



ALTERNATIVE REPORT:  
INTERNATIONAL  
CONVENTION ON THE  
RIGHTS OF THE CHILD (CRC)

Rwanda



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## LIST OF ACRONYMS AND ABBREVIATIONS

- **CRC** : Convention on the Rights of the Child
- **CRVS** : Civil Registration and Vital Statistics
  
- **DHS** : Demographic and Health Survey
- **ECD** : Early Childhood Development Policy, the Integrated Child Rights Policy
  
- **GLIHD** : Great Lakes Initiative for Human Rights and Development
  
- **HMIS** : Health Management Information System
  
- **LAF** : Legal Aid Forum
  
- **MIGEPROF** : Ministry of Gender and Family Promotion
  
- **MINEDUC** : Ministry of Education
  
- **NCC** : National Commission for Children

## I. Executive Summary

1. The Government of Rwanda ratified the United Nations Convention on the Rights of the Child (CRC) on September 19, 1991 by the Presidential Order n°773/16 of September 19, 1991. Through ratification, the Government of Rwanda committed itself to protect, respect and fulfill rights set out in the CRC for all children within Rwandan territory or jurisdiction.
2. While article 43 of the CRC entrusts the CRC Committee with the mandate of monitoring the States parties' progress with regard to international obligations on children's human rights<sup>1</sup>, article 44 of the CRC sets up the periodic reporting mechanisms<sup>2</sup> as a way to evaluate the progress made by the State parties in implementing the CRC and related protocols in their respective domestic legal frameworks.
3. It is in this regard that the Government of Rwanda is expected to submit its combined fifth and sixth periodic report by 22 February 2018.<sup>3</sup>

## II. Objective of the Report

4. This shadow report has been prepared by GLIHD in anticipation of the submission by the Government of Rwanda of the combined fifth and sixth periodic report on the CRC.
5. The purpose of the report is to provide key findings on the implementation status of the Convention on the Rights of Child (CRC) and its two related Optional protocols ratified by Rwanda. In doing so, much focus was put on the implementation by the Government of Rwanda of the Committee's concluding observations issued in 2013 during the 1815th meeting, while considering the Rwandan combined third and fourth periodic report. This shadow report

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<sup>1</sup> As defined in the CRC and its related two Optional Protocols, namely:

- The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornographic, ratified by Rwanda on February 26, 2002 by Presidential Order n°32/1 of February 26, 2002 and,
- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict ratified by Rwanda on February 26, 2002 by Presidential Order n°32/01 of February 26, 2002.

<sup>2</sup> "State party must submit an initial report to the committee two years after it ratifies the CRC and it enters into force in the respective State, and then every five years thereafter".

<sup>3</sup> Concluding observations on the third and fourth periodic reports of Rwanda, adopted by the Committee in its sixty third session (27 May–14 June 2013), note 69, p. 19.

emphasizes particularly: the respect of child views in all child-related decisions; prohibition of corporal punishment; inclusive education for children with disabilities; child labour; administration of juvenile justice as well as awareness of the CRC committee concluding recommendations among the Rwandan population.

### **III. Methodology**

6. This shadow report is a result of qualitative data collected through desk top review and key informant interviews.

#### **A. Desk top review**

7. Through desktop review, the team of consultants reviewed various documents and records so as to obtain information relevant for the themes under this report as well as identifying information gaps.

#### **B. Key Informant Interviews**

8. In order to generate preliminary qualitative information related to the issues of respect and implementation of child rights in Rwanda in general and compliance of the CRC committee concluding observations in particular, key informant interviews were held with relevant persons from public and private institutions knowledgeable about the status of child rights in Rwanda, including representatives of the National Commission for children, the National Non Governmental Organization for the Defense of Women and Children's Rights (HAGURUKA), Handicap International, Ministry of Education (MINEDUC), Legal Aid Forum (LAF), and school headmasters.

## IV. Key findings

### A. General measures of implementation: Recognition of Rwandan Government achievements

9. GLIHD recognizes positive efforts by the Government of Rwanda in the promotion and protection of the rights of children. GLIDH acknowledges that Rwanda was among the first countries in the world to sign the Convention on the Rights of the Child, ratified on 19 September 1990. The two optional protocols on children in armed conflict and the sale of children; child prostitution and child pornography were then ratified in 2002. Child rights were further strengthened through the signature of The African Charter on the Rights and Welfare of the Child in 1991.
10. The ratification of the above mentioned international conventions and optional protocols as well as significant child-sensitive policies and strategic plans (such as the Orphans and Vulnerable Children Strategic Plan (2007), the Social Protection Policy (2012), the Strategy for National Child Care Reform (2012), the Justice for Children Policy, the National HIV/ AIDS strategy (2014) ,the Early Childhood Development Policy, and the Integrated Child Rights Policy [ECD] (2016), all reflect the political will of the Government of Rwanda to place children’s rights at the forefront of its national agenda.
11. Moreover, there is currently a strong protective legal framework for children in Rwanda. This has been further enhanced by the recent promulgation of the law n°27/2016 of 08/07/2016 governing matrimonial regimes, donations and successions<sup>4</sup> , and the adoption of Ministerial Order n° 001/2016 of 08/01/2016 providing sanctions against parents who do not send their children to school and against other persons who employ children in work preventing them from going to or encouraging them to drop out of school.
12. Additionally, the establishment of the Ministry of Gender and Family Promotion (MIGEPROF) as a leading national machinery to promote children’s rights throughout the country and the creation of the National Commission for

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<sup>4</sup> Its article 54 stipulates that legitimate children of the *de cuius* succeed in equal portions without any discrimination between male and female children.

Children (NCC), an independent organ under MIGEPROF as well as the establishment of the Child Right's Observatory by the National Commission of Human Rights create an institutional framework for the realization of child rights.

13. Nevertheless, despite the above mentioned child-related legal, policy and institutional frameworks established by the Government of Rwanda, children in Rwanda still face problems in enjoying their rights as provided by the CRC and related optional protocols . In this regard, GLIHD calls upon the Government to address issues of violation of child rights discussed in the following sections.

## **B. Consideration of CRC recommendations**

### **a. Availability of updated data on children in vulnerable situations**

14. The CRC Committee recommended that the government of Rwanda put in place a system of data collection that ensures the availability of updated figures of children in the most vulnerable situations such as children heading their own households, children with disabilities, children affected by HIV/AIDS and those from the Batwa community.
15. In this regard, a survey conducted by GLIHD did not find any such system. The only publicly available data is provided by NGOs working with children in the above mentioned categories and even so, in most cases the data available is not sufficient.

### **b. Effective monitoring mechanisms ensuring consistency in implementing child related laws at all levels (National, Provincial, District and Sector)**

16. Whereas the Government of Rwanda is to be commended for the creation of an institutional framework to safeguard the rights of the child such as the establishment of a specific ministry (MIGEPROF) and a National Commission for Children (NCC) in charge of promoting and protecting the rights of children in Rwanda at the national level; as well as an Observatory of Child Rights at the district level<sup>5</sup>, GLIHD found the Observatory of Child Rights ineffective in respect to its mission. The observatory is responsible for monitoring the respect of child

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<sup>5</sup> Established within the National Commission for Human Rights, throughout the country at the level of all districts pursuant to article 6(4) of the law n° 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights (NCHR).

rights, providing updated information of the situation of child rights, preventing and fighting against child rights violation and advocating for the respect of those rights. However, GLIHD found that the observative is reliant on the work of volunteers who have no tangible forms of incentives. This state of affairs has a serious impact on the effectiveness of the monitoring mechanisms in place to ensure an effective and consistent implementation of child related laws.

17. In order to secure its independence and ability to effectively monitor children's rights in sectoral entities and among all provinces, districts and sectors, GLIHD believes that adequate human, technical and financial resources should be provided to the Child Rights Observatory so that it is not dependent on voluntary work as is the case now.

**c. Civil rights and freedom**

**i. Child registration**

18. An effective and efficient birth registration system is critical both as a fundamental right and as a strong device for promoting the wellbeing of children and their protection against all forms of violence and deprivation. Child registration immediately after birth guarantees the rights from birth to a name, nationality, family relations and all related privileges.
19. According to the recent Demographic and Health Survey [DHS] (2014-2015) 91% of children in Rwanda are born in health facilities. Of these children, only 50% are registered into CRVS (152,163)<sup>6</sup> and further, only 50% of these are registered into the sector Civil Registry and therefore eligible for Birth Certificates. In other words only a quarter (¼) of children born at health facilities is registered in Rwanda.<sup>7</sup>
20. GLIHD realized that this low registration rate is basically due to the lack of harmonization of Health Management Information System (HMIS) with Civil Registration and Vital Statistics (CRVS), coupled with the lack of knowledge by the parents on the legal process related to child registration.

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<sup>6</sup> CVRS Annual Progress report 2015, p.7

<sup>7</sup> WORLD VISION – RWANDA, Technical Analysis of Birth Registration in Rwanda: Status of child registration and possible action, Final Report, October 2016, p. 8.



21. Therefore, while appreciating the government of Rwanda efforts to sensitize the population on the benefits of civil registration by encouraging the parents to register their children on time through a one-month campaign organized in November 2016 across the country, and the amendment of the old law governing persons and family which was not gender sensitive in matters of child registration as it required the presence of the father as prerequisite for the registration of the child; GLIHD regrets that child registration in the civil status books is still low due to the lack of an effective system of birth registration. GLIHD believes that birth registration at the health center level can be a lasting solution to the low rate of child registration in Rwanda.

**ii. Respect for the views of the child (Children participation)**

22. The CRC committee recommended that the government of Rwanda make sure that children are heard in all child-related decisions. In this regard, GLIHD noticed that in most of the administrative or judicial decisions against children, little consideration is given to children views and concerns. This is for instance the case in divorce cases on matters related to child custody, where article 243 (1) of the Law N°32/2016 of 28/08/2016 governing persons and family provides that “custody of children is awarded to the spouse having obtained the divorce ...” Pursuant to this article, courts have ‘automatically’ granted child custody to the winning spouse regardless of the views of any concerned children who might have been of age to have an opinion on their custody.

23. In this regard, GLIHD recommends that in cases where children rights are at stake, their participation through expression of their views and concerns and the application of the best interest of the child principles should be the rule in all child-related decisions.

**iii. Sexual exploitation and abuse (teenage pregnancy)**

24. The CRC committee also recommended that the Government of Rwanda develop a comprehensive national strategy to prevent and address all forms of violence against children. The 2014/2015 Demographic and Health survey<sup>8</sup> showed that teenage pregnancy rates in Rwanda increased from 6.1 per cent in

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<sup>8</sup> National Institute of Statistics of Rwanda (NISR), Rwanda Demographic and Health Survey 2014/2015, June 2015,

2010 to 7.3 per cent in 2015. In its survey, GLIHD found that girls (in or out of schools) suffer from sexual exploitation that leads to an increase in teenage pregnancy in Rwanda.

25. GLIHD observed that one of the main causes of the increase in teenage pregnancy in Rwanda is the lack of sex education from parents and teachers. Sex education is not given enough time and attention. As a result, children get most of the information on sexuality from social media networks, television and in many cases from their peers who are not necessarily well informed.

**d. Family environment and alternative care**

*i. Inclusive education for children with disabilities*

26. The CRC committee also recommended that the Government of Rwanda ensure that children with disabilities have equal access to adequate social and health services, including among others inclusive education.
27. GLIHD recognizes that the government of Rwanda has not only put in place a strong legal<sup>9</sup> and policy framework ensuring the rights of people with disabilities but also demonstrated strong support for the education of children with disabilities and those with special needs.<sup>10</sup>
28. However, notwithstanding the clear intention of the Government of Rwanda to make all schools inclusive for children with disabilities, GLIHD identified the following reasons as hampering the Government's efforts in this area:
  - Lack of a formal identification system for children with disabilities able to provide actual figures of children according to their hearing, visual, physical, intellectual, speaking and other multiple impairments;
  - Lack of a formal monitoring system for inclusive policies in schools.

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<sup>9</sup> Law Number 01/2007 of 20/01/2007, relating to Protection of Disabled Persons in General, Ministerial order n° 01/2009 of 19/6/2009 determining the modalities of facilitating persons with disabilities to practice and follow cultural, entertainment and sports activities, *Ministerial Order N° 20/18 Of 27/7/2009 Determining The Modalities Of Classifying Persons With Disabilities Into Basic Categories Based On The Degree Of Disability*, Ministerial order n°02/cab.m/09 of 27/7/2009 determining the modalities of facilitating persons with disabilities on necessary travels within the country, Law No23/2012 of 15/06/2012 Governing the Organization and Functioning of Nursery, Primary and Secondary Education,

<sup>10</sup> Special Needs and Inclusive Education Policy (2007), The Education Sector Strategic Plan (ESSP) 2013/14–2017/18, The Economic Development and Poverty Reduction Strategy II 2013–2018, etc...

- Inclusive schools tend to focus on including children with a relatively low-degree of disability;
- The special schools and centers are not evenly spread throughout Rwanda and are insufficient in number to accommodate all children with disabilities;
- No consistent government funding system to special schools, which are generally excluded when resources are made available to schools, for instance in the one laptop per child programme;
- Inclusive schools are few in number and not evenly spread out;
- Shortage of specialists to support children with disabilities in schools;
- Neither incentives for schools to accept children with disabilities nor penalties for excluding children with disabilities from normal schools;
- Most existing school' buildings are inaccessible, thus not disability friendly.

29. The CRC also recommended that the Government of Rwanda repeal article 42 of the law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child. This law stipulates that “A Child with a special physical or mental disability shall be placed in special institution for care and treatment”. The government should ensure that the placement of children with disabilities in institutions is used only as a measure of last resort, when it is absolutely necessary and in the best interests of the child. GLIHD regrets that the Government of Rwanda has not yet complied with the above recommendation by the CRC committee.

#### *ii. Corporal punishment*

30. The CRC committee recommended that the Government of Rwanda repeal the Civil Code of 1988 which recognized a “right of correction” to parents under its

article 347 and to explicitly prohibit corporal punishment of children in alternative care settings.

31. In this regard, law N° 32/2016 of 28/08/2016 governing persons and family was passed in August 2016 repealing the 1988 Civil Code, which had recognized a “right of correction” for parents under its article 347. However, it is regrettable that although the new Law does not mention the “right of correction”, it does not explicitly repeal it nor does it explicitly prohibit corporal punishment.
32. Likewise, GLIHD found that, even though article 25 of the law N°54/2011 of 14/12/2011 relating to the rights and protection of the child states that parents should reprimand a child with humanity and dignity and must not “traumatize” the child and provides for a ministerial order specifying ‘non-violent disciplinary punishments, care and treatments for the child’, it does not prohibit corporal punishments.
33. Similarly, GLIHD observed that the Penal Code of 2012 does not explicitly prohibit all corporal punishment (however light), even if it punishes “any person who inflicts severe suffering on a child, harassing or imposing severe or degrading punishments on him/her” (art. 218) and includes a number of provisions relating to assault and battery (arts. 148-152).
34. Therefore, GLIHD believes that this apparent repeal of the “right of correction” by law N°. 32/2016 of 28/08/2016, and the right of parents to reprimand a child with humanity and dignity provided for under article 25 the law N°54/2011 of 14/12/2011, as well as the punishment of severe suffering inflicted on a child provided for by the 2012 penal code do not achieve a full ban of all corporal punishment. The Penal Code of 2012 and law N°54/2011 of 14/12/2011 only protect children from corporal punishment of some severity as they only offer legal protection from “severe” and “excessive” corporal punishment.

#### **e. Education**

35. The CRC committee also recommended that the Government of Rwanda takes immediate measures to eliminate all types of hidden educational costs in the school system to ensure unhindered and equal access to education for all children.
36. On this, even though the government's policy on basic education is based on fee-free principle, GLIHD found out that, in some schools, there is a disguised fee that is requested for every student and in some schools; failure to pay such fee is sanctioned by expulsion from school.
37. In addition, the CRC recommended that the Government of Rwanda undertake studies to identify the root causes and extent of school dropouts, especially for boys, and implement effective measures to address the identified issues.
38. Here, GLIHD noticed that, while school dropout is a reality in Rwanda, no study has been carried out by the Government of Rwanda to determine the causes of school dropout and thus, no mechanism is in place to address this issue. Nevertheless, some causes such as poor living conditions, conflicts among family members and child labour have been referred to in media as being responsible for school dropouts.

**f. Special protection measures**

*i. Child labour*

39. The CRC recommended that the government of Rwanda intensify efforts to investigate and prosecute individuals involved in the worst forms of child labour.
40. While the Government of Rwanda, in response to that, has established the National Policy for Elimination of Child Labor and created a conducive environment for the prevention and progressive elimination of child labor, GLIHD realized that no concrete actions have flowed from this policy.
41. GLIHD also observed that, despite the large number of children involved in domestic, agriculture and mining labour, the rate of investigation and prosecution of child labour cases is still low and ineffective in combating child labour in Rwanda.

**ii. Administration of juvenile justice**

42. The CRC recommended that the Government of Rwanda permanently close all unofficial places of detention, including the detention center at Gikondo and stop the arbitrary detention of children in need of protection.
43. In this regard transit or rehabilitation centers have been established at district level for the rehabilitation of street children. However, these centers lack a clear and consistent operational legal framework and this makes the detention of children in the centers illegal. There is therefore a need to establish a legal framework governing the transit and rehabilitation centers in order to prevent arbitrary detention, ill - treatment and other abuses that may result from lack of legal framework.
44. GLIHD acknowledges the establishment of a special prison for children in NYAGATARE where all children serve their final sentence but regrets that child offenders whose cases are still pending before the courts are in most cases held with adults.
45. Furthermore, it appears that there is a contradiction between the current law on criminal procedure in Rwanda that leads to the detention of a child who is not criminally liable. The contradiction appears in article 198 of the Law N° 30/2013 of 24/5/2013 related to the code of criminal procedure which in the first paragraph sets the criminal liability age from 14 years while in its third paragraph it permits the detention of a minor aged between twelve (12) and fourteen (14) years when there are serious grounds for believing that he/she committed an offence punishable with at least five (5) years of imprisonment.
46. Further, and despite a formal legal obligation established by article 199 of the Law N° 30/2013 of 24/5/2013 relating to the code of criminal procedure for every judicial Police Officer and Prosecutor to gather all evidence concerning all the aspects of the minor's life, including their character and history, educational background, and conditions in which they have been raised, GLIHD noted that in most criminal cases involving minors such evidences are neither collected nor considered by the courts when taking decisions against offending minors.
47. Further, despite the legal obligation for the specialized chamber for minors to adjudicate the case after hearing, among others, the parents, guardian or custodian of the offending child, GLIHD found out that none of them were

summoned by the court. In most of criminal cases against child offenders, court decisions are taken without hearing the persons exercising parenthood authority.

48. The CRC Committee also recommended that the government of Rwanda take all measures to establish separate children's courts at the High Court and the lower courts, and in the meantime extend specialized juvenile chambers to both lower court and High Court levels. This has not been complied with in its entirety.

**g. Follow-up and dissemination**

49. The CRC Committee recommended that the Government of Rwanda widely avail the third and fourth periodic reports and written replies by the State party and related recommendations (concluding observations) in the languages of the country (Kinyarwanda) in order to generate debate and awareness of the Convention and its Optional Protocols and their implementation and monitoring. Again, this recommendation has not been complied with.

## V. Recommendations

50. Whilst acknowledging the significant efforts made by the government of Rwanda in meeting its obligations under the CRC and its two optional protocols, GLIHD recommends that the Government addresses the following issues which continue to undermine its efforts:
51. The continued lack of a data collection system capable of providing accurate and updated figures on vulnerable children is a serious impediment to any other efforts aimed at securing their rights. Such a system is of paramount importance and the government should take all necessary measures to ensure one is in place.
52. The Government of Rwanda should empower the Child Rights Observatory established by the National Commission of Human Rights at district level by providing it with the adequate human, technical and financial resources necessary to accomplish its mission. The Child Rights Observatory should not rely on voluntary work only to accomplish its mission.

53. The Government of Rwanda should ensure that the child's views and concerns as well as the principle of child's best interest are respected by all public and private institutions dealing with matters involving children. The child's views and concerns as well as the primacy of child's best interest principle should be the yardstick for the implementation of children rights.
54. The Government of Rwanda has an international obligation to explicitly prohibit corporal punishment. All legal provisions explicitly or implicitly allowing any form of corporal punishment such as those of the Penal Code of 2012 and law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child should be repealed.
55. The government of Rwanda should put in place an effective and efficient mechanism to combat teenage pregnancy. Within this framework, sex education should be promoted in schools and the culture allowing parents to arrange under-age marriages for their children should be discouraged.
56. The government of Rwanda should also remove all barriers to an inclusive education of children with disabilities. This should be done at the level of school infrastructure, school programmes, school logistics as well as school staff skills in teaching children with disabilities.
57. The government of Rwanda should repeal article 42 of the law N°54/2011 of 14/12/2011 relating to the rights and protection of the child that provides the automatic placement of child with a special physical or mental disability in a special institution without considering the best interest of the child.
58. The Government of Rwanda should establish a mechanism capable of monitoring the principle of fee-free basic education and fight against disguised school fees that prevent most of children from poor families from attending school.
59. The Government of Rwanda should enforce its National Policy for Elimination of Child Labour and put in place an effective mechanism of investigation and prosecution of child labour related offences.
60. The Government of Rwanda should establish an effective legal framework governing transit and rehabilitation centers in compliance with the international and national standards related to detention.



61. The Government of Rwanda should remove the contradiction within article 198 of the criminal procedure law that allows detention of a child aged between 12 and 14 years as a child of this age is not legally or criminally liable.
62. The Government of Rwanda should request all actors in juvenile justice system to comply with the legal obligation to hear persons with parenthood authority in all criminal cases involving children. Courts should also be required to consider in their judgement, all the aspects of the child's life including their character and history, educational background and school behaviour and conditions in which they have been raised.
63. The government of Rwanda should make efforts to establish separate children's courts at the High Court and the lower courts with judges specialized in juvenile justice.
64. The Government of Rwanda needs to raise awareness of its periodic reports on CRC and related ratified optional protocols as well as related concluding observations. As recommended by the CRC committee, the government of Rwanda should publish such reports and related concluding remarks in KINYARWANDA.