that:

-  Child Protection Committees were established;

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<sup>42</sup> Republic of Rwanda, Ministry of gender and family Promotion , violence against women, Kigali, June 2001

<sup>43</sup> IRC, International Rescue Committee.

<sup>44</sup> Project of World Vision funded by USDOL to remove children from the worst forms of child labor in areas affected by HIV/AIDS and by education strategy in Kenya, Uganda, Rwanda, Ethiopia (together)

<sup>45</sup> ADPA, Action for Development and peace in Africa.

- ✚ Several NGO's supported "mentorship" programmes of orphans and other vulnerable children in their daily life;
- ✚ Determination of local authorities: they undertook to firmly protect the rights of children;
- ✚ The creation of child protection committees in several Districts, in particular Gicumbi, Nyamagabe, Huye, Gatsibo and Nyamata;
- ✚ The Social Commission of the National Assembly carried out a round of sensitisation and dialogue in all Districts on the rights of the child. That was on the bill revising the law N° 27/2001 of 28 April 2001 in order to give the child more protection;
- ✚ Child Protection Clubs at the level of schools were created;
- ✚ Children Protection Forums were created;
- ✚ Silence was broken: more cases of child abuse were reported to the Police;
- ✚ Volunteers "*Nkundabana*<sup>46</sup>", which means "I love children" were established;
- ✚ Contests, drawings, sketches, poems relating to the prevention and the fight counter the abuses of the children were produced,

*Measures to effectively prohibit the production and the circulation of materials which practices proscribed in the Optional Protocol, as well as mechanisms adopted to supervise the situation.*

**156. According to Articles (377-378) of the Penal Code):**

- ✚ Anyone who produces, exhibits, sells or distributes songs, pamphlets or other writings, printed or otherwise figures, images, stamps or other objects contrary to morality, shall be punished by a prison sentence from eight days to one year and a fine of One Thousand to Ten Thousand Rwandan Francs, or only one of these punishments;
- ✚ Shall be punished by the same punishments anyone found guilty of advertising, selling or distributing, holding, importing or making import, transporting or making transport, giving to freight or distribution agent, advertising by any advertising means: songs, pamphlets, writings, figures, images, emblems or objects contrary to morality.
- ✚ The author of the writing, the figure, of the image, that will have printed them or reproduced and the manufacturer of the emblem or the object will be punished by a prison sentence ranging from one month to one year and of a fine of Two Thousand to Twenty Thousand Rwandan Francs, or only one of these punishments.

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<sup>46</sup> The Nkundabana are men and women volunteers who care for child headed households. The children

## VI. INTERNATIONAL ASSISTANCE AND CO-OPERATION

### VI.1: Prevention

14. *Taking into account Paragraph 3 of Article 10 of the Optional Protocol that stipulates that States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.*

#### 157. 157. *International Cooperation:*

- ✚ Framework and development aid policy enabling donors to target national development priority sectors. A cooperation framework called "Development Partners Coordination Group" (D.P.C.G) was created.
- ✚ Membership to East Africa Community;
- ✚ Membership to COMESA;
- ✚ Partnership with the USA in the AGOA framework;
- ✚ - Etc

#### 158. *Creation of a business favourable environment - Good Governance;*

- ✚ The creation of Rwanda Investment and Exports Promotion Agency (RIEPA)<sup>47</sup>;
- ✚ The adoption of a National poverty Reduction Strategic Policy framework (EDPRS)<sup>48</sup>;
- ✚ The creation of the Office of the Ombudsman<sup>49</sup>.
- ✚ The creation of Central Public Investments and External Finance Bureau (CEPEX<sup>50</sup>);
- ✚ The launching of community-based health insurance programmes "*Mutuelle de sante*";
- ✚ The fight against HIV/AIDS;
- ✚ The fight against corruption;
- ✚ Subscription to the NEPAD process;
- ✚ The promotion of gender;
- ✚ - Etc

### VI.2. *Protection of Victims*

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<sup>47</sup> RIEPA: Rwanda Investment and Exports Promotion Agency

<sup>48</sup> EDPRS: Economic Development and Poverty Reduction Strategy

<sup>49</sup> Ombudsman: serves as a link between the population and public and private institution; it receives, examines complaints against acts of public services and Government officers from individuals and privates associations.

<sup>50</sup> CEPEX: Central Public Investment and External Finance Bureau

*15. Taking into account Paragraph 2 of Article 10 of the Optional Protocol that stipulates that States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation: To provide information on this international cooperation*

*a) Physical and psychological Rehabilitation of child victims, with their social reintegration*

159. Related cases were not noted.

### *VI.3 .Application of laws*

*16. Taking into account Articles 6 and 10 of the Optional Protocol, to provide information on assistance and co-operation of the State Party at all stages of the penal procedure related to offences described in Paragraph 1 of Article 3 of the Optional Protocol (tracking, investigation, prosecution, sanction and procedure of extradition). Taking into account Article 7 b) of the Optional Protocol, to provide information on requests received from another State Party aiming at seizure or confiscation goods or products referred to in Article 7 a) of the Optional Protocol.*

160. Such cases were not recorded.

*17. To indicate relevant bilateral, regional and/or multilateral agreements, treaties or other arrangements which the Interested State Party has signed and ratified and/or the national legislation applicable on the issue. Lastly, to indicate measures taken to ensure co-operation/coordination between authorities of the State Party, national and international governmental organizations and international organizations.*

161. *Agreements with Kenya:*

-  The treaty on reciprocal execution of court orders, signed in Nairobi on 28 May 1990;
-  The treaty on mutual criminal assistance, signed on 25 may 1990 in Nairobi.

162. *Agreement with Uganda:*

-  The legal Convention on extradition between the Republic of Uganda and the Republic of Rwandan, signed in Kampala on 6 February 1998;
-  The Protocol on Criminal rogatory commissions between the Rwandan Republic and the Republic of Uganda, signed in Kampala on 6 February 1988;

- ✚ The Cooperation agreement on Security between the Government of the Rwandan Republic and the Government of the Republic of Uganda concluded on 6 August 1993.

**163. 163. Agreement with Burundi:**

Rwanda and Burundi plan to sign a Memorandum on Gender and the protection of the Rights of Children<sup>51</sup>. Concerning particularly the protection of children, the draft agreement provides for:

- The prevention of human trafficking, especially that of children and women;
- The control and prevention of the trafficking of street children from communes/ districts bordering the two countries.

***Financial assistance and others***

***18. Concerning international cooperation mentioned above (Para. 14 to 17), to give information on financial, technical assistance or otherwise, provided and/or received in the framework of multilateral, bilateral or different programmes which were undertaken for this purpose.***

164. Cases concerned were not noted.

**VII. OTHER LEGAL PROVISIONS**

***19: To indicate, if it is necessary, provisions of the national legislation and international instruments in force in the State Party which is more favourable to the attainment of the rights of the child. The reports must also contain information on the level of the ratification by the State Party of major international instruments on the prohibition of child sale, child prostitution, child pornography and child sex tourism and on other commitments entered into by this State in this area, as well as on their implementation and difficulties encountered.***

***Provisions of other international instruments in force which are more favourable to the respect of the rights of the child***

165. The country has almost ratified all international Conventions in connection with child trafficking, child sale, child prostitution and child pornography:

- ✚ The Universal Declaration of Human Rights;

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<sup>51</sup> Letter 0373/2008 /Beijing of 29 May 2008 from the Minister in them Office of the Prime Minister in charge of Gender and family Promotion addressed to the Minister of Foreign Affairs and Cooperation.

- ✚ The Convention on the Rights of the Child, 1989, ratified by P.D. N° 773/17 of 19/ September 1990;
- ✚ The International Convention on the Elimination of All Forms of Racial Discrimination;
- ✚ The Convention N° 182 on the worst forms of Child Labour and Immediate Action, 1999 ratified by P.D. N° 39 bis /01 of 30 September 1999 (Ratification deposited in 21 May 2000);
- ✚ The Convention on slavery and Human Trafficking, 1950 (ratified by P.D. N°161/01 of 31 December 2002);
- ✚ The Protocol closing the Convention on the Repression of Human Trafficking and the Exploitation of Prostitution of others concluded on 21 March 1950, New York, and approved and ratified on 31 December 2002;
- ✚ The Additional Protocol to the Convention of the United Nations against Organized Trans-national Criminality with the aim to prevent, repress and punish human trafficking, in particular women and children signed in New York on 15 November 2000 and approved and ratified P.D. N°161/01 of 31 December 2002;
- ✚ The African Charter on the Rights and Welfare of the child ratified in July 1990;
- ✚ The Convention N° 29 on Forced Labour, 1930, (Ratification deposited on 23 May 2001);
- ✚ The Convention N° 105 on the Abolition of Forced Labour, 1957 (Ratification deposited on 18 September 1962);
- ✚ The Convention on the Protection of Children and Co-operation in the area of International Adoption, adopted in The Hague in The Netherlands, on 29 May 1993.

***Provisions of laws and policies in force that is most favourable to the application of the provisions of the Optional Protocol:***

166. The provisions of international Conventions above cut across the internal legislation:

- ✚ ***The Constitution of 2003:*** it puts particular emphasis on the protection of he children. In its Article 28, it stipulates that every child is entitled to special measures of protection by his or her family, society and the State that are necessary, depending on the status of the child, under national and international law.
- ✚ The Law N° 27/2001 of 28 April 2001 contains provisions that protect children against violence: Sexual relations with children aged below 18 years are regarded as defilement. Forced marriage, the involvement of children in prostitution, drug trafficking and slavery are prohibited and punishable;
- ✚ The Law N°51/2001 on the labour Code stipulates that the child should not be employed in night work or in any work that is hard, and dangerous to its health.

According to Article 64 of the Labour Code, a Ministerial Order of the minister in charge of the prohibition of child labour determines categories of employment and work prohibited to children. The Code also provides, in its Articles 192 and 194, for sanctions against anyone who contravenes its provisions.

According to Article 5 of the Labour Code forced labour and compulsory is absolutely prohibited. By the term "Forced Labour", the law specifies any work or service required of an individual under threat of any sanction and by which the aforementioned individual did not offer his/her full consent";

✚ The Decree-Law of 19 November 1973 on the preservation of the morality of the youth prohibits the presence of any unmarried minor aged below 18 years in bars and drinking places, unless accompanied by his/her father, mother, guardian or person guarding the child to which it is entrusted.

Other provisions of this Decree-Law provide for punishments against the operator or owner of the bar. Repressive measures are also provided for against anyone, directly or indirectly, involved or induced or helped to the presence of the said minor in bars and alcohol drinking places.

The Decree-Law of 1973 finally stipulates that the operator of bar or the owner must hang at the entry of premises clearly visible, the text of the Decree-Law and a sign bearing the following words: "***Entry of unmarried minors aged below 18 years prohibited***" and provides for appropriate measures against the minor who contravenes this prohibition;

167. In 2003, the National Policy on Orphans and other Vulnerable Children was adopted. It recommends the protection of orphans and other vulnerable children.

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