

**ALTERNATIVE REPORT TO THE COMBINED 11TH, 12TH AND 13TH PERIODIC
REPORTS OF THE REPUBLIC OF RWANDA ON THE IMPLEMENTATION STATUS
OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS AND THE
INITIAL REPORT OF THE IMPLEMENTATION OF THE MAPUTO PROTOCOL**

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ABOUT GLIHD

GLIHD is a non-governmental organization that subscribes to the original principles enshrined in international human rights instruments. GLIHD's vision is to see the great lakes region where human rights are fairly respected and enjoyed. GLIHD's mission is to contribute to the respect and promotion of the rights of individuals and groups in keeping with international human rights framework and obligations of member states. GLIHD is engaged in public interest litigation with the purpose of creating national human rights jurisdiction to steer national policies on human rights.

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EXECUTIVE SUMMARY

Objective of the Report

The main objective of this report is to provide key findings on the status of implementation of the recommendations made by the African Commission on Human and Peoples' Rights (hereinafter the African Commission) to the Government of Rwanda in 2010 and the status of implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereinafter the Protocol on the Rights of Women). The Report highlights some commendable achievements made by the Government of Rwanda *vis a vis* the recommendations made by the African Commission. It also provides potential grounds for legal reforms, policy changes and other measures aimed at improving human rights situation in Rwanda.

Methodology

The drafting of this report was based on data collected from studies, national reports, interviews with some key informants (public and private institutions), national documents including; laws, policies and strategic plans.

Key Findings

The report notes progress made by the Government of Rwanda in implementing recommendations contained in the recommendations made by the African Commission to the Government of Rwanda as well as status of implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The report notes with appreciation, legal reform undertaken as well as the adoption of various policies, strategic plans and initiatives which have contributed to the improvement of human rights in Rwanda since 2010.

The report also highlights some concerns in some areas which require specific attention and thus suggests recommendations which would address the concerns raised.

Limitations of the Report

The report does not cover all the rights provided under the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Structure of the Report

The Report is divided into two major parts. Part one covers the status of implementation of the African Charter on Human and Peoples' Rights whereas Part Two covers the implementation status of the Protocol on the Rights of Women's Rights.

Both parts (one and two) analyse on one hand civil and political rights and social and economic rights on the other hand. Part one has a section dedicated on children rights.

Under each of the rights analyzed, the report commends progress made by the Government of Rwanda in the implementation of specific right under the African Charter on the Human and Peoples' Rights or the Protocol on the Rights of Women and raises concerns and lastly where applicable recommends the African Commission the next step to take when engaging with the Government of Rwanda in the upcoming session.

PART ONE: AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

CIVIL AND POLITICAL RIGHTS

Freedom from torture, inhumane and degrading treatment (article 5)

Positive developments

GLIHD commends the Government for adopting laws which prohibit torture, inhuman and degrading treatment. GLIHD takes note of the improvement of conditions in detention facilities in general.

GLIHD welcomes in particular the accession by the Government of Rwanda to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2015.

GLIHD notes positively the prohibition of torture, inhuman and degrading treatment under article 14 (2) of the Constitution of 2003 as revised in 2015 and article 30 of the Law No 34/2010 of 12/11/2010 on the establishment, functioning and organization of Rwanda Correctional Service.

GLIHD further welcomes the criminalization of torture under article 176 of the Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code. The previous code of 1977 did not criminalize torture.

GLIHD appreciates the explanation by the Ministry of Justice on the Government's willingness to put in place the National Protection Mechanism and the steps made so far. Accordingly to the Ministry of Justice the project was submitted to the Parliament.

Areas of concern

GLIHD is concerned with the following:

- *The delay in the establishment of the National Protection Mechanism*

The Government of Rwanda acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 30 June 2015 but has not established yet the National Prevention Mechanism as provided under article 17 of the optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that obliges States Parties to establish a national protection mechanism the latest within a year upon ratification.

- *Solitary confinement as a sentence for a long period*

Article 39(2) of the Penal Code provides: “The life imprisonment with special provisions is imprisonment which shall prevent a convicted person from being entitled to any kind of mercy, conditional release or the rehabilitation unless he /she has served at least twenty (20) years of imprisonment.” GLIHD is of the view that subjecting a convicted person to solitary confinement for a period not less than 20 years amounts to cruel treatment.¹

GLIHD welcomes the step made by the Government to submit to the Parliament a project of law proposing the removal of solitary confinement in the Penal Code.

- *Detention of children in conflict with law with adults in police stations.*

Interviews with some key informants revealed that children in conflict with the law are not separated from the adults in police stations.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Amend the penal law with the view of abolishing solitary confinement as a punishment (sentence)
- Expedite the establishment of a National Protection Mechanism.
- Separate children in conflicts with the law from adults in police stations.

¹ The United Nations Human Rights Committee held that prolonged solitary confinement of the detained or convicted person could amount to torture, inhuman, cruel punishment and degrading treatment. General Comment 20 on Article 7 of the International Covenant on Civil and Political Rights.

Liberty and security (article 6)

Positive developments

GLIHD notes positively article 24 of the Constitution of 2003 as revised in 2015 that guarantees the right to liberty and security of persons. GLIHD also welcomes the introduction of *habeas corpus* under article 91 of the Law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure. This is positive step as the previous law on criminal procedure did not provide for habeas corpus procedure.

Areas of concern

GLIHD is concerned with the following:

- *Detention of minors who are below the legal minimum age for criminal liability.*

Indeed, article 72 of Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code as well as article 198 of the Law N°30/2013 of 24/05/2013 relating to the code of criminal procedure which set the minimum age for criminal liability to 14 years² whereas article 198 (3) of the Law N° 30/2013 of 24/05/2013 relating to the code of criminal procedure provides for the detention of a minor aged between 12 and 14 for the purposes of investigation for period not exceeding 72 hours.³

- *Obligation imposed on appellant to request the date of hearing*

Article 186 (5) of the N°30/2013 of 24/05/2013 relating to the code of criminal procedure provides the cancelation or dismissal of appeal if the appellant fails to appear without valid reason or to request for the setting of the date of hearing within six (6) months of the filing of the appeal. The legal consequence of the dismissal of an appeal is the confirmation of the conviction of the previous judgment. A conviction by a previous court or tribunal would be upheld on solely on the ground that the appellant failed to request a date of hearing for his or her appeal. GLIHD

² Article 198 (1) of the law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure reads: "A minor aged below fourteen (14) years shall not be subject to prosecution."

³ Article 198 (3) of law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure reads : "due to exceptional reasons, a minor aged between twelve (12) and fourteen (14) years for whom there are serious grounds for believing that he/she committed an offence, may, for the purposes of investigation, be held in judicial police custody for a period not exceeding seventy two (72) hours but solely when the offense committed is punishable with imprisonment of at least five (5) years. "

is of the view that blame for failure to set the date of an appeal hearing should be put on the court or tribunal registry and not the appellant.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Repeal paragraph 3 of article 198 of the law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure to ensure the absolute prohibition of arrest and detention of any minor aged below 14 years regardless the nature of the crimes alleged.
- Amend article 186 (5) of the N° 30/2013 of 24/05/2013 relating to the code of criminal procedure to remove the obligation of an appellant to request the date of hearing. Setting the date of hearing should be the sole duty of the court or tribunal registry.

Fair trial (article 7)

Positive developments

GLIHD notes with appreciation the guarantee of a right to due process under article 29 of the Constitution of 2003 as revised in 2015. GLIHD welcomes the enactment of the various laws which guarantee the right to a legal counsel. GLIHD also welcomes the adoption of a legal aid policy. GLIHD also notes with appreciation the establishment of MAJ (*Maison d'Acces a la Justice*) at the District level with the mandate of providing legal aid to the citizens.

GLIHD further welcomes the establishment of electronic filing system as it enables legal practitioners (lawyers) in saving times from moving from their offices to the court or tribunal registry to file cases or petitions.

Areas of concern

GLIHD is concerned with the following:

- *Costs related to electronic filing system and potential breach of confidentiality.*

Interviews with key informants revealed that the majority of ordinary citizens are not conversant with the electronic case filing system and therefore have to pay money in order to get their

documents typed, scanned and electronically filed. In addition to the filing, they have to have an open email address in order to be informed on the status of their application. This is a challenge to ordinary people who do not regularly check their emails. Furthermore, the typing of a court petition in a cyber café by a third person breaches the confidentiality of the court petition as the scanned court petition remains in the computer of the owner of the cyber café.

- *Lack of systematic information on the right to a free legal counsel for pre-trial detainees*

Interviews with key informants revealed that detainees are not systematically informed on their rights to a free legal counsel in case they cannot afford the fees. In practice they are only asked if they have a legal counsel. Most of detainees become aware of free legal aid at the Supreme Court level being the highest court of the land as the law on the Supreme Court makes legal representation mandatory.

- *Limitation of access to justice to people with disability*

Interviews with key informants revealed that people with hearing impairment face challenges in terms of access to justice as actors in the justice actors are not conversant with sign languages.

- *Delay in the implementation plan of the national legal aid policy*

The implementation plan of the National Legal Aid Policy suggested the enactment of the Legal Aid Services Law which would set up criteria for a means test and a merit test by the year 2015. The Legal Aid Services Law has not yet been enacted.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Intensify community outreach programmes to raise awareness on the use of electronic filling system
- Add more cyber café operators in the community, train them on the confidentiality nature of the cases they handle on behalf of citizens and have them take oath before they undertake their responsibility.
- Train MAJ officers and Police Judicial Officers on sign languages

- Step up efforts in raising awareness on legal aid among the general population
- Expedite the enactment of the Legal Aid Service Bill

Right to information and freedom of expression (article 9)

Positive developments

GLIHD welcomes article 38 of the Constitution of 2003 as revised in 2015 that guarantees the right to information and freedom of expression. GLIHD also welcomes the enactment of the Law N° 04/2013 of 08/02/2013 relating to access to information.

Areas of concern

GLIHD is concerned with the following:

- *Criminalization of defamation under the penal code (article 276).*

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Decriminalize defamation.

Freedom of assembly (article 11)

Positive development

GLIHD welcomes the guarantee to the right to freedom of assembly as provided under article 40 of the Constitution of 2003 as revised in 2015.

Area of concern

GLIHD is concerned with legal restrictions on the enjoyment to freedom of assembly as article 20 of the Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians that requires political parties wishing to hold a demonstration to inform and request authorization of the relevant administrative authorities at least five working days before the event can take place.

Recommendation

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Amend article 20 of the Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians with the view of removing the obligation imposed on Political Parties to request authorization from the relevant administrative authorities at least five working days before holding demonstrations.

SOCIAL AND ECONOMIC RIGHTS

Right to health (article 16)

GLIHD commends the Government of Rwanda for adopting various laws and policies which protect the right to health. The positive pieces of legislation include, the Constitution of 2003 as revised in 2015 (article 21), the Law N° 34/2010 of 12/11 on the establishment, functioning and organization of Rwanda Correctional service (article 39). ; The Law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child (article 41) and the Law n° 01/2007 of 20/01/2007 relating to protection of disabled persons in (article 14).

GLIHD particularly welcomes the enactment of the Law No 49/2012 of 22/01/2013 on medical professional liability insurance that contains a set of rights which can be considered as patient rights charter. The Law No 49/2012 of 22/01/2013 on medical professional liability insurance prohibits any form of discrimination in terms of access to consultation and healthcare services as well as other paramedical procedures (article 4) and the right to free choice of a health professional (article 6).

Areas of concerns

- *Limitation to access to healthcare services*

Article 11 of the Law No 49/2012 on medical professional liability insurance does not allow minors to seek healthcare services without the prior consent of their parents or legal guardians.

- *Disparity in geographic distribution of human resources*

Interviews with some key informants revealed unequal distribution of human resources in health facilities whereby most qualified health professionals are in urban areas

- *Exclusion of prostheses and other devices in the Mutual Health Insurance*

Interviews with key informants revealed that the national mutual health insurance scheme (*Mutuelle de Santé*) under which the majority of the population has subscribed to does not cover prostheses and other devices for people with physical disability.

Recommendations

Amend article 20 of the Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians with the view of removing the obligation imposed on Political Parties to request authorization from the relevant administrative authorities at least five working days before holding demonstrations.

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Reduce disparity on the geographic distribution of human resources in the health sector.
- Include prostheses and other devices for people with physical disability in the national health insurance scheme

Right to education (article 17)

Positive developments

GLIHD positively notes progress made in the realization of the right to education through the enactment of laws and adoption of policies.

GLIHD commends the Government of Rwanda for the increased enrolment in schools as illustrated by the Statistics from Ministry of Education that the number of pupils in primary schools increased from **2,399,439** in the year 2014 to **2,450,705** in the Year 2015.⁴

Areas of concern

GLIHD is concerned with the following:

- *Decrease in primary school completion rate*

Statistics from Ministry of Education indicate that the completion rate in primary schools has decreased from 2011 to 2014 with **78.6%** in the year 2011; **72.7%** in the year 2012; **69.0%** in the year 2013; **61.3%** in the year 2014 and **60.4%** in the year 2015.⁵

⁴ Ministry of Education “2015 Educational Statistical Yearbook ”. Available at <http://www.mineduc.gov.rw/fileadmin/user_upload/Amatangazo/2015%20Education%20Statistical%20Yearbook_F.pdf> Accessed on 6 October 2016

⁵ Idem

- *Limitations on inclusive education*

Interviews with key informants revealed that 2 out of 6 colleges of the University of Rwanda have attempted to embrace inclusive education for students with visual impairment. The 2 colleges which practice inclusive education do not meet the needs of learners with visual impairments as the lecturers. The other 4 colleges do not have materials for students with visual impairment.

- *Costs related to education*

Interviews with some key informants revealed challenges faced by poor families in meeting costs related to education such as uniforms, books and incentives (top up) for teachers. Education related costs preclude children from poor families from fully enjoying the right to free education.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Conduct an in-depth research on root causes of the school completion rate decline the view of increasing primary school completion rate
- Carry out a needs assessment on colleges which have expanded education to students with visual impairment.
- Avail materials and devices for students with visual impairment to all colleges of the University of Rwanda and also train the lecturers on the specific needs of students with visual impairment.
- Increase efforts to ensure that other education related costs are covered to poor families which cannot afford them.

CHILDREN RIGHTS (article 18)

Positive developments

GLIHD commends the Government of Rwanda for adopting various laws and policies which promote and protect the rights of the child, namely the Constitution (article 18), the Law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child and the Integrated Child Rights Policy and the law N° 32/2016 of 28/08/2016 governing persons and family. This law has made easy the registration process by extending the period of registration and included hospital as a point of registration. The law also obligates director of prisons to register the birth of the child born in the prison of which he/she is director.

GLIHD notes the adoption of various initiatives aimed at reducing child mortality, child malnutrition.

Areas of concern

- *Birth registration*

Interviews with some key informants revealed parents mindset and penalties for late birth registration among the reasons for the low birth registration.

- *Lack of follow up mechanisms in foster families and street children from rehabilitation centres*

Interviews with some key informants revealed that there is no follow up mechanism for orphans in foster families. The interviews also reveal that there is no follow up mechanism from street children when they return to their families from rehabilitation centres. Lastly, potential foster families are reluctant to accept children with disabilities into their families.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Conduct a countrywide special campaign on birth registration to enable the registration of children who were not previously registered.
- Conduct public awareness about the newly adopted law governing persons and family particularly the provisions regarding births records.
- Establish a follow up mechanisms in foster families and street children from rehabilitation centres with the view of ensuring children in foster families are not subjected to mistreatment.

- Establish follow up mechanisms to ensure that street children are successfully rehabilitated in the family and community once they are from rehabilitation centres.
- Develop a strategy that takes into consideration the specific needs of children from historically marginalized populations.

PART TWO: PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHT ON THE RIGHTS OF WOMEN IN AFRICA

This Part assesses the status of implementation of the Protocol to Women's Rights.

CIVIL AND POLITICAL RIGHTS

4.1. Rights to Life, Integrity and Security of the Person (article 4)

4.1.2. Positive Development

GLIHD notes positively that the Organic Law N° 01/2012/ of 02/05/2012 instituting the penal code which criminalizes rape as well as marital rape.

GLIHD notes with appreciation the adoption of various policies and strategic plans such as the National Policy against Gender Based Violence (2011), the National Strategic Plan for Fighting against Gender Based Violence (2011-2016) and the Gender Policy (2010).

GLIHD notes with appreciation the establishment of gender desk in Rwanda National Police (RNP), The Rwanda Defense Forces (RDF), and the National Public Prosecution Authority (NPPA).

4.1.3. Areas of concern

- *Criminalization of victims of Gender Based Violence*

Article 36 of the Law N° 59/2008 of 10/09/2008 on prevention and punishment of gender-based violence provides for Penalty for a person refusing to assist the victim of violence or to testify over the violence Any person who refuses to assist the victim of violence or to testify over the violence against himself or herself or against someone else shall be liable to imprisonment of six (6) months to two (2) years and a fine between fifty thousand (50,000 Rwf) and two hundred thousand (200,000 Rwf) Rwandan francs or one of those penalties.

GLIHD holds the view that the victims of Gender Based Violence (GBV) who refuse to testify over violence perpetrated against them need psychological support instead of criminalization as the refusal might be influenced by various reasons.

- *Limited legal support to victims of Gender Based Violence*

The legal aid policy only provides legal representation to indigents and children. The status of GBV victim is not an eligibility criterion for free legal representation.

4.1.4. Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Amend article 36 of the Law N^o 59/2008 of 10/09/2008 on prevention and punishment of gender-based with the view of decriminalizing the refusal by victims of GBV to testify over violence perpetrated against them.
- Extend legal aid including free legal representation to victims of Gender Based Violence

4.2. Access to Justice and Equal Protection before the Law (Article 8 of the Protocol on Women’s Rights)

4.2.1. Positive developments

GLIHD notes the guarantee of equal protection and equality before the law under article 15 of the Constitution of Rwanda of 2003 as revised in 2015.

4.2.2. Areas of concern

GLIHD is concerned with the following:

- *Low representation of women in the judiciary*

Statistics from the National Institute of Statistics of Rwanda indicate a trend on decrease of female judges at the Supreme Court from **50 %** in the year 2012; **41.2 %** in the year 2013 and **37.5 %** in the year 2014.⁶

- *Low level of legal awareness*

Interviews with some key informants revealed that the majority of women are not aware on existing laws.

4.2.3. Recommendations

⁶ National Institute of Statistics of Rwanda “ Rwanda Statistical Yearbook 2015” Page 10

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Step up efforts in increasing the number of female judges in the Supreme Court
- Develop a legal literacy strategy with measurable indicators.

4.3. Participation in Political and Decision making process (Article 9 of the Protocol on Women's Rights)

4.3.1. Positive developments

GLIHD notes with satisfaction the Government of Rwanda's adoption of affirmative action under the Constitution .Article 10 (4) of the Constitution of 2003 as revised in 2015 guarantees among its fundamental principles equality of all Rwandans and between men and women which is affirmed by women occupying at least thirty percent (30%) of positions in decision-making organs. GLIHD also welcomes article 76 of the Constitution of 2003 as revised 2015 that provides that 24 out of 80 members of the Chamber of Deputies shall be women elected by specific electoral colleges in accordance with the national administrative entities. Finally, article 80 of the Constitution of Rwanda revised in 2015 provides that at least thirty percent (30%) of elected and appointed Senators must be women.

4.3.2. Areas of concern

GLIHD is concerned with the following:

- *Low representation of women in some local government positions*

Findings from the National Institutes of Statistics indicated that Women represented **10 %** of elected mayors, **16.7 %** of Vice Mayors in charge of economic Affairs.⁷

- *Gender stereotypes*

Interviews with some key informants revealed a stereotype on elective positions as elective positions in charge of family and social affairs are perceived to be exclusively for women

⁷ National Institute of Statistics of Rwanda "Rwanda Statistical Yearbook 2015" Page 10

4.3.3. Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to :

- Step up efforts in encouraging women to vie for the position of mayor with the view of increasing the number of women elected for the position of mayor.
- Step up effort to change the mindset of the general population to eradicate gender stereotype on elective positions.

SOCIAL AND ECONOMIC RIGHTS

Right to education and training (article 12)

Positive developments

GLIHD commends the Government of Rwanda for increasing the gross enrolment of girls in primary school.

Areas of concern

GLIHD is concerned with the following:

- *Low enrolment of girls in Technical and Vocational Education Training (TVET)*

Statistics from the Ministry of Education reveal that the participation of female trainees was still low compared to that of male, which was **7,913** and **13,024** in 2015 respectively.⁸

- *Decrease of female students in tertiary education*

Statistics from the Ministry of Education indicate that the number of Students in public higher institutions decreased from **34 %** in the year 2011; to **33.4%** in the Year 2012; **34.1%** in the year 2013; **32.8%** in the year 2014 and **31.9%** in the year 2015.⁹

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Step up efforts to increase the enrolment of girls in Technical and Vocational Education Training

⁸ Ministry of Education “ 2015 Education Statistical Yearbook “

⁹ Ministry of Education “2015 Education Statistical Yearbook” Page 76.

- Step up efforts to increase the number of female students in tertiary education

Right to economic and social welfare (article 13 of the Maputo Protocol)

Positive developments

GLIHD commends the Government of Rwanda for enacting laws which prohibit discrimination as the ground on issues related to labour such as the Constitution of 2003 as revised in 2015 that guarantees the right of All individuals, without any form of discrimination, to equal pay for equal work (article 30), the Law n° 13/2009 of 27/05/2009 regulating labour in Rwanda that prohibits all forms of discrimination (article 12).

GLIHD notes the adoption of various strategies ,policies and programmes which promote the right to economic and social welfare such as the *Economic Development and Poverty Reduction Strategy II 2013-2018* ; the *Small and Medium Enterprises (SMEs) Development Policy (2010)* ; *National Strategy for Community Development and Local Economic Development 2013-2018* and the *National Employment Program (NEP) - Kora Wigire*.

Areas of concern

GLIHD is concerned with the following:

- *Gender pay gap between men and women*

Findings from the National Institute of Statistics revealed that the average monthly income from employment of employees at main job was **49,371 RWF** for men and **32,713 RWF** for women, representing a gender pay gap of 33.7 %.¹⁰

- *Gender unemployment gap*

Findings from the Fourth Rwanda Population and Housing Census that in urban areas where the proportion of female household heads who are unemployed is twice higher with 3.1% and 5.5 % for men and women respectively.¹¹

¹⁰ National Institute of Statistics of Rwanda “Labour Force Survey-Pilot- 2016 “Page 27.

¹¹ National Institute of Statistics of Rwanda (NISR), Ministry of Finance and Economic Planning (MINECOFIN) [Rwanda], 2012. *Rwanda Fourth Population and Housing Census*. Thematic Report: Characteristics of households and housing. Page 22.

Recommendations

GLIHD calls upon the African Commission to recommend to the Government of Rwanda to:

- Step up efforts in closing the gender pay gap between men and women
- Step up efforts in closing the gender unemployment gap between men and women

Health and reproductive health rights (article 14 of the Protocol on Women’s Rights)

Positive developments

GLIHD welcomes the adoption of various policies that aim to promote and protect sexual and reproductive health such as the National School Health Policy (2014), the Family Planning Policy (2012) the National Gender Policy (2010), the Girl’s Education Policy (2008), the Reproductive health policy (2003), the Adolescent Sexual Reproductive Health and Rights Policy, the Health Policy (2004); the Rwanda Community Based Health Insurance Policy (2010) and the Rwanda National Health Insurance Policy (2010).

GLIHD commends the Government of Rwanda for enacting various laws which promote the realization of reproductive health such as the Law n° 21/05/2016 of 20/05/2016 relating to human reproductive health.

GLIHD welcomes the prohibition of discrimination on the ground of current, previous and future pregnancy by the Law N°13/2009 of 27/05/2009 regulating labour (article 12).

GLIHD positively notes article 239 of the Penal Code criminalises the denial of freedom to practice family planning.

GLIHD commends the Government of Rwanda for reducing maternal mortality rate. According to the latest Rwanda Demographic Health Survey (RDHS) 2014-2015, maternal mortality ratio 210 compared to the previous ratio of 476 per 100,000 as indicated in RDHS 2010.¹²

¹² National Institute of Statistics “Demographic Health Survey 201-2015: Key Findings “.Available at <<http://www.statistics.gov.rw/publications/demographics-and-health-survey-dhs-20142015-key-findings>> Accessed on 7 October 2015.

Areas of concern

GLIHD is concerned with the following:

- *Mandatory HIV Testing*

Article 10 (20) of the Law n° 21/05/2016 of 20/05/2016 relating to human reproductive health provides: “No person shall undergo unconsented HIV/AIDS testing. However, mandatory testing may be required upon request by competent organs in accordance with law.” The Law does neither define the “competent organs” nor explain under which circumstances the “competent organs” can compel an individual to undergo HIV Testing.

- *Legal barriers*

Legal requirement imposed on women who seek abortion as a result of rape, incest and forced marriage to obtain a court order (article 165 of the Penal Code). The legal procedure makes it difficult for women to seek abortion on ground of incest, rape and forced marriage as the issuance of a court order is subject to the conviction of the suspect and such conviction cannot happen in a very short period of time.

The Penal Code has failed to include pregnancy resulting from child defilement among the ground for a legal abortion.

Abortion on medical ground is made difficult by the medical doctor authorization (article 166 of the Penal Code). Access to abortion on medical ground becomes more difficult for women the limited number of available medical doctors based on the ratio of 1 doctor per 15,806 patients.¹³ Lastly, the health centres where the majority women go for the ante-natal consultations and thereafter delivery cannot carry out abortion since they do not have medical doctors and thus women seeking abortion on medical ground have to visit district hospitals which are not nearer to them compared to health centres.

- *Persistent cultural myths and misconceptions on contraceptive*

Interviews with key informants revealed that myths and misconception on family planning continue to be an obstacle in terms of access to reproductive health services in rural areas.

Interviews with some key informants also revealed that taboo surrounding sexuality prevents girls and single women from accessing contraceptives

¹³ National Institute of Statistics “Statistical Yearbook 2014”.

Recommendations

GLIHDS calls upon the African Commission to recommend to the Government of Rwanda to:

- Repeal paragraph 2 of article 10 of the Law n° 21/05/2016 of 20/05/2016 relating to human reproductive health with the view of prohibiting mandatory HIV testing.
- Remove the issuance of court order as one of the conditions to carry out abortion in case of rape, incest or forced marriage
- Include pregnancy as result of child defilement among the grounds for abortion
- Remove the doctor authorization and thus train mid-level health providers to enable them perform abortion.
- Increase awareness campaigns on sexual and reproductive health

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LAWS

1. The Constitution of 2003 as revised in 2015 Organic Law N° 01/2012/OL of 02/05/2012 instituting the Penal Code.
2. Law n° 21/05/2016 of 20/05/2016 relating to human reproductive health
3. Law No 49/2012 of 22/01/2013 on medical professional liability insurance that contains a set of rights which can be considered as patient rights charter.
4. Law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure.
5. Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians
6. Law N° 04/2013 of 08/02/2013 relating to access to information.
7. Law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child
8. Law No 34/2010 of 12/11/2010 on the establishment, functioning and organization of Rwanda Correctional Service.
9. Law N°13/2009 of 27/05/2009 regulating labour
10. Law N° 59/2008 of 10/09/2008 on prevention and punishment of gender-based violence
11. Law n° 01/2007 of 20/01/2007 relating to protection of disabled persons
12. Law N°32/2016 of 28/08/2016 governing persons and family

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