

ALTERNATIVE REPORT TO THE SECOND REVIEW OF RWANDA BY THE UPR WORKING GROUP OF THE HUMAN RIGHTS COUNCIL

Prepared and Submitted by Rwanda Civil Society
Coalition¹ on Universal Periodic Review

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Executive Summary

¹ The Rwanda Civil Society Coalition on UPR is made of: AMAHORO Newspaper, CHRD (Center for Human Rights and Development), GLIHD (Great Lakes Initiative for Human Rights and Development), Governance for Africa (GFA), HDI (Health Development Initiative), IMPAMO Newspaper, ISHEMA Newspaper, Maison de la Presse du Rwanda, PAX PRESS, RUGALI Newspaper, UMUSANZU Newspaper and some members of the LEGAL AID FORUM: AJAR (Association des Jeunes Avocats du Rwanda), ADEPE (Action pour le Développement du Peuple), ADL (Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques), AJPRODHO-JIJUKIRWA (Association de la Jeunesse pour la Promotion des Droits de l'Homme et du développement), ARDHO (Association Rwandaise pour la Défense des Droits de l'Homme), COPORWA (Communauté des Potiers du Rwanda), HAGURUKA NGO, HRFRA (Human Rights First Rwanda Association), INALAS (Inara Legal Aid Services), INILAK-LAC (Independent Institute of Lay Adventists of Kigali-Legal Aid Clinic), LIPRODHOR (Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme), The Network of Lawyers of Hope Rwanda, MDD (Maison de Droit), MPEDH (Mouvement des Peuples pour l'Education aux Droits Humains) and (NCR) Non Crime Rwanda.

Objectives of the Report

The main objective of this report is to provide key findings on the status of implementation of UPR previous recommendations accepted by the Government of Rwanda in 2011 during the first round of review by UPR Working Group (hereinafter the Working Group). The Report highlights some commendable achievements made by the Government of Rwanda *vis a vis* the UPR Recommendations made in 2011. 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 the report was based on data collected by Coalition members from studies, national reports, interviews, national documents including; laws, policies and strategic plans.

The process of collective construction in the drafting of the Report was marked by a series of discussions, workshops and consultative meetings that led to the final report, which was validated by Coalition members on 12 February 2015.

Key findings

The report acknowledges progress made by the Government of Rwanda in implementing the recommendations made in 2011.

Key findings highlighted in this report include Media Reform, Access to justice reform, and promotion of socio-economic rights.

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

Structure of the Report

The report is divided into 5 major parts. Part one covers freedoms, civil and political rights, part two covers social and economic rights, part three covers women and children's rights, part four covers new developments and part five covers general recommendations.

I. FREEDOMS, CIVIL AND POLITICAL RIGHTS

a. Freedoms of expression and opinion

The Coalition commends the Government of Rwanda for enacting Law N° 02/2013 of 08/02/2013 regulating Media. The new law on Media provides for media self regulation and also has removed some restrictions on the way media operates.

The Coalition commends the Government of Rwanda for granting licenses to private TV Stations. Currently, there are 5 Private TV Stations whereas in 2011 there was no single private TV station.

The Coalition is however concerned with article 4 (2) of the Law N° 02/2013 of 08/02/2013 regulating Media as it grants Rwanda Utilities Regulatory Authority (RURA) the power to regulate the audio and visual media. This article undermines media self-regulation as RURA regulates the contents of TV and Radio broadcast.

The Coalition is also concerned with RURA's decision to sub-contract other media houses such as Rwanda Broadcasting Agency (RBA) and Star Africa Media to distribute signals to private TV Stations as this can lead to unfair competition.

The Coalition is also concerned with the criminalization of defamation under article 288 of the Penal Code.

The Coalition is further concerned with the lack of prompt investigations by the Government of Rwanda on reports on some cases of intimidation faced by journalists.

Recommendations:

The Coalition calls upon the UPR Working Group to recommend the Government of Rwanda to:

- Amend article 4 (2) of the Media Law N° 02/2013 of 08/02/2013 to ensure that there is a clear distinction between the mandate and responsibilities of RURA and Rwanda Media Commission (RMC) by ensuring that RMC regulates the conduct of media practitioners in terms of broadcasting contents including the audio-visual media whereas RURA's responsibility shall be the regulation of the distribution of frequencies to the audio and visual media.
- Ensure that distribution of signals to Private TV Stations is done by RURA and not sub-contractors with the view of avoiding monopoly and unfair competition by media houses.
- Repeal article 288 of the Penal Code, which criminalizes defamation.
- To always initiate prompt investigations on alleged intimidations faced by journalists and prosecute individuals involved in the intimidation.

b. Freedoms of association and peaceful assembly

The Coalition commends the Government of Rwanda for enacting Law N°04/2012 of 17/02/2012 governing the organisation and functioning of national non-governmental organizations. The new law has given the mandate of registration of National Non-Government Organisation to a single entity, the Rwanda Governance Board.

The Coalition commends the Government of Rwanda for enacting Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians. This law has removed mandatory membership of political parties to the Forum of Political Parties.

The Coalition is concerned with 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. The law gives discretionary powers to the administrative powers to grant or refuse authorization.

The Coalition is further concerned with limited capacity building support that is given to political parties that are not members of the Forum of Political Parties.

The Coalition is concerned that the wording of article 30 of the Law N°04/2012 of 17/02/2012 governing the organization and the functioning of national non-governmental organizations that gives broad mandate to Rwanda Governance Board (RGB) to monitor the activities of NGOs which has sometimes led to undue interference in the functioning of NGOs.

The Coalition is concerned with article 38 of the Law N°04/2012 of 17/02/2012 which requires NGOs to inform administrative authorities and security organs if debates are anticipated in the general assembly meetings. The Coalition is of the view that general assembly meetings held without informing administrative authorities and security organs will therefore be construed as illegal and thus this article infringes on the independence of NGOs.

The Coalition is further concerned with the practice requiring prospective NGOs to secure recommendation letters from Districts where they intend to carry out their activities as a registration requirement. The Coalition is of the view that such requirement is challenging as obtaining such a letter is subject to the appreciation of the District and therefore this can preclude the NGO from being registered.

The Coalition is concerned with article 17 of the Law N°04/2012 of 17/02/2012 governing the organization and the functioning of national non-governmental organizations that requires NGOs to apply for a temporary permit valid for one year. The temporary permit undermines the credibility of some NGOs in their partnership activities with other organizations, as potential partners are reluctant to work with an NGO whose certificate of registration is temporary.

Recommendations:

The Coalition calls upon the UPR Working Group to call upon 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. Informing relevant authorities can be kept in the law.
- Extend capacity building support to political parties which are not members of the Forum of Political Parties.
- Amend article 30 of the Law N°04/2012 of 17/02/2012 governing the organization and the functioning of national non-governmental organizations with the view of defining clearly the scope of monitoring of activities of NGOs by Rwanda Governance Board.
- Amend the Law N°04/2012 of 17/02/2012 governing the organization and the functioning of national non-governmental organizations with the view of ensuring that a full registration is granted to an NGO meeting registration requirements.
- Repeal article 38 of the Law N°04/2012 of 17/02/2012 governing the organisation and the functioning of national non-governmental organizations which requires NGOs to inform the administrative authorities and security organs before holding their general assembly meetings.

c. Rights to a fair trial and access to justice

The Coalition commends the Government of Rwanda for enacting the Law N° 83/2013 of 11/09/2013 establishing Rwanda Bar Association and determining its organization and functioning, adopting the Legal Aid Policy, National Integrated Child Rights Policy² and the Strategic Plan for the National Integrated Child Rights Policy³, Justice for Children Policy⁴ which all provide for legal aid for the indigent as well as children.

The Coalition commends the Government for establishing Access to Justice Bureaus (*Maison d'Acces a La Justice*) at District Level to provide legal aid to indigent citizens.

The Coalition commends the Government of Rwanda for enacting the Organic Law N°04/2012 of 15/06/2012 terminating *Gacaca* Courts and determining mechanisms for solving issues which were under their jurisdiction.

The Coalition is concerned with the delay in the adoption of a strategic plan for the Legal Aid Policy as well as the Legal Aid Bill.

² The National Integrated Child Rights Policy was adopted in 2011. It was developed by the Ministry of Gender and Family Promotion.

³ Strategic Plan for the National Integrated Child Rights Policy was adopted in 2011. It was developed by the Ministry of Gender and Family Promotion.

⁴ The Justice for Children Policy was adopted in 2014.

The Coalition is concerned with the distance between the Access to Justice Bureaus and the ordinary citizens. The Coalition is further concerned with the likely misuse of legal aid, as there is no clear and objective “Means Test” as a criterion to determine who is indigent and who is not.

The Coalition is concerned that individuals convicted by the Gacaca courts and detained in prisons who applied for review, cannot easily access their files as they are kept at the National Commission for the Fight against Genocide.⁵

Recommendations:

The Coalition calls upon the UPR Working Group to call upon the Government of Rwanda to:

- Put in place the Strategic Plan for the Legal Aid Policy and a legal aid bill.
- Expand the Access to Justice Bureau (*Maison d’Acces a la Justice*) to Sector Level, as it will make them get closer to the population by reducing the long distance.
- Put in place objective criteria to determine recipients of legal aid.
- Establish a mechanism which will ease access to Gacaca files.

d. Freedom from torture, inhumane, cruel and degrading treatment

The Coalition commends the Government of Rwanda for criminalizing torture under article 176 of the Organic Law N° 01/2012 of 02/05/2012 instituting the Penal Code.⁶ The Coalition commends the Government for ratifying the Optional Protocol of the Convention Against Torture.

The Coalition further commends the Government of Rwanda for its efforts in building new prison facilities to replace old ones and establishment of prison facilities which separate female detainees/prisoners from male detainees /prisoners.

The Coalition also commends the Government of Rwanda for its efforts in reducing overcrowding in the prison facilities.⁷

The Coalition commends the Government of Rwanda for enacting the law N° 08/2013 of 16/06/2013 modifying and complementing Organic Law n° 31/2007 of 25/07/2007 relating to the abolition of the death penalty as modified and complemented to date which under article 5 *bis* prohibits solitary confinement for individuals transferred from ICTR and foreign countries.

⁵ This commission is commonly referred to its French acronym CNLG. CNLG means *Commission Nationale de Lutte contre le Genocide*.

⁶ The Penal Code was published in the Official Gazette N° Special of 14 June 2012.

⁷ According to the Statistics from the Rwanda Correctional Services, the prison population was 58,516 in the year 2011 ; 57,618 in the year 2012 ; 54,028 in the year 2013 and 53,600 in the year 2014.

The Coalition is concerned that not all the Staff of the Rwanda Correctional Services have undergone training on human rights; the Strategic Plan of the Rwanda Correctional Services does not specifically include the training of its personnel on human rights.

The Coalition is concerned with the Penal Code which provides for solitary confinement and moreover the Penal Code stipulates that individuals who have been sentenced to solitary confinement cannot be subject to be released on parole not before 20 years.

Recommendations:

The Coalition calls upon the UPR Working Group to recommend the Government of Rwanda to:

- Amend the Penal Code with the view of repealing solitary confinement for all crimes in Rwanda.
- Organize systematically human rights trainings for the Staff of Rwanda Correctional Services.

II. SOCIAL AND ECONOMIC RIGHTS

a. Right to education

The Coalition commends the Government of Rwanda for expanding its universal education programme from nine-year basic education to twelve-year basic education.

The Coalition commends also the Government of Rwanda for the increase of net enrolment in both primary and secondary schools.⁸

The Coalition commends the Government of Rwanda for increasing the distribution of laptops in public schools from 152,768 in 2012 to 203,763 in 2013.⁹

The Coalition is concerned with absence of electricity in some schools in remote areas as this makes it difficult to use laptops.

The Coalition is concerned with lack of computer literacy as a subject in the revised Science and Elementary Technology Curriculum for Upper Primary School¹⁰ despite the ongoing implementation of the One Lap Top per Child Programme.

The Coalition is also concerned with persistent teachers' incentive fees requested from parents in some public schools and the introduction of school feeding programmes whereby parents are requested to pay feeding fees as these additional costs might lead to school dropouts.

Recommendations:

⁸ According to the Ministry of Education statistics the net enrollment rate in primary schools was 95.9 % in 2011; 96.5% in 2012 and 96.6 % in 2013.

⁹ Ministry of Youth and ICT *Rwanda ICT Sector: Towards a Cashless Economy*. June 2014. Page 20

¹⁰ The Science and Elementary Technology Curriculum for Upper Primary School was revised in 2010.

The Coalition calls upon the Working Group to recommend to the Government of Rwanda to:

- Include computer literacy in the Science and Elementary Technology Curriculum for Upper Primary School.
- Explore the possibility of importing laptops using rechargeable solar energy batteries with the view of enabling children to use laptops in rural schools.
- Step up efforts to ensure that other education related costs (including school feeding related costs) are covered by the Government.
- Abolish teachers' top up (incentives) requested to parents in public schools.

b. Social and economic welfare

The Coalition commends the Government of Rwanda for adopting various policies and strategies aiming at reducing poverty and thus improving the well being of Rwandan citizens. The Coalition commends the Government of Rwanda for including “historically marginalized people”¹¹ in its National Social Protection Strategy among categories of people being vulnerable to poverty.¹²

The Coalition also commends the Government of adopting the National Strategy for Community Development and Local Economic Development that aims to promote inclusive local socio-economic development and poverty reduction in Rwanda.¹³

The Coalition is concerned with the lack of targeted interventions for the *historically marginalized* people in the national policies and strategic plans.

Recommendations:

The Coalition calls upon the Working Group to recommend the Government of Rwanda to:

- Design specific interventions targeting “historically marginalized people”.
- Apply an affirmative action to “historically marginalized people” to enable them enjoy full social-economic and political integration.

c. Right to health

The Coalition commends the Government of Rwanda for reducing child mortality rate as well as maternal mortality rate and increasing the number of people on access to HIV Treatment.

The Coalition is concerned with the management of community based health insurance scheme commonly known as *Mutuelle de santé* including frequent lack of some essential medicines in some

¹¹Though this terminology could broadly be interpreted, in practice it refers to *Batwa*.

¹² The National Social Protection Strategy was developed by the Ministry of Local Government in 2011. The implementation time frame for this strategy runs from 2011 to 2016.

¹³ The National Strategy for Community Development and Local Economic Development was developed by the Ministry of Local Government. The implementation time frame runs from 2013 to 2018.

public health centres.¹⁴ Subscribers have to buy their own medicines whenever there is medicine stock out in the public health centres or in case the prescribed drugs is not available in the public health facilities.

Recommendation:

The Coalition calls upon the Working Group to recommend the Government of Rwanda to:

- Initiate a thorough assessment of the community based health insurance scheme with the view of ensuring that all challenges faced by the subscribers to the community based health insurance scheme are addressed.

III. WOMEN AND CHILDREN RIGHTS

The Coalition commends the Government of Rwanda for enacting the law N°54/2011 of 14/12/2011 relating to the rights and protection of the child¹⁵ which provides under its article 25 (2) that any reprimand made to educate a child must be done with humanity and dignity. The same article provides for the Minister in charge of children to issue a ministerial order specifying the necessary educational measures and other forms of non-violent disciplinary measures, care and treatment.

The Coalition commends the Government of Rwanda's efforts in establishing One Stop Centers for the assistance of victims of violence and in decentralizing these Centers.

The Coalition commends the Government of Rwanda for establishing various demobilization and reintegration programmes for former combatants and members of the armed forces.

The Coalition is concerned with the delay in the issuance of the Ministerial Order that shall provide for non-violent disciplinary measures.

The Coalition is concerned with the limited legal support and long-term rehabilitation of victims who seek support at one-stop centers.

The Coalition is concerned with the low representation of women in leadership and decision-making positions in local government.¹⁶

¹⁴ The majority of the Rwandan population subscribes to the Community based Health Insurance Scheme.

¹⁵ The Law n°54/2011 of 14/12/2011 relating to the rights and the protection of the child was published in the Official Gazette n°26 of 25/06/2012.

¹⁶ According to the General Monitoring Office Annual Report Women constitute 10 % of the elected Mayors of Districts ; 16.70% of elected Vice Mayors in charge of Economic Affairs and 6.70% of District Executive Secretaries. Source available at <<
http://www.gmo.gov.rw/uploads/media/GENDER_MONITORING_OFFICE_ANNUAL_REPORT_2013_-2014.pdf>>.
Accessed on 06 February 2015. Report published in November 2014.

The Coalition is concerned with lack of a reintegration follow up mechanism for demobilized children ex-combatants when they return from neighbouring countries.

Recommendations:

The Coalition calls upon the Working Group to recommend the Government of Rwanda to:

- Issue the Ministerial Order that will provide for non-violent disciplinary measures.
- Include in the One Stop Centre scale up strategy, mechanisms for rehabilitating victims back in the community and increase measures for victims' access to legal support.
- Step up efforts in helping child ex-combatants trace their families or identify foster families to enable their reintegration in the Rwandan society.
- Step up efforts to ensure that representation of women in leadership and decision-making positions is increased particularly at the local level and in the private sector.

IV. NEW DEVELOPMENT

Despite the fact that the Government of Rwanda rejected in 2011 a recommendation dealing with human trafficking, the Coalition commends the Government of Rwanda for criminalizing human trafficking in the current penal Code in 2012.

The Coalition is concerned with the lack of a mechanism to provide support to victims of human trafficking.

Recommendation:

The Coalition calls upon the Working Group to recommend the Government of Rwanda to:

- Set up a psycho-social mechanism that provides support to victims of human trafficking.

V. GENERAL RECOMMENDATIONS

The Coalition calls upon the Working Group to recommend the Government of Rwanda to:

- Expedite the ratification of the International Convention for the Protection of All Persons Against Forced Disappearance.