

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

Prepared and Submitted by the Rwandan Civil Society
Coalition¹ on Universal Periodic Report

February 2015

¹ The Rwandan Civil Society UPR Coalition is made of the AMAHORO Newspaper, CHRD (Center for Human Rights and Development), GLIHD (Great Lakes Initiative for Human Rights and Development), Governance for Africa, 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 including 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), Non Crime Rwanda, RWN(Rwanda Women's Network).

Executive Summary

Objective of the Report

The major objective of this report is to provide key findings on the status of the implementation of UPR previous recommendations accepted by the Government of Rwanda in 2011 during the first round of review by the UPR Working Group (hereinafter the Working Group).

This report 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 from studies, national reports, researches, interviews, national documents including laws policies and strategic plans.

The process of collective construction in the drafting of the Report was marked by dialogue between members of the Coalition through workshops and subsequent consultative meetings for discussion, refinement and final approval of the document by the Members of the Coalition.

Key findings

The report acknowledges progress made by the Government of Rwanda in implementing the recommendations made in 2011. To name a few, the Report notes legal and policy reforms undertaken as well as measures adopted by the Government of Rwanda since 2011.

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

The report is divided into 5 major parts.

Sub-division of the Report

Part one covers freedom and civil rights , part two covers social and economic rights , part three covers women and children rights , part four covers new developments and part five covers general recommendations.

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I. FREEDOMS, CIVIL AND POLITICAL RIGHTS

1. *Freedoms of expression and opinion*

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

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

The Coalition is also concerned with the RMC's decision to sub contract the Rwanda Broadcasting Authority (RBA) and Star Africa Media, a private company to distribute licenses to private TV Stations.

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 in the view of ensuring that there is a clear distinction between the mandate and responsibilities between RURA and RMC by ensuring that the RMC regulates the conduct of media practitioners in terms of broadcasting contents including the audio-visual media whereas RURA's responsibility to regulate the distribution of frequencies to the audio and visual media.
- Repeal article 288 of the Penal Code which decriminalizes defamation.
- Initiate prompt investigations on alleged intimidations faced by journalists and prosecute individuals involved in the intimidation.
- Ensure that distribution of licenses to Private TV Stations is done by RURA and not subcontractors with the view of avoiding monopoly by private companies.

2. *Freedoms of association and peaceful assembly*

The Coalition commends the Government of Rwanda for enacting the Law N°04/2012 of 17/02/2012 governing the organisation and the 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 the Organic Law N° 10/2013/ of 11/07/2013 governing Political Organizations and Politicians. This law has removed the 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. The law gives discretionary powers to the administrative powers to grant or refuse the authorization.

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

The Coalition is concerned with article 30 of the Law N°04/2012 of 17/02/2012 governing the organisation and the functioning of national non-governmental organizations that broadly gives power to the Rwanda Governance Board (RGB) to monitor the activities of Non –Government Organisations as this broad monitoring of NGOs activities is likely to lead to interference from the RGB.

The Coalition is concerned with article 38 which requires NGOs to inform the administrative authorities and security organs before holding general assembly meetings.

The Coalition is further concerned with the practice requiring prospect NGOs to secure recommendation letter from the District where they intend to carry out their activities among registration requirements. The Coalition is of the view that such requirement is challenging as obtain as a the district has the discretionary power of issuing the recommendation letter and thus it can deny its issuance and therefore precludes the NGO from being granted the registration.

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 fundraising activities as some potential donors are reluctant to provide support to NGOs with a temporary permit

Recommendations:

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

- 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 the NGOs by the 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 the 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 meeting.
- Extend capacity building support to political parties which are not members of the Forum of Political Parties.

3. *Rights to a fair trial (right to a legal counsel)*

The Coalition commends the Government of Rwanda for enacting the Law N° 83/2013 of 11/09/2013 establishing the Bar Association in Rwanda and determining its organization and functioning, adopting the Legal Aid Policy, the 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 Justice Bureaus (*Maison d'Access a La Justice*) at the District Level to provide legal advice to the indigent citizens.

The Coalition is concerned with the delay in the adoption of a strategic plan for the Legal Aid Policy. The Coalition is concerned with the distance between the 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 or not. 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.

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 that individuals convicted by the Gacaca courts and detained in prisons who applied for review, cannot easily access to 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:

- Establish a mechanism which will ease access to Gacaca files.
- Put in place the Strategic Plan for the Legal Aid Policy and a legal aid bill.
- To sensitive the population on the existence of the Legal Aid Policy
- Expand the Bureau of Justice to Sector Level as it will make them closer to the population by reducing the long distance.
- Put in place objective criteria to determine recipients of legal aid.

4. *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 moreover with the construction of prison facilities which separate female detainees/prisoners from male detainees /prisoners.

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

The Coalition is concerned that not all the Staff 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 commends the Government of Rwanda for enacting the law N° 08/2013 of 16/06/2013 Organic Law 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

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.

article 5 *bis* prohibits solitary confinement for individuals transferred from the ICTR and foreign countries.

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:

- Expedite the construction of new prison facilities
- 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 the Rwanda Correctional Services.

II. SOCIAL AND ECONOMIC RIGHTS

1. *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 difficult the use of the laptops.

The Coalition is concerned with the lack of component of computer literacy 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 to parents in some public schools and moreover the introduction of school feeding programmes whereby parents are requested to pay and thus leave children from poor families without any option than studying the whole day while hungry and 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:

- 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
- 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 to with the view of enabling children to use laptops in rural schools.

2. *Social and economic welfare*

The Coalition commends the Government of Rwanda for adopting various policies and strategies aiming at reducing the poverty and thus improve 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 overall objective of the National Social Protection Strategy is to ensure that all poor and vulnerable people are guaranteed a minimum income and access to core public services, those who can work are provided with the means of escaping poverty, and that increasing numbers of people are able to access risks haring mechanisms that protect them from crisis and shocks. 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 dedicated as some if not many of the interventions are relatively vague and target large groups of the Rwandan population instead of specifically targeting the “historically marginalized people”.

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.

3. *Right to health*

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.

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

The Coalition is concerned with the lack of some medicines faced by subscribers of the community based health insurance scheme commonly known as *Mutuelle de santé* in public health facilities.¹⁴ Subscribers have to buy their own medicines whenever there is medicine stock out in the public health facilities or in case the prescribed medicines 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 addressing all challenges faced by the subscribers of the community based health insurance scheme.

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 the 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 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 low representation of women in some leadership and decision making positions.¹⁶

The Coalition is concerned with article 39(2) of the³Law N°59/2008 of 10/09/2008 on prevention and punishment of gender based violence which provides that if a person was living with one or many husbands/wives, shall first of all share the commonly owned belongings equally. The

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.

Coalition is of the view that this provision is very restrictive as the sharing shall be subject to entering into a marriage.

The Coalition commends the Government of Rwanda for establishing various demobilization and reintegration for former combatants and members of the Armed Forces.

The Coalition is concerned with the 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.
- Amend article 39(2) of the Law N°59/2008 of 10/09/2008 on prevention and punishment of gender based violence with the view of expanding the sharing of commonly shared belongings in case of separation regardless the purpose of the separation of the spouses.
- Step up efforts in helping child ex-combatant tracing their families and identifying foster families to enable their rehabilitation into the Rwandan society.
- Step up efforts to ensure that representation of women in all the leadership and decision making positions is increased.

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.
- Develop a roadmap on the implementation of accepted recommendations.