



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/RWA/3
27 November 2007

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Third periodic report

RWANDA

[12 September 2007]

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Acronyms and abbreviations

ADL:	Association for Human Rights and Freedoms
AJPRODHO:	Youth Association for the Promotion of Human Rights
ARBEP:	Rwandan Family Welfare Association
ARDHO:	Rwandan Human Rights Association
AVEGA:	Genocide Widows Association
AVP:	Peace Volunteers Association
COOPEDU:	Duterimbere Savings and Credit Cooperative
CLADHO:	Collective of Human Rights Leagues and Associations
FACT:	Forum for Activists Against Torture
FAWE RWANDA:	Forum for African Women Educationalists - Rwanda
HAGURUKA:	Association for women's and children's rights
IBUKA:	Collective of associations for the welfare of genocide survivors
KANYARWANDA:	Association for the promotion of unity and social justice
LDGL:	Human Rights League in the Great Lakes Region
LIPRODHOR:	Rwandan League for the Promotion and Defence of Human Rights
PREPAF:	Women's poverty reduction programme
Profemmes-Twese Hamwe:	Umbrella group of women's associations for the integrated advancement of women
ILO:	International Labour Organization

Introduction

1. The International Covenant on Civil and Political Rights has been in force since 23 March 1976. Rwanda has been a party to the Covenant since 16 April 1975 when it deposited the instruments of ratification with the Secretary-General of the United Nations. The Covenant was incorporated into domestic law pursuant to Decree-Law No. 8/75 of 12 February 1975 (*Official Gazette*, No. 5, 1 March 1975).
2. The present report brings together the reports due for submission by the Republic of Rwanda under article 40 (1) of the International Covenant of Civil and Political Rights.¹ It supplements and updates the report submitted on 10 October 1987 (CCPR/46/Add.1).
3. Following ratification, most provisions of the Covenant were incorporated into domestic law.
4. With regard to the status of the Covenant and international instruments generally vis-à-vis Rwandan legislation, article 190 of the Constitution of the Republic of Rwanda states: “Upon publication in the *Official Gazette*, international treaties and conventions which have been duly ratified or approved take precedence over organic laws and ordinary laws, subject, for each agreement or treaty, to implementation by the other party.” According to the Constitution, therefore, international instruments are directly applicable in Rwanda provided that they are duly ratified and applied by the other party. As these instruments have primacy over domestic laws, except for the Constitution and referendum laws, the right to invoke them before the domestic courts is guaranteed.
5. Since the submission of Rwanda’s previous report, institutional and legal frameworks have been developed to guarantee and safeguard the civil and political rights of all persons in Rwanda. Mention may be made, inter alia, of the new Constitution of the Republic of Rwanda adopted on 4 June 2003, which gives prominence to fundamental human rights and freedoms and provides for the establishment of institutions to support democracy and of specialized commissions to deal with particular issues, as well as for legal and judicial reforms, etc. Detailed information on the progress made in these areas is provided hereunder.

¹ This report is a consolidated report containing the third periodic report due on 10 April 1992; the special report due on 31 January 1995; the fourth periodic report due on 10 April 1997; and the fifth periodic report due on 10 April 2002.

6. The present report is the work of all State institutions² involved in the implementation of the Covenant, together with civil society,³ which plays an important role in follow-up.

I. BACKGROUND INFORMATION ABOUT RWANDA

I.1 Overview of Rwanda

7. The Republic of Rwanda is a country of Central Africa bounded by Uganda to the north, Burundi to the south, Tanzania to the east and the Democratic Republic of the Congo to the west. It has an area of over 26,338 km², lies between 1° and 3°S and 29 and 31°E, and has a tropical mountain climate. Its current population⁴ is estimated at over 8,162,715 and population density is 337 inhabitants per km².

8. Rwanda was run by monarchs and colonial rulers before gaining independence in 1962.

9. After independence, institutions in the Republic of Rwanda were associated with massive violations of human rights and a system of impunity which culminated in the 1994 genocide.

10. In July 1994, the Rwandan Patriotic Front put an end to the genocide and played an active role in establishing the Government of National Unity and later, in November 2004, the Transitional National Assembly. The political transition came to an end in June 2003 with the adoption of the new Constitution and the advent of democratically-elected institutions.

11. The Constitution of the Republic of Rwanda was a milestone marking the end of the political transition. The Constitution guarantees fundamental rights and freedoms to every citizen. The fundamental principles embodied in the new Constitution include:

- The rejection of dictatorship, through the establishment of democratic institutions and authorities freely chosen by the people
- The creation of a State governed by the rule of law and respect for fundamental freedoms and human rights, through the establishment of specialized commissions

² The following State institutions participated in the writing of this report: the Ministry of Justice; the Ministry of the Civil Service and Labour; the Ministry of Local Government, Good Governance, Community Development and Social Affairs; the Ministry of Internal Security; the Minister attached to the Prime Minister's Office in charge of Gender and Family Promotion; the National Police; the Prosecution Service; the National Human Rights Commission; and the Higher Press Council.

³ The civil society organizations involved in this endeavour are umbrella groups and associations devoted to the defence and promotion of human rights, including CLADHO, Profemmes-Twese Hamwe, LDGL, IBUKA, AJPRODHO and FACT RWANDA.

⁴ Ministry of Finance and Economic Planning, National Census Office, General Population and Housing Census, 2003.

- The suppression of genocide and the ideology of genocide, through the establishment of a designated commission
- Guarantees of equality among Rwandans and between women and men, without prejudice to the principle of gender equality
- The constant quest for dialogue and consensus

I.2 Institutional framework

12. In the wake of the genocide, masterminded and overseen by unscrupulous leaders, the Government of Rwanda created institutions that were capable of boosting the rule of law, specifically:

- Democratic and independent institutions representing three branches respectively: the legislature, the executive and the judiciary
- National commissions and specialized State bodies dealing with specific issues.

13. In pursuing a lasting peace based on respect for civil and political rights, the Government benefits from the help of civil society, whose accomplishments are described in this report

I.2.1 Organizational structure of the State

14. During the transition and post-transition phase, Rwandan State institutions were organized in such a way as to ensure that the three powers of State were not concentrated in the hands of any one individual or entity. Legislative authority is exercised by the Parliament, executive authority by the President of the Republic and the Government, and judicial authority by the courts and tribunals.

I.2.1.1 The legislature

15. In keeping with the principle of separation of powers enshrined in the Constitution of the Republic of Rwanda of 4 June 2003, as subsequently amended, it is the two-chamber Parliament (the Chamber of Deputies and the Senate) which embodies legislative authority.

(a) The Senate

16. Article 82, paragraph 1, of the Constitution states that the Senate consists of 26 members - at least 30 per cent of whom must be women - who serve for an eight-year term.

“Members of the Senate must be citizens of impeccable character and considerable experience ... elected or appointed by the President of the Republic on objective grounds, in an individual capacity and without reference to their political affiliation, from among

nationals with outstanding credentials in the scientific, legal, economic, political, social or cultural fields or who are well-known personalities that have held senior public or private-sector positions” (Constitution, art. 83).

Members are nominated bearing in mind the exigencies of national unity, equal representation of the sexes and the categories of persons requiring special protection.

(b) The Chamber of Deputies

17. Article 76 of the Constitution states that the Chamber of Deputies consists of 80 members, at least 24 of whom must be women.

18. The list of candidates is drawn up having due regard to the principle of national unity and equal access for women and men to elected office. Candidates may be sponsored by a political grouping or may stand as independents, and the right to vote is exercised individually.

19. A system of parliamentary incompatibility guarantees the independence of Members of Parliament vis-à-vis the public authorities or, as the case may be, private interests.

I.2.1.2 The executive

20. Executive authority is vested in the President of the Republic and the Government. The latter consists of the Prime Minister, ministers, secretaries of State and other members who may be nominated by the President of the Republic (Constitution, art. 116).

21. The President of the Republic is elected by direct, universal suffrage and secret ballot by a relative majority of the votes cast (Constitution, art. 100). His or her mandate is for seven years and is renewable once (Constitution, art. 101).

22. Cabinet members are selected from political groups based on the distribution of seats in the Chamber of Deputies, although there is nothing to preclude the selection of a competent person who does not belong to any political group.

23. The political party with a majority in the Chamber of Deputies may hold not more than 50 per cent of Cabinet seats (Constitution, art. 116 (5)).

24. As supreme Head of State, the President of the Republic has constitutional powers, in particular to declare war (Constitution, art. 136), to grant pardons and sign armistices and peace treaties (art. 110) and to appoint and dismiss senior civil servants (art. 113).

I.2.1.3 The judiciary

25. Judicial authority is vested in the Supreme Court and the courts and tribunals established by the Constitution and other laws.

26. In the framework of rehabilitation of the judiciary, a law reform commission has formulated new laws with a view mainly to ensuring that principles such as the separation of powers, the independence of the judiciary and the promotion of the rule of law are applied in practice.

27. In order to guarantee the independence of the judiciary, the Supreme Council of the Judiciary, consisting exclusively of judges, was established (Constitution, art. 157). The Council is tasked, inter alia, with: examining matters pertaining to the proper working of the justice system; issuing its opinion, on its own initiative or upon request, on all matters relating to the organization and administration of justice; taking decisions on the appointment, promotion and dismissal of judges; and giving advice on any project or proposal concerning the establishment of a new court or the status of judges or other judicial personnel under its authority.

I.2.1.3.1 The ordinary courts

28. According to the Constitution (art. 143), the ordinary courts are the Supreme Court, the High Court of the Republic, the provincial courts and the lower courts.

29. Administrative, social, commercial, financial, fiscal and juvenile cases are referred to the appropriate specialized courts within the provincial courts.

30. In order to guarantee respect for human rights in the justice system, basic principles are applied, in particular:

- Judges are independent and answer only to the law when performing their duties
- Court decisions are binding on all parties, whether public institutions or individuals, and may only be challenged by the means and according to the procedures specified by law
- Court hearings must be held in public, unless a court decides to conduct proceedings in camera in the interests of public order or public morals
- Any judgement or ruling must be explained in an opinion and must be pronounced in open court within not later than one month
- Justice is dispensed on behalf of the people. No one can dispense justice on his or her own behalf
- No one can be reassigned, against his will, to a court other than that designated by law

(a) The Supreme Court

31. As stated in the Constitution, the Supreme Court is the highest court in the land. Its decisions are not subject to appeal, save in the case of pardons or appeals for judicial review.

32. The organization, functions and jurisdiction of the Supreme Court were established by Organic Act No. 01/2004 of 29 January 2004, as amended.

33. An inspectorate has been set up inside the Supreme Court to monitor the activities of courts and tribunals.

34. As part of its regular duties, the Supreme Court hears appeals against judgements delivered at first instance by the High Court of the Republic or the Military High Court, and, as applicable,

judgements handed down at second instance by the same courts (Organic Act No. 13/2006 of 21 March 2006, amending Organic Act No. 01/2004, concerning the organization of the Supreme Court). The Court also has extraordinary jurisdiction for criminal cases brought against the highest authorities in the land.

35. The Supreme Court has other functions, in particular:

- To verify the constitutionality of international treaties and agreements and laws, at the request of the President of the Republic, the Speaker of the Chamber of Deputies, the Speaker of the Senate or one fifth of the members of the Chamber of Deputies or the Senate
- To receive the oath of the President of the Republic and the Prime Minister before they take office
- To adjudicate, upon request, conflicts between State institutions over respective areas of competence
- To try the President of the Republic should he commit high treason or a serious and intentional violation of the Constitution
- To declare the office of President of the Republic vacant in the event of his or her death, resignation or conviction for high treason or a serious and intentional violation of the Constitution
- To give an authentic interpretation of custom where the law is silent

36. At the Supreme Court, a preliminary examination is undertaken to verify the admissibility of appeals against first instance judgements delivered by the High Court of the Republic and the Military High Court.

(b) The High Court of the Republic

37. The High Court of the Republic has jurisdiction throughout Rwanda. Its main seat is in the city of Kigali, but it has four chambers elsewhere.

38. It is presided over by a judge who hears all cases referred at first instance and is assisted by a court clerk. At least three judges, assisted by a court clerk, will hear appeals to the court against decisions of the lower courts. The court has competence for criminal, civil, commercial and administrative cases.

39. In criminal matters, it hears appeals against decisions rendered at first or second instance by the provincial courts and serves as a court of first instance for the adjudication of serious crimes, including assassinations, murders, breaches of national security, transnational crimes, genocide, war crimes, terrorism, hostage taking, etc.

40. In civil, commercial and social cases, it hears appeals against decisions delivered at first or second instance by the provincial courts and arbitration bodies. It also hears applications for authority to enforce a foreign judgement.

41. In administrative cases, it hears any dispute over the validity, interpretation, enforcement, annulment, rescission or termination of administrative contracts under its purview. It also hears complaints relating to administrative disputes, in particular: applications to set aside administrative decisions; applications for annulment of a decision on grounds of a breach of substantive or procedural rules, lack of competence or misuse of authority; objections to public expropriations; and disputes between political organizations, between a political organization and its members or between a political organization and the public administration.

(c) The provincial courts

42. At first instance, each provincial court conducts proceedings with one judge presiding, assisted by a court clerk. At appeal, hearings are presided over by three judges, assisted by a court clerk.

43. The provincial courts hear appeals against decisions delivered at first instance by the lower courts.

44. In criminal cases, the provincial courts adjudicate offences carrying a penalty of over five years, except those under the jurisdiction of other courts.⁵

45. They are also competent to try persons who are considered to be the main perpetrators of the crime of genocide and crimes against humanity committed in Rwanda between 1 October 1990 and 31 December 1994, including the planners and organizers, perpetrators in positions of authority, notorious murderers, rapists, etc.

46. In civil cases, the provincial courts hear, at first instance, any other cases not under the purview of other courts. They also hear at first instance insurance cases, whatever the nominal value at stake. Their decisions can be appealed and challenged.

(d) The lower courts

47. In criminal cases, the lower courts hear all offences, except those carrying a penalty of over five years in prison and traffic violations (Act No. 14/2006, art. 35).

48. They hear civil disputes between bodies corporate and natural persons involving amounts of not more than 3 million Rwanda francs (RF), cases concerning personal status and capacity and family disputes.

49. Any dispute brought before a lower court must first have been referred to an arbitration committee.

50. Proceedings before the lower courts are always presided over by a single judge, assisted by court clerks.

⁵ For example, genocide, other than that committed in 1994, high treason and transnational crimes are dealt with by the High Court of the Republic.

1.2.1.3.2 Specialized courts

51. According to article 143 of the Constitution, the specialized courts are the military courts, including the Military Tribunal and the Military High Court, and the Gacaca courts.

(a) Military courts

52. The military courts consist of the Military Tribunal and the Military High Court, which have jurisdiction throughout the country. They conduct criminal trials of military personnel and their accomplices, whatever their rank.

53. In order to constitute a lawful court, the Military Tribunal and the Military High Court must have an uneven number of judges (at least three), assisted by a court clerk. The rank of the president must be at least equal to that of the accused.

(b) Gacaca courts

54. The Gacaca courts were introduced into the Rwandan justice system by Organic Act No. 40/2000 of 26 January 2001, and were given further endorsement in article 152 of the Constitution.

55. The Gacaca courts were restructured to make them more effective pursuant to Organic Act No. 16/2004 of 19 June 2004 and Organic Act No. 28/2006 of 27 June 2006, concerning the organization, competence and responsibilities of the courts for the prosecution and adjudication of genocide and other crimes against humanity committed in Rwanda between 1 October 1990 and 31 December 1994.

56. A national authority is responsible for monitoring, overseeing and coordinating the activities of these courts. Its role is to resolve any dispute over jurisdiction between the Gacaca courts and to issue instructions to facilitate the smooth conduct of their activities.

57. The main function of the Gacaca courts is to uncover the truth about what happened during the genocide and to speed up genocide trials so as to compensate for the slowness of traditional justice due to the limited number of courts and the difficulties of gathering evidence. Their other goal is to eradicate the culture of impunity, reinforce unity and reconciliation among Rwandans and empower the people of Rwanda to find solutions to their own problems.

58. With the aim of consolidating national unity and fostering reconciliation among Rwandans, a special procedure for making confessions, entering guilty pleas and publicly repenting has been built into the system. Persons liable to prosecution before the Gacaca courts who follow that procedure can benefit from a reduction of sentence, whereby one half is commuted to community service as an alternative to imprisonment. Presidential Order No. 10/01 of 7 March 2005 defines the modalities for performance of community service.

59. The introduction of community service into the Gacaca process, pursuant to Presidential Order No. 17/03/2003, will help to ease overcrowding in prisons and facilitate national reconstruction and the social rehabilitation of persons subject to community service orders.

60. The total number of Gacaca courts at all levels is 12,103. Of these, 9,013 operate at the cell level, 1,545 at the next highest level (sector) and 1,545 are courts of appeal established in accordance with the principle of two levels of jurisdiction.⁶

61. In June 2002, a pilot test was launched among 9 per cent of all the Gacaca courts operating at the cell level, i.e. 751 out of 9,013. The main activity undertaken during the pilot phase involved the gathering of relevant information, at the cell level, for preparation of defendants' case files. The results suggested that the Gacaca courts would be a success.

62. During the pilot phase, the first trials began on 10 March 2005 and by 14 July 2006 a total of 7,015 judgements had been handed down.

63. In the light of these encouraging results, trials by the Gacaca courts were extended to the national level, beginning on 15 July 2006. By 31 December 2006, a total of 51,649 cases had been tried with the following results: 10,723 persons were acquitted and 12,478 persons were sentenced to community service.

64. Notwithstanding the positive results achieved by the Gacaca courts, the safety of witnesses who play a key role in the whole Gacaca process remains an issue, as these persons are often subjected to acts of intimidation to prevent them from testifying. Some genocide survivors and trial witnesses have been the target of attacks and murder. The State is concerned about the protection of these persons, and the Government and local authorities have set up awareness programmes to eradicate violence against witnesses and genocide survivors. A witness protection unit has been set up at the Office of the State Prosecutor-General and has branches in all prosecution offices operating in the provincial courts.

65. Lastly, partial confessions by some defendants hamper efforts to establish the facts being sought, although additional testimony can be used to piece the facts together.

66. Another problem is compensation for genocide survivors. Although the Government established a fund for genocide survivors, the allocation remains derisory compared with the victims' needs. The compensation process was so problematic for the Rwandan Government that it had no alternative but to turn to the working population for contributions to the fund.⁷ Notwithstanding its limited resources and capacity, the State takes all necessary measures to ensure the success of the Gacaca process and to safeguard the rights and welfare of the survivors of the genocide. A new draft law before the Parliament will help to address some aspects of compensation for victims.

⁶ Source: National Department of the Gacaca Courts, statistics for period ending 2006.

⁷ Each worker is required to contribute 1 per cent of his annual salary. Non-governmental organizations and other associations must pay RF 10,000 and businesses part of their turnover.

1.2.2.3.3 Other judicial organs

(a) The Prosecution Service

67. The Prosecution Service was established by the Constitution pursuant to articles 160 to 164. It comprises the Office of the State Prosecutor-General and the Judge Advocate's Department. Organic Act No. 03/2004, as amended by Organic Act No. 15/2006 of 24 March 2006, defines the competence and responsibilities of the Service.

68. The Office of the Prosecutor-General is subject to the authority of the Minister of Justice, but enjoys administrative and financial autonomy.

69. The Prosecution Service is staffed by career prosecutors, judge advocates and auxiliary officers.

70. In the ordinary courts, public prosecutions are brought by the Office of the Prosecutor-General and the local branches of the Prosecution Service operating in the lower courts and provincial courts throughout Rwanda.

71. Prosecutors are completely independent of the parties and judges.

72. In the military courts, prosecutions are brought under the authority of the Judge Advocate, who is assisted by the Deputy Judge Advocate and other military prosecutors.

73. The Judge Advocate's Office has a military police corps which registers crimes under the purview of the military courts, tracks down perpetrators and gathers evidence.

74. At present, the careers of members of the Prosecution Service are managed by the Supreme Council of the Prosecution Service, comprising, in addition to public prosecutors elected by their peers, other members of the judiciary.

75. The Council monitors the activities of the Prosecution Service and issues reasoned opinions, on its own initiative or at the request of the competent authorities, on any matter concerning the work of career prosecutors, excluding the Prosecutor-General and the Deputy Prosecutor-General.

76. Established pursuant to article 165 of the Constitution, the Supreme Council of the Prosecution Service comprises the following members:

- The Minister of Justice
- The Prosecutor-General
- The Deputy Prosecutor-General
- A national prosecutor elected by his or her peers
- The Commissioner-General of the national police

- The President of the National Human Rights Commission
- The Judge Advocate and his or her deputy
- Three public prosecutors from the provincial courts, elected by their peers
- Five public prosecutors from the lower courts, elected by their peers
- Two law faculty deans from approved universities, elected by their peers
- The Chairman of the Bar Association
- The Ombudsman

77. The Minister of Justice chairs the Supreme Council of the Prosecution Service and the Prosecutor-General is vice-chairman.

78. The Prosecution Service has an inspectorate staffed by public prosecutors who monitor the work of the entities that make up the Service. They operate out of the Office of the Prosecutor-General and decisions on their appointment and dismissal are taken by the Supreme Council of the Prosecution Service.

(b) The national police

79. The national police is a security institution established by Act No. 09/2000 of 16 June 2000 and given further endorsement in article 170 of the Constitution. It operates throughout Rwanda and must serve the people in keeping with the following guiding principles:

- The preservation of the fundamental rights guaranteed by the Constitution and the law
- Cooperation with the national community
- Accountability to the community
- The obligation to inform the population about how it meets its goals

80. Act No. 9/2000 of 19 June 2000 defines the duties of the national police, which are to:

- Ensure compliance with the law
- Maintain and restore law and order
- Guarantee the security of persons and their property
- Provide urgent humanitarian assistance in the event of calamities, accidents and disasters
- Take action to counter terrorism

- Police the air space, borders and territorial waters of Rwanda
- Participate in international peacekeeping, humanitarian-assistance and training missions

(c) Arbitration committees

81. Arbitration committees were established pursuant to article 159 of the Constitution to reduce the workload of the ordinary courts. Organic Act No. 17/2004 of 20 June 2004, as amended by Organic Act No. 31/2006 of 14 August 2006, defines the structure, scope, responsibilities and functions of the committees.

82. An arbitration committee provides an institutional framework in which certain cases, defined by law, must go through a mandatory arbitration process prior to their referral to a court of first instance.

83. The arbitration committee in each administrative cell comprises 12 persons of good character who reside in the cell and are recognized for their arbitration skills.

84. Arbitrators are elected by the council of the cell, for a renewable two-year term, and are volunteers. Employees of local government and judicial institutions are not eligible.

85. The arbitration committee is guided by a bureau, consisting of a chairman and a vice-chairman elected by their peers. The executive secretary of the cell is the ex officio secretary of the committee.

86. The parties to a dispute will agree on three arbitrators, selected from a list, to whom they will refer their dispute.

87. Arbitration committees are competent for both criminal and civil matters, subject to the limits set down in Organic Act No. 31/2006 (arts. 8 and 9). In civil matters, the committees hear, inter alia, family cases, excluding those concerning marital status, inheritance disputes where the estate at issue is worth up to RF 3 million, cases concerning livestock and other moveable assets worth up to RF 1 million and disputes over land and other fixed assets worth up to RF 3 million.

88. In criminal cases, the committees deal with specific types of offences, prior to their referral to the police or the Prosecution Service. These offences include the removal or shifting of boundaries of land or land plots, the destruction or spoiling of harvests worth up to RF 3 million, defamation, simple larceny, involving goods worth not more than RF 1 million and insulting a person.

89. The arbitrators who have heard the case prepare a report on the settlement of the dispute, which they and the parties then sign.

90. A party that is dissatisfied with the arbitrators' decision may refer the matter to the competent court for adjudication at first instance.

91. Arbitrators have various problems to contend with when carrying out their duties, including limited knowledge of conflict resolution and lack of adequate office space, materials and equipment, etc.

1.2.2 Relationship between the authorities of the State

92. All the authorities of the State (the legislature, the executive and the judiciary) operate in complete independence, but in their relations with one another may take action, in keeping with the Constitution of the Republic of Rwanda, as follows:

- The Chamber of Deputies may table a vote of no confidence in the Cabinet or one or several of its members (Constitution, art. 130).
- The President of the Republic, after consulting with the Prime Minister, the President, the Speakers of both houses of Parliament and the President of the Supreme Court, may dissolve the Chamber of Deputies (Constitution, art. 133). Dissolution is only valid once during the President's mandate (Constitution, art. 133).
- The President of the Republic and the Prime Minister must be informed of the agenda for sessions of each parliamentary chamber and parliamentary committees. The Prime Minister and other Cabinet members may attend sessions of each parliamentary chamber, if they so wish (Constitution, art. 127).
- Should the President of the Republic be prevented from, or incapable of, performing his or her duties, the Speaker of the Senate will step in until the President returns to office. In the absence of the Speaker of the Senate, the Speaker of the Chamber of Deputies will act as President ad interim. In the absence of both Speakers, including as a result of illness or any other temporary impediment, the Prime Minister will serve as President ad interim (Constitution, art. 107).
- The President of the Republic is sworn in by the President of the Supreme Court (Constitution, art. 104). Conversely, the President and the Vice-Presidents of the Supreme Court take the oath before the President of the Republic, in the presence of the Parliament.
- The President and the Vice-Presidents of the Supreme Court are elected for an eight-year term, by a simple majority of the members of the Senate, from two candidates whom the President of the Republic nominates for each post after consulting with the Cabinet and the Supreme Council of the Judiciary (Constitution, art. 147).
- Members of Parliament take the oath before the President of the Republic or, in his or her absence, the President of the Supreme Court (Constitution, art. 65).
- The President of the Republic and the Government also perform law-making functions when they issue presidential and ministerial decrees on particular subjects. Exceptionally, the President of the Republic may legislate by decree-law, in the event of an emergency or the impossibility of convening Parliament (Constitution, art. 63).

I.3 National commissions and specialized organs of the State

I.3.1 The National Human Rights Commission

93. The National Human Rights Commission was established by Act No. 04/99 of 12 March 1999, as amended by Act No. 37/2002 of 31 December 2002. The Commission was given further endorsement in article 177 of the Constitution and was assigned the following responsibilities:

- Educating the public about, and raising its awareness of, human rights
- Examining human rights violations committed in Rwanda by State entities, persons professing to represent the State, organizations and individuals
- Investigating human rights abuses and referring cases directly to the competent courts
- Producing and disseminating an annual report and, as and when required, reports on the situation of human rights in Rwanda
- Disseminating the international human rights instruments ratified by Rwanda, and acting as an advocate for ratification of those that have yet to be ratified
- Encouraging the competent State authorities to ratify human rights treaties and submit reports in a timely manner
- Visiting detention facilities and ensuring that the rights of detainees are respected
- Providing opinions, upon request or on its own initiative, on draft human rights laws

I.3.2 The National Unity and Reconciliation Commission

94. The National Unity and Reconciliation Commission was established by Act No. 03/99 of 12 March 1999 and was given further endorsement in article 178 of the Constitution.

95. It is an independent commission with responsibility for:

- Designing and coordinating the national programme for the promotion of national unity and reconciliation
- Devising and developing ways and means of restoring and boosting national unity and reconciliation
- Providing the Rwandan population with education and information about national unity and reconciliation
- Conducting research, holding discussions, disseminating ideas and producing publications on the subjects of peace, national unity and reconciliation

- Formulating proposals on how best to eradicate divisions among Rwandans and to strengthen national unity and reconciliation
- Denouncing and objecting to acts, writings and language intended to further any form of discrimination, intolerance and xenophobia

I.3.3 The National Anti-Genocide Commission

96. The National Anti-Genocide Commission is an independent national body established pursuant to article 179 of the Constitution. Act No. 09/2007, concerning its organization and functions, has been in force since 16 February 2007 (*Official Gazette*, special edition, 19 March 2007).

97. The Commission is tasked in particular with:

- Providing a permanent framework for exchanges of ideas on genocide, its consequences and the strategies for its prevention and eradication
- Establishing a national genocide research and documentation centre
- Acting as an advocate for genocide survivors in Rwanda and abroad
- Planning and coordinating all activities relating to the commemoration of the 1994 genocide
- Liaising with other national and international institutions that perform a similar function

I.3.4 The Civil Service Commission

98. The Civil Service Commission is an independent public institution established pursuant to article 181 of the Constitution. It is tasked in particular with:

- Recruitment and appointment of civil servants employed in central Government and other public institutions
- Submission to the competent authorities of the names of candidates for appointment, assignment and promotion who meet all the set criteria and are judged to be the best qualified for the job, bearing in mind the personal characteristics required
- Establishment of a selection system which is objective, impartial, transparent and the same for all
- Conduct of research into laws, rules, qualifications, conditions of service and any other issues of relevance to human resources management and development, and making recommendations to the Government
- Proposing disciplinary action based on the laws in force

I.3.5 The National Electoral Commission

99. The National Electoral Commission is an independent body tasked with the planning and organization of local, parliamentary and presidential elections, referendums and any other elections entrusted to it by law. The Commission ensures that elections are free and transparent.

I.3.6 The Office of the Ombudsman

100. The Office of the Ombudsman is an independent public institution established pursuant to article 182 of the Constitution. Its organization and duties are regulated by Act No. 25/2003 of 15 August 2003.

101. Its duties include:

- Liaising between citizens and public and private institutions
- Preventing and taking action against injustices, corruption and related offences in public and private institutions
- Receiving and investigating complaints from individuals and private associations about acts committed by State officials or public or private institutions, and notifying the officials or institutions concerned with a view to finding satisfactory solutions, where the complaints prove to be well founded
- Receiving the financial disclosure statements of the President of the Republic, the Speaker of the Senate, the Speaker of the Chamber of Deputies, the President of the Supreme Court, the Prime Minister and other members of the Cabinet before they take the oath of office and when they step down. This procedure has been extended to persons with responsibility for allocating State funds and government departments where corruption could occur

I.3.7 The Gender Monitoring Office

102. The Gender Monitoring Office is an independent public institution established pursuant to article 185 of the Constitution. Its responsibilities include the following:

- Monitoring and continuously evaluating compliance with gender targets, from a sustainable development perspective, and serving as a reference and focal point for equal opportunities and equity
- Making recommendations to different institutions on gender issues

103. A draft law on the organization and work of the Gender Monitoring Office is under consideration.

I.3.8 The National Women's Council

104. The National Women's Council was established pursuant to article 187 of the Constitution. It has legal personality and financial and administrative independence. It is a social forum where Rwandan women can exchange ideas in order to solve their problems together and thus contribute to the development of the country.

105. Act No. 7/2003 of 18 August 2003 establishes how the Council is organized and what its roles and responsibilities are.

106. The Council's main responsibilities are to:

- Gather ideas from all Rwandan women without any discrimination
- Train Rwandan women to analyse and solve their problems together
- Sensitize Rwandan women to the importance of patriotism and serving the nation
- Enhance the capacities of Rwandan women
- Represent Rwandan women in the governing bodies of the country so as to facilitate their inclusion in government programmes
- Encourage Rwandan women to fight for gender equality and gender complementarity

107. The Council has branches at the national, provincial and district levels, all the way down to the smallest administrative unit.

I.3.9 The National Youth Council

108. The National Youth Council, provided for in article 188 of the Constitution, was established by Act No. 24/2003 of 14 August 2003, as amended and supplemented by Act No. 05/2006 of 5 February 2006, concerning its organization and functions.

109. This institution has legal personality and managerial, administrative and financial independence.

110. The Council is a forum where young persons can exchange ideas and contribute to their own development and that of the country.

111. Its main tasks are to:

- Bring young persons together and offer them civic education, information about Rwandan culture, sports training and leisure activities
- Raise young persons' awareness of production activities so as to further their development and that of the country
- Support and solicit support for youth associations

- Teach young persons how to solve their own problems and encourage and prepare them to take part in decision-making bodies
- Act as an advocate for young persons in decision-making bodies that deal with youth issues and facilitate participation of young persons in decision-making so as to ensure that their problems are taken into account
- Teach young persons to avoid futile pursuits of any kind
- Offer young persons training in science and technology and an introduction to employment creation
- Work with organizations involved in youth development
- Educate young persons about prevention of HIV/AIDS and other pandemics
- Create links between local Rwandan youth and young persons abroad
- Liaise between youth organizations and other organizations

II. CIVIL SOCIETY

112. In keeping with the Covenant, organizations and associations contribute to the promotion and protection of human rights. The best-known organizations are CLADHO, Profemmes-Twese Hamwe, LDGL and IBUKA.

II.1 CLADHO

113. The Collective of Human Rights Leagues and Associations (CLADHO) comprises five associations⁸ and plays an active role in the promotion and protection of human rights, in particular by:

- Investigating and following up on complaints from the public about human rights abuses, and organizing seminars
- Disseminating information about national and international human rights instruments
- Providing functional, rights-based, literacy training for vulnerable groups, particularly children
- Conducting advocacy work among institutions in follow-up to human rights violations

114. In addition to human rights promotion and protection, CLADHO takes a keen interest in the democratic process. It was involved in monitoring the institutional elections held at the end of the political transition, in particular the referendum of 26 May 2003.

⁸ ADL, ARBEF, ARDHO, KANYARWANDA and LIPRODHOR.

II.2 Profemmes-Twese Hamwe

115. The Collective of Rwandan Associations for the Advancement of Women and Promotion of Peace and Development (Profemmes-Twese Hamwe) is an umbrella organization for associations dedicated to the advancement of women in all domains. Its main aim is to contribute to the structural transformation of Rwandan society by encouraging greater participation by women and by convincing society to create a legal, political, socio-economic and moral climate conducive to the rehabilitation of social justice and equality of opportunity, with the ultimate aim of achieving sustainable peace and development.

116. The organization has undertaken many initiatives to safeguard and promote civil and political rights, including the rights set out in the Universal Declaration of Human Rights. In particular, it:

- Provides legal assistance to women and children
- Launches advocacy programmes to promote formal and informal education for girls, while delivering all necessary assistance towards that end
- Contributes to education and the dissemination of information about human rights in general and children's rights in particular
- Acts as an advocate for women's and children's rights in general and creates national, regional and international networks for exchanges of ideas and advice on better protection of women and children
- Provides information about the process for including women in decision-making and good governance bodies

II.3 IBUKA

117. The Collective of Associations for the Defence and Welfare of Genocide Survivors (IBUKA) was established by its founders to investigate all the problems arising from the human rights violations committed during the 1994 genocide in Rwanda, to coordinate all activities relating to the economic and social problems that were created, particularly for genocide survivors, and to represent the survivors vis-à-vis third parties.

118. Its main responsibilities are to:

- Keep the memory of the victims of the 1994 genocide alive
- Assist and defend genocide survivors
- Support all initiatives to track down and prosecute the perpetrators of the genocide
- Wage a constant battle against efforts to downplay or deny the genocide or to disseminate revisionist ideas about it

119. IBUKA encourages genocide survivors to participate in large numbers in the Gacaca courts process and to play a key role in making it a success, in particular by giving evidence. It supports the efforts of the Government of Rwanda to protect genocide survivors and other witnesses who appear before the Gacaca courts.

120. It defends the interests of genocide survivors, particularly in regard to education for the poorest children, health care and any other socio-cultural issue of importance for genocide survivors.

121. IBUKA defends survivors' interests in genocide trials held in Rwanda, before the International Criminal Tribunal for Rwanda and elsewhere.

III. MEASURES FOR THE IMPLEMENTATION AND EXERCISE OF THE RIGHTS GUARANTEED BY THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

122. More than a decade after the 1994 genocide, which claimed more than a million lives and destroyed the social, economic and political infrastructure, Rwanda is still trying to effect a renaissance by building a nation governed by the rule of law - the foundation of all government.

123. Conscious of the fact that development is predicated upon respect for all fundamental rights, the Government has taken legal and practical measures, within existing resources, to work towards the gradual achievement of that objective.

124. All the legal instruments which regulate the country's affairs, including the Constitution, reflect the commitment of the Government of Rwanda to the promotion and realization of civil and political rights.

III.1 Right of self-determination (article 1 of the Covenant)

125. In international law self-determination is the principle that a people must have the right to determine its own form of government independently of any foreign influence. This is commonly known as political independence. That principle is affirmed in article 1 of the Constitution of the Republic of Rwanda, which states that the Rwandan State is an independent, sovereign, democratic, socialist and secular republic. The Republic is guided by the principle of government of the people, by the people and for the people. The Constitution solemnly declares the country's determination to establish an independent and democratic State in which fundamental human rights and civil liberties are guaranteed not only domestically but also in Rwanda's external relations.

126. The Constitution states that any change which affects the system of government, in particular the republican system and territorial integrity, must be approved in a referendum following adoption by each chamber of Parliament (Constitution, art. 93 (3)).

127. The right of self-determination implies economic self-determination as well, meaning that the people are able freely to choose their own economic system and dispose of their natural wealth and resources for their own ends.

128. The Organic Act No. 08/2005 of 14 July 2005 on land tenure in Rwanda establishes how land may be used and managed. It provides equitable protection of land rights acquired by virtue of custom or written law.

129. The Act states that the land is part of the common heritage of all Rwandans. The State has a prerogative for managing all land in the national territory. Land may be privately owned, however. Only mineral and other underground resources may not be claimed by a property owner (Organic Act No. 08/2005, art. 55).

130. The Constitution of the Republic of Rwanda recognizes the principle of economic independence in article 189, paragraph 2, which states that peace treaties, trade agreements, treaties or agreements on international organizations, and treaties that involve the allocation of State funding, modify laws already adopted by Parliament or have to do with personal status, can only be ratified with parliamentary approval.

131. Special laws on foreign trade include Act No. 22/1989, concerning the organization of foreign trade, the Act on exchange-rate and foreign-trade controls and Decree-Law SPI of 3 March 1995, concerning the organization and management of the foreign exchange market.

132. In pursuing sustainable economic independence, in keeping with the principle guaranteed in the Constitution (art. 29) that private property of individuals or groups is inviolable, the Government applies the principle of social justice whereby the State must deploy mechanisms to increase national prosperity, improve the population's standard of living and strengthen the country's economic independence. Several wealth-generation programmes have been set up in that connection. They include the Poverty Reduction Strategy Paper (PRSP), which is mainly geared towards the achievement of high levels of economic growth, together with measures to increase revenue from farming and agricultural production and to diversify the economy, facilitate privatization, support private enterprise and encourage the establishment of cooperatives and other institutions to improve the economy of Rwanda.

III.2 Prohibition of discrimination (articles 2, 3 and 26 of the Covenant)

133. The Constitution of the Republic of Rwanda guarantees the civil and political rights enshrined in the Covenant to all persons living in Rwanda. It states that all Rwandans are born and remain free and equal in respect of their rights and duties. It prohibits all forms of discrimination based on race, ethnic origin, colour, membership of a clan, sex, social origin, religion, belief, opinion, cultural difference, language, social status, physical or mental disability, and any other form of discrimination (art. 11).

134. Equality is guaranteed under the Constitution, article 16 of which states that all human beings are equal before the law and are entitled, without any distinction, to the equal protection of the law.

135. Act No. 42/2001, concerning punishment of offences of discrimination and sectarian practices, and Act No. 23/2003, concerning corruption and related offences, give effect to the aforementioned article of the Constitution. Even in legal proceedings, no one can escape prosecution on account of his or her political status, professional standing or membership of the security forces (army and police). The tendency now is to curb legal exceptions that allow

persons in such positions to benefit from special treatment and to favour transparency instead. The salaries and benefits of senior political officials are set by presidential order so as to prevent exceptional privileges being granted to anyone. The same applies to other categories of employees.

136. Rwanda has ratified several regional and international conventions, including:

- The International Convention on the Elimination of All Forms of Racial Discrimination (*Official Gazette*, No. 8/75, 12 February 1975)
- The Convention on the Elimination of All Forms of Discrimination against Women (*Official Gazette*, No. 143/16, 7 November 1980)
- The UNESCO Convention against Discrimination in Education, to which Rwanda acceded on 28 February 2000

III. 3 The right to equality between men and women and protection of the family (articles 3, 23 and 24 of the Covenant)

III.3.1 Protection of, and prohibition of discrimination against, women (art. 3)

137. Rwanda is committed to promoting gender equality and mainstreaming the gender perspective into the country's development plans. The preamble and article 9 of the Constitution of Rwanda refer to gender equality as a fundamental principle. The Constitution provides for the establishment of institutions to protect woman's rights, including the National Women's Council and the Gender Monitoring Office.

138. In that context, Rwanda has been pursuing important strategies to improve the condition of women in the legal, political, social and economic spheres.

139. In the legal sphere, many laws of relevance could be mentioned, including:

- Act No. 22/99 of 12 November 1999, supplementing book 1 of the Civil Code and introducing a part V on marital property regimes, gifts and inheritance that eliminates gender inequalities in those areas (*Official Gazette*, No. 22, 15 November 1999).
- The Act establishing the National Women's Council, which has been in force since August 2003. The Council is a very active women's forum.
- The Land Reform Act, which provides for the mainstreaming of the gender perspective into land management practices.
- The new Act No. 29/2004 on nationality, which eliminates all forms of discrimination against women as regards naturalization or transmission of nationality

- The new draft penal code, which criminalizes marital violence, harassment and public indecency
- A draft law on the prevention and punishment of domestic and marital violence is under consideration

140. Other actions taken by the Government to promote women's civil and political rights include the following:

- The Ministry of Gender and Family Promotion drafted a document on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women
- Regional and international conventions on women's rights have been ratified
- A list has been drawn up of discriminatory laws that need to be amended

141. In order to guarantee the welfare of women and their right to life, several measures have been adopted, including:

- The establishment of a loan guarantee fund which is jointly administered by the Commercial Bank of Rwanda and the Ministry for Gender and Family Promotion and offers microcredit to women
- The establishment of associations that seek to strengthen women's economic capacities, including a savings and loans cooperative (COOPEDU) and a limited company offering microcredit (Duterimbere)
- Support for different projects: a women's poverty reduction programme (PREPAF), a project on the promotion of small- and medium-sized rural enterprises and a project on highly labour-intensive work, all of which provide women with economic and financial support
- The implementation of strategies to improve maternal health. For example, women with HIV are given treatment to increase their chances of giving birth to healthy children

142. With regard to women's participation in the conduct of public affairs, since 2003 decentralization policy has favoured women's representation in different levels of government. The figures for women's representation in decision-making bodies in 2006⁹ were as follows:

- 31 per cent of Cabinet members (Ministers and secretaries of State)
- 30 per cent of seats in the Senate

⁹ Statistics and the results of January-February 2006 elections.

- 48.8 per cent of seats in the Chamber of Deputies
- 17 per cent of district executive secretaries
- 49.2 per cent of district deputy-mayors
- 45.5 per cent of members of district consultative committees
- 44.3 per cent of members of sectoral consultative committees
- 25.6 per cent of members of cell-level consultative committees
- 39.1 per cent of members of National Youth Council executive committees
- 45 per cent of members of courts and tribunals¹⁰
- 37 per cent of members of the State Prosecution Service¹¹

143. There are women in the national police and the various specialized commissions.

144. Rwanda is currently rated as one of the world's leading countries in terms of women's representation in Parliament.

145. Concerning gender mainstreaming in Rwanda's programmes and policies, mention is made of "Vision 2020",¹² the economic development and poverty reduction strategy and the State budget, which all take account of gender promotion.

146. The Ministry of Gender and Family Promotion continues to contribute to capacity-building for women in all areas of national life with the aim of reducing levels of marginalization among women and making them aware of their rights in general and of their civil and political rights in particular.

147. The Government has undertaken to inform all citizens, particularly in rural areas, and women especially, of the laws prohibiting all forms of gender-based discrimination and violence against women.

¹⁰ Supreme Court, 2006 report, p. 11.

¹¹ Personnel statistics of the Prosecution Service, end 2006.

¹² Rwanda's vision for building a dynamic, diversified, integrated and competitive economy which, by 2020, will see Rwanda figure among middle-income countries, by increasing gross domestic product per capita per year from \$200 to \$900.

III.3.2 Family protection (article 23 of the Covenant)

148. In keeping with article 23 of the Covenant, the Rwandan State protects the family, the natural foundation of Rwandan society, and takes steps to improve its moral and economic welfare so that it may flourish (Constitution, art. 27).

149. The duty of the State to create legislation and appropriate institutions for the protection of the family is therefore one that is spelled out in the Constitution.

150. Other special laws protect marriage and regulate family property. They include Act No. 42/1988 of 27 October 1988, introducing the preliminary title and book 1 of the Civil Code, Act No. 22/99 of 12 November 1999, supplementing book 1 of the Civil Code and introducing part V, concerning marital property regimes, gifts and inheritance (*Official Gazette*, No. 22, 15 November 1999) and the Organic Act on Land Ownership (*Official Gazette*, No. 18, 15 September 2005).

III.3.3 Child protection (article 24 of the Covenant)

151. In Rwanda, a child is any person below 18 years of age (article 1 of Act No. 27/2001 of 28 April 2001, concerning the rights and protection of children against any form of abuse). Rwandan legislation protects children in general and girls in particular. Article 28 of the Constitution states that every child is entitled to such special protection by his or her family, society and the State as his or her circumstances require, in keeping with national and international law.

152. The Civil Code guarantees children the right to know about their origins (art. 126). Accordingly, parents must register births with the civil registrar within 15 days of the date of delivery (Civil Code, art. 117). Failure to meet this obligation is punishable by law. Under Rwandan law, all children enjoy their full rights without any distinction between legitimate children, children whose filiation is recognized and illegitimate children. Presumption of paternity pursuant to the Civil Code relieves children of the burden of having to prove their origin, unless paternity is denied.

153. Act No. 27/2001 of 28 April 2001 protects children against all forms of violence, in particular sexual abuse, and is strictly enforceable by the courts and tribunals.

154. In the framework of preventing statelessness, the Constitution, in article 7, states that everyone has the right to a nationality. Articles 4 and 6 of Organic Act No. 29/2004, concerning the Nationality Code, grant the automatic right to Rwandan nationality to children at least one of whose parents is Rwandan, children born in Rwanda of unknown or stateless persons and children who are unable to acquire the nationality of at least one parent. The same applies to any foundling in Rwanda.

155. Such protection is also afforded in the event of adoption or natural filiation. Article 11 of the Act stipulates that Rwandan nationality shall be granted as of right to a foreign, stateless or non-emancipated child whose filiation is recognized or who is adopted by a Rwandan. Article 12

states that a non-emancipated minor whose father or mother acquires Rwandan nationality shall acquire Rwandan nationality, as of right, under the same terms as the parent, provided that the child's filiation has been established in accordance with Rwandan law.

156. The Rwandan Criminal Code protects children against abandonment, exploitation and abuse, while the Civil Code gives every child the right to know who his or her parents are and requires parents to meet their obligation to provide their children with assistance, food and an education. The Code recognizes the child's right to seek legal recognition of paternity or maternity.

157. Rwandan law prohibits forced and early marriage. Under article 26 of the Constitution, no female or male may be married without their consent. Consent is only valid for persons of at least 21 years of age. The Minister of Justice or his or her deputy may, however, waive the age requirement for children over 18 years of age, if there are compelling grounds for doing so (Civil Code, art. 171).

158. Article 49 of Act No. 27/2001, concerning the rights and protection of children against abuse, and article 193 of the new draft civil code punish anyone responsible for a forced or early marriage. The penalties are increased if the person who arranges such a marriage is a relative or legal guardian of the child.

159. Article 196 of the new draft criminal code outlaws abductions or kidnappings carried out for the purpose of marrying the victim.

160. Articles 220 and 221 of the draft criminal code make it an offence to involve children in armed conflict and sports likely to harm their health. The draft code also makes it an offence to refuse to present or surrender a child to a person entitled to custody and to disregard parental obligations (art. 223).

161. In addition, a special law on the suppression of trafficking in persons, in particular children, is before Parliament awaiting adoption.

162. As regards investigations, a special section dealing with sexual abuse and domestic violence has been established by the national police (gender-based violence in Rwanda) and training in this sphere has been given to police officers and members of the Prosecution Service.

163. In that connection, the National Human Rights Commission has set up a children's rights watchdog. The watchdog reports to the Commission and is represented at all levels of government.

164. Rwanda has ratified most regional and international conventions and protocols on children's rights, including:

- The Convention on the Rights of the Child (Presidential Order No. 773/16 of 19 September 1990, *Official Gazette*, No. 21, 1 November 1990)
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Presidential Order No. 32/1 of 26/02/2002, *Official Gazette*, special edition of 26 June 2002)

- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Presidential Order No. 32/1 of 26 February 2002, *Official Gazette*, special edition of 26 June 2002)
- The ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) (Presidential Order No. 39 bis/01 of 30 September 1999, *Official Gazette*, No. 7, 1 April 2000)
- The African Charter on the Rights and Welfare of the Child (Presidential Order No. 773/16 of 19 September 1990, *Official Gazette*, No. 21, 1 November 1990)

165. With regard to legal proceedings involving children, special juvenile divisions have been set up within the provincial courts.

166. The Code of Criminal Procedure, in articles 184 to 192, establishes a special procedure for prosecutions of children. Article 184 states that a child below 12 years of age cannot be placed in police custody. Where, however, compelling evidence of guilt is found against a minor presumed to have committed an offence under Rwandan law for which the penalty is at least five years' imprisonment, the minor may be held at the disposal of a police officer for up to 48 hours. Minors between 12 and 18 years of age may be prosecuted but will benefit from attenuating factors by virtue of their minority and must always be assisted by counsel. If the representative or representatives of a minor fail to appoint counsel, the Prosecution Service will have the Bar Association appoint one for him or her (Code of Criminal Procedure, art. 185). The legal aid fund provided for in the new draft law on the Bar Association will play an important role in juvenile proceedings. Investigations take account of the family's social, psychological and material circumstances, the minor's history and the conditions in which he or she has lived or been raised.

167. With a view to promoting the welfare and development of children in general and orphaned and vulnerable children in particular, the Government approved the national children's programme, designed by the Ministry with responsibility for social affairs in conjunction with non-governmental partners, to facilitate children's family and socio-economic integration. In 2003, the Government adopted a national policy on orphans and vulnerable children. This governmental initiative was motivated by several considerations, in particular:

- The commitment of Rwanda to the establishment of a plan of action for children
- The need for an integrated and coordinated approach, since children's rights involve many different actors and cut across many different spheres of life
- The need to coordinate child-focused activities, evaluate the situation of children and implement the Convention on the Rights of the Child
- The launching of foster care programmes to provide foster families for children bereft of family support

168. Coordination of these policies on the complete social integration of children has brought about a reduction in the number of centres for orphans and vulnerable children and a corresponding reduction in the number of children living in such centres. Many children have been reunited with their families or placed with foster families or have found tutors.

169. The Ministry attached to the Prime Minister's Office in charge of Gender and Family Promotion, in collaboration with non-governmental organizations (ARBEF, FAWE Rwanda, Profemmes-Twese Hamwe), implements assistance programmes for adolescents and oversees centres offering family counselling and advice on sexual matters.

170. The Ministry of the Civil Service and Labour is tasked with eradicating child labour, while the Ministry of Education develops family assistance and protection programmes, including educational assistance (financial) for families, poor children and orphans.

171. Notwithstanding the Government's efforts to protect and promote children's rights, many challenges remain. The Ministry with responsibility *inter alia* for children has prepared a draft organic law on the establishment, organization and functions of a national commission for childhood to support the national programme for children. According to the draft law, the commission's main functions will be: to ensure that children's rights are respected; to devise and promote policies and laws that benefit children; to ensure children's participation in decisions that concern them; to disseminate information about children's rights and survival; to evaluate measures taken to implement the Convention on the Rights of the Child and its protocols; to monitor respect for children's rights; and to provide access to, and disseminate information about, international and national legal instruments dealing with children's rights, etc.

III.4 Right to life (article 6 of the Covenant)

172. Human dignity is guaranteed, protected and promoted as a necessary condition for the true and harmonious development of every Rwandan citizen.

173. In Rwanda, dignity is the basis of respect for any human being and encompasses the rights and freedoms guaranteed by the International Covenant on Civil and Political Rights, as taken up in the Constitution of the Republic of Rwanda.

174. According to the Constitution, the right to life is the foundation of all other rights. In other words, enjoyment of these other rights is impossible if the right to life is not respected. Article 10 of the Constitution states that the human person is sacred and inviolable, while article 12 gives explicit recognition to the right to life in the following terms: "Everyone has the right to life. No one shall be arbitrarily deprived of life." These two articles forbid the government authorities and private individuals from putting any person to death. Hence, the criminal laws, including the Criminal Code and other texts, specifically the Act on violence against children, impose severe penalties for offences against human life. A human life may only be taken under the conditions established by law, such as where a sentence of death is imposed for a crime. Anyone sentenced to death has an automatic right to appeal and may pursue any other means of recourse, including an appeal for a judicial review. The person sentenced to death may also seek a presidential pardon, pursuant to article 227 of the Code of Criminal Procedure, which applies to all major and minor penalties, including capital punishment. The Code of Criminal Procedure, in articles 247 and 248, deals with amnesties that may be granted to persons condemned to death.

175. In order to save the life of the unborn child, a sentence of death handed down to a pregnant woman will only be executed after delivery.

176. In order to eradicate the culture of impunity which has characterized recent decades, laws to suppress massive violations of human rights have been enacted, including the Organic Act on the prevention of genocide and crimes against humanity and the Act establishing the Gacaca courts. Under article 13 of the Constitution, genocide, war crimes and crimes against humanity are not time-barred from prosecution.

177. Rwandan criminal law still includes provision for capital punishment. However, since this penalty runs counter to the constitutional principles of unity and reconciliation, which were severely tested by the genocide, the Government has decided to abolish capital punishment, in line with its commitment to the fundamental human rights norms embodied in international instruments. A draft law on the abolition of capital punishment has been submitted to the Parliament for adoption. Four main factors prompted the Rwandan Government's decision to abolish capital punishment.

- The execution of a human being not only violates the principles guaranteed by the international instruments which Rwanda has ratified, but also those enshrined in the Constitution of Rwanda: everyone has the right to life (art. 12) and no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment (art. 15). Capital punishment no longer fits in with the human rights vision of the Rwandan State, which is one that aims at ensuring full respect for human life.
- The abolition of capital punishment will pave the way for better cooperation between the Rwandan justice system and some States which refuse extradition requests, especially in relation to the 1994 genocide. Moreover, as the death penalty is not used by the International Criminal Tribunal for Rwanda in Arusha, there is a risk of creating injustices and inequalities between persons tried by the Tribunal and those prosecuted by the domestic courts.
- Capital punishment is irreversible. A judicial error is always possible, and punishments that cannot be reversed must be eschewed.
- Capital punishment is no deterrent and does nothing to bring down the crime rate.

178. In regard to efforts to deal with insecurity, any reported cases of disappearance and extrajudicial killings are investigated by the authorities and the perpetrators are tried and convicted by the competent courts. The police and members of the Prosecution Service must launch an investigation as soon as a disappearance occurs. The competent courts will impose penalties for failure to meet this obligation.

179. As for health protection and prevention of epidemics, the State has taken measures to develop a health system capable of responding to the individual and collective needs of the population. The main goal is to step up efforts to guarantee the right to life by reducing the incidence of morbidity and mortality due to various causes.

180. Abortion and advertising of abortion methods are prohibited under the Criminal Code (arts. 235-238).

181. Lastly, since Rwanda is aware that any violation of the right to peace poses a threat to the life of the population, it is determined to work for peace throughout the world, in Africa and in the subregion in particular. This is evidenced in its actions (involvement in peacekeeping and security operations in Darfur, for example) and in the agreements to which it is a party (the Lusaka Agreement, the Pretoria Agreement, etc.). Regional integration to guarantee a lasting peace is a priority for Rwanda.

III.5 State of emergency: derogations from, and restrictions on, the rights guaranteed by the Covenant (article 4 of the Covenant)

182. Article 110, paragraph 3, of the Constitution states that the President of the Republic may declare a state of siege and a state of emergency under the conditions stipulated in the Constitution and the law. Such situations are regulated in articles 137 to 139 of the Constitution, which stipulate that it is the President of the Republic who declares a state of emergency or a state of siege, pursuant to a Cabinet decision. The reasons for taking this measure must be divulged, together with details on the part of the national territory to which it applies, its consequences, the rights, freedoms and legal guarantees to be suspended and the duration of the state of siege, which may not exceed 15 days and may only be extended with the approval of a two-thirds majority of each house of parliament. Under no circumstances may a declaration of a state of siege or a state of emergency affect the functions of the highest authorities in the country or alter the principles of State responsibility.

183. Article 137, paragraph 7, of the Constitution provides that a declaration of a state of siege or state of emergency shall not, under any circumstances, prejudice the right to life, physical integrity, status, legal capacity and nationality of persons, the principle of the non-retroactivity of criminal law, the right to a defence and freedom of conscience and religion.

III.6 Combating terrorism and other transnational crimes

184. Article 90 of the Organic Act concerning the code on the organization, functions and competence of the judiciary empowers the High Court of the Republic to try serious crimes at first instance, including terrorist offences. Jurisdiction becomes universal in a case brought against foreigners accused of committing offences abroad.

185. Other measures to combat terrorism have been taken, including:

- A draft counter-terrorism law which is currently before Parliament
- A draft law on money-laundering and terrorism financing which is currently before Parliament
- A draft law on the establishment of an information centre on money-laundering and terrorism financing

186. Rwanda is party to several regional and international conventions, including:

- The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 and ratified by Presidential Order No. 40/01 of 14 April 2001
- The International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 and ratified by Presidential Order No. 14/04/2002
- The International Convention for the Suppression of the Financing of Terrorism and the United Nations Convention against Transnational Organized Crime, ratified on 31 December 2002 (Presidential Order No. 158/01 of 31 December 2002; *Official Gazette*, No. 12 ter, 15 June 2003)
- The Protocol to the Convention on the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, ratified on 14 April 2002 (Presidential Order No. 42/01 of 14 April 2002; *Official Gazette*, No. 14, 15 July 2002)
- The Convention on the Marking of Plastic Explosives for the Purpose of Detection, ratified on 14 April 2002 (Presidential Order No. 44/01 of 14 April 2002; *Official Gazette*, No. 14, 15 July 2002)
- The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, ratified by Presidential Order No. 46/01 of 14 April 2002 (*Official Gazette*, No. 14, 15 July 2002)
- The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, ratified by Presidential Order No. 163/01 of 31 December 2002 (*Official Gazette*, No. 20, 15 October 2003)
- The Organization for African Unity Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14 July 1999 and ratified by Presidential Order No. 40/01 of 14 April 2002

III.7 Prohibition of torture and ill-treatment (article 7 of the Covenant)

187. This right prohibits the use of torture and inhuman, cruel or degrading treatment to violate an individual's physical and psychological integrity. This prohibition mainly applies to persons vested with public authority. The Constitution of the Republic of Rwanda makes it an absolute prohibition, stating, in article 15, that everyone has the right to physical and psychological integrity and that no one shall be subjected to torture, physical abuse or cruel, inhuman or degrading treatment. Paragraph 3 of the same article prohibits the performance of medical experiments on a person without his or her consent.

188. While the Criminal Code, in articles 316 and 388, prohibits torture; it does not treat torture and ill-treatment as a separate offence. Article 123 of the new draft criminal code makes torture and inhuman treatment a separate offence, however.

189. Articles 5 and 6 of Act No. 15/2004 of 12 June 2004, concerning the rules of evidence, prohibit the use of torture and similar practices to collect evidence during an investigation. Article 5 prohibits the use of potions, ordeals, divining, spells or any other magical, mystical, esoteric or superstitious practice to obtain evidence from a subject. According to article 6, no one may be tied up, flogged, tortured, brainwashed or subjected to any cruel or degrading act for the purpose of extracting a confession or witness statement from him or her.

190. Other laws prohibit torture and inhuman acts that intentionally cause suffering or grave harm to a person's physical and psychological integrity. These laws include Act No. 33 bis/2003, concerning the crime of genocide and crimes against humanity, and Act No. 27/2001 of 28 April 2001, concerning the rights and protection of children against violence.

191. In view of the serious psychological and physical consequences of torture for victims, prevention is of paramount importance for Rwanda. In that connection, training sessions on preventing torture are run for police officers, law officers involved in the prosecution of such crimes and doctors, as well as in schools. With a view to long-term prevention, awareness campaigns have been run by State institutions and local and international non-governmental organizations, including the Forum for Activists against Torture (FACT), the Association of Widows of the Genocide of April 1994 (AVEGA) and the Haguruka Association for the Defence of Women's and Children's Rights.

192. Although Rwanda is not a party to the Convention against Torture, the Rwandan authorities have begun the process of ratification of the Convention and all related international instruments so as to strengthen the rule of law and respect for personal freedoms and fundamental rights.

III.8 Prohibition of slavery, servitude and forced labour (article 8 of the Covenant)

III.8.1 Prohibition of slavery and servitude

193. Slavery is the non-recognition of an individual's legal personality and the denial of a person's rights whereby he or she is reduced to the status of an object. Rwandan law prohibits and punishes any negation of a human being that results in them being treated like an object.

194. The Constitution of the Republic of Rwanda enunciates a number of principles which affirm that the human person is sacred and inviolable (art. 10) and that the State and Government have a duty to respect, protect and defend the person.

195. Support for this stance is found in Act No. 42/1988 of 27 October 1988, introducing the preliminary title and book 1 of the Civil Code, article 15 of which recognizes the legal personality of individuals, stating that the human person is subject to law from birth until death.

196. The new draft criminal code prohibits trafficking in persons (art. 241), the sale and sexual exploitation of children (art. 248), slave trafficking (art. 242) and trafficking of human organs (art. 255).

197. Rwanda has ratified several international instruments on the prohibition of slavery, including:

- The Slavery Convention of 1926, as amended by the Protocol of 7 December 1953 and approved by the Belgian Act of 18 July 1927 (Belgian Monitor, 28 October 1927)
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified by Presidential Order No. 161/01 of 31 December 2002 (*Official Gazette*, No. 12 ter, 15 June 2003)
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (see point III. 6 above)

198. A draft law on the incorporation of these international instruments into Rwandan legislation is before Parliament.

III.8.2 Prohibition of forced labour

199. Forced labour means any work done by an individual under the threat of punishment of any kind or work for which he or she has not volunteered. Free choice of employment is a constitutional principle (Constitution, art. 37). Article 1 of the Rwandan Labour Code takes up that definition, affirming that forced labour is any work or service imposed on an individual under the threat of punishment of any kind or for which the individual has not volunteered. The Code completely prohibits forced or compulsory labour (Act No. 31/2001 of 30 December 2001, concerning the Labour Code).

200. With regard to exploitation of minors by adults, Act No. 27/2001 of 28 April 2001, concerning the rights and protection of children against violence, protects children from engagement in work likely to jeopardize their education or harm their health and physical development (art. 18). In that connection, the Ministry attached to the Prime Minister's Office in charge of Gender and Family Promotion and the Ministry of the Civil Service and Labour, in conjunction with their programme partners, undertake awareness-raising activities aimed at eradicating child labour completely, particularly among orphans and unaccompanied minors.

201. Rwanda is also a party to ILO conventions, including:

- The ILO Forced or Compulsory Labour Convention, 1930 (No. 29), ratified by Presidential Order No. 26/01 of 10 November 2000 (*Official Gazette*, No. 24, 15 December 2000)
- The ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182), ratified by Presidential Order No. 159/01 of 31 December 2002 (*Official Gazette*, No. 12 ter, 15 June 2003)

202. Article 4 of the Labour Code recognizes some exceptions to the right to free choice of employment, however, particularly in the case of work imposed on an individual as the result of a court conviction; work or service imposed pursuant to military service regulations; and works or services arranged by local government authorities and approved by the community or its direct representatives. Community service carried out as an alternative to imprisonment, as provided for in Presidential Order No. 10/01 of 7 March 2005, concerning the enforcement of penalties for offences associated with the genocide, is also included in these exceptions.

III.9 Right to liberty and security of person (articles 9 to 13 Covenant)

203. The Constitution of the Republic of Rwanda protects liberty and security of person from any possible violation. The general principle of liberty is recognized in article 18, which states: “Liberty of person is guaranteed by the State. No one may be prosecuted, arrested, detained or convicted except under the conditions specified by the law in force at the time that the act was committed.”

204. The right to liberty of person as guaranteed by the Constitution implies the right to liberty of movement and free choice of residence in the country. It also implies the presumption of innocence: the principle that every person accused of a crime shall be presumed innocent until he or she is definitively proved guilty, according to law, in a public and fair hearing that affords all the necessary guarantees for a proper defence (Constitution, art. 19).

205. The right to asylum is also recognized in the Constitution (art. 25), subject to the conditions established by prevailing law. No Rwandan may be forced into exile or extradited.

206. In order to give effect to the right to liberty and security of person guaranteed by the International Covenant on Civil and Political Rights and further endorsed by the Constitution and other laws, in particular Act No. 13/2004 of 17 May 2004, as amended and supplemented by Act No. 20/2006, concerning the Code of Criminal Procedure (arts. 37 and 96), very stringent conditions for arrests and detention have been imposed. In particular, the length of time during which a person may be held by the police or Prosecution Service for the purposes of an investigation has been restricted. For example, in the case of police custody, an arrest report written by a police officer is only valid for 72 hours, with no possibility of extension, while an arrest warrant issued by a member of the Prosecution Service is only valid for 7 days. The person must be brought before a court within 72 hours from the issuance of the arrest warrant so that a decision may be taken on his detention and the court has 24 hours to render its decision. A pretrial detention order must specify the grounds on which the order was issued. It is valid for 30 days and renewable on a monthly basis up to a limit of 6 months.

207. Under the Code of Criminal Procedure, a surety may be provided in the form of an amount of money or a guarantee by a solvent person of good character and a settlement may be concluded in respect of a crime for which the penalty is not more than two years’ imprisonment. Article 89 of the Act concerning the Code of Criminal Procedure, as amended and supplemented, states that in a case of unlawful detention carried out by a police officer or member of the

Prosecution Service, any interested party may request the judge of the competent court closest to the place of detention to order the person responsible for the unlawful detention to appear before it with the detainee to explain the reasons for, and circumstances of, the detention. The Code allows the court to punish the guilty party on the spot and to order the detainee's provisional release (art. 89). These provisions are strictly enforceable.

208. The Republic of Rwanda has been preoccupied with ensuring respect for the principle of liberty and security of person, especially since the 1994 genocide. After the genocide, Rwanda was confronted with the complex task of having to try thousands of persons suspected of participating in the genocide. Nearly 120,000 persons were detained awaiting examination of their cases by the competent courts.

209. In order to avoid a situation whereby those persons risked being held in detention for longer than any custodial sentence that might be imposed upon conviction, on 1 January 2003 the Office of the President of the Republic issued a communiqué asking for the provisional release, subject to the laws in force, of detainees who had confessed to participating in the genocide and risked finding themselves in such a situation. The measure also applies to minors who were between 14 and 18 years of age at the time of the genocide, persons over 70 years of age and detainees suffering from chronic and incurable diseases. It was extended to include detainees prosecuted for ordinary law offences who also risked a longer period of detention than any possible sentence that might be imposed. This appeal has been made every year since 2003. As a result, a total of 59,919 detainees have been released, 24,903 of them in 2003, 4,500 in 2004, 20,859 in 2005 and 9,276 in 2006. Their reintegration into Rwandan society is effected through a re-education mechanism that has proved effective.

210. Faced with the risk of sanctions for unlawful detention, the judicial and prison authorities make sure that no one remains in detention for even a day longer than the legally prescribed term.

211. Lastly, the right to liberty of person implies free choice of residence. In this regard, every Rwandan has the right to freedom of residence in Rwanda and the freedom to leave and to return to the country (Constitution, art. 23).

212. Official travel documents, such as a passport and laissez-passer, are issued at the applicant's request and in the shortest possible time. No documents are needed for internal travel in Rwanda.

213. Freedom of movement may only be restricted by law for reasons of public order or State security or in order to avert a public threat or to protect persons in danger (Constitution, art. 23). No other legal restrictions are in effect.

214. The rights of foreigners in Rwanda are guaranteed by the Constitution, article 42 of which stipulates that every foreigner legally present in the Republic of Rwanda shall enjoy all rights, except those reserved for nationals.

215. The right to asylum is recognized by the Constitution (art. 25). A national refugee council has been set up to deal with refugee problems. Its duties include examining applications for refugee status, taking decisions thereon and ensuring that refugees' rights are upheld.

Article 22 of Act No. 34/2001 of 5 July 2001, as amended, concerning refugees, stipulates that everyone who is granted refugee status enjoys the rights and freedoms provided for in the relevant international legal instruments which Rwanda has ratified, including the right to non-discrimination, the right to a judicial remedy and legal representation, the right to employment and the right to housing.

216. Extradition of foreigners is only authorized under the conditions laid down by law or the international treaties to which Rwanda is a party (Constitution, art. 25).

217. With regard to treatment of persons legally deprived of liberty, Act No. 38/2006, concerning the establishment and organization of the national prison service, defines the basic principles which support the rights of prisoners as envisaged in the Constitution of the Republic of Rwanda and the international treaties that Rwanda has ratified.

218. Article 20 of the Act states that confinement to prison must be effected in keeping with the following principles and objectives:

- Helping prisoners to repent and change their behaviour
- Ensuring respect for prisoner's rights as guaranteed by the Constitution and the international treaties which Rwanda has ratified
- Ensuring respect for the life, physical and psychological integrity and welfare of prisoners
- Guaranteeing the security of every prisoner until release
- Helping prisoners to help the country and themselves by improving their knowledge and skills

219. Article 23 stipulates that prisoners must be afforded decent treatment which ensures respect for their human rights. The article provides protection against any form of cruelty, torture and inhuman or degrading treatment.

220. Notwithstanding the vast size of the prison population as a result of the genocide, substantial improvements are being made to make sure that the rights of children in prisons are safeguarded. Hence, the right to medical care, food and legal assistance is granted to all children in detention, without any distinction, and separate blocks from those housing adults have been created. Special arrangements are made for babies living in detention with their mothers, and the prison administration offers them an improved diet. At the age of 3, children are returned to their families so that they can grow up in a normal environment. If they have no family to take them, the State will look for a foster home (Act No. 38/2006, art. 25).

221. With regard to training, other inmates provide literacy classes, primary school lessons and vocational education.

222. Women in detention facilities live in special blocks that are segregated from the men's quarters and are guarded by female warders (Act No. 38/2006, art. 25). Internal prison regulations have been established to deal with rapes and other forms of ill-treatment perpetrated by prisoners themselves or security staff. Failure to abide by these regulations carries severe penalties.

223. A prisoner who is pregnant or breastfeeding receives appropriate treatment.

224. As for prisoners' health, all prisons have nurses who dispense basic treatment and medicines. Special cases are referred to nearby health centres (Act No. 38/2006, art. 27). As a general rule, the cost of medical care is borne by the State, although prisoners also receive aid from the International Committee of the Red Cross (ICRC) for emergency drugs. In some detention centres, there is a mutual health insurance scheme to which every prisoner must subscribe. Indigent prisoners, however, receive free medical care.

225. Without prejudice to public order, prisoners are entitled to visits from their family or friends during authorized hours and days, and may exchange information with them orally, in public, and in the presence of a warder or any other prison officer. Prisoners are entitled to visits from their counsel during working hours and may freely exchange information with them in writing or orally (Act No. 38/2006, art. 28). Foreign prisoners receive explanations, in a language of their own choosing, of the laws on prisoners. They are entitled to meet or exchange information with the diplomatic representatives of their country. Foreign prisoners who come from a country that has no diplomatic representation in Rwanda or who are refugees or stateless persons may be assisted by representatives of another country or an international organization of their choosing which has agreed to take on their case (Act No. 38/2006, art. 34).

226. Although the high standards set for detention in article 26¹³ are sometimes beyond the country's capacity to meet, they do constitute a goal to be attained in the shortest possible time.

III.10 Right to a fair trial (article 14 of the Covenant)

227. This right encompasses the norms set forth in the Constitution, laws and regulations, including: the right to a judge; the right to an independent and impartial hearing; the right to be

¹³ Article 26 of Act No. 38/2006, concerning the establishment and organization of the National Prison Service, imposes the following conditions: "Places of detention must have the necessary sanitation and water installations and sufficient ventilation, light and space to guarantee the physical health and bodily hygiene of prisoners. All prisoners have an inalienable right to a balanced diet and to a sufficient quantity of safe drinking water. Prisoners have the right to spend time in the open air within the precincts of the prison. They are also entitled to leisure time so that they may take physical exercise. Prisoners have the right to worship, provided that they do not breach the rules or endanger their fellow inmates. Religious instruction in prison must be geared towards re-socialization of prisoners."

informed about one's case; the right to the presumption of innocence; the right to be assisted by counsel of one's own choosing; the right to equality of arms, and the adversarial principle; the right to remain silent; the right to a public hearing; the right to be tried in a reasonable period of time; and the right to a reasoned judgement.

228. Broadly speaking, the policy of the Government of Rwanda is to provide effective, prompt and equitable justice that is accessible to all. This is the very essence of the judicial reform begun in the 1990s.

229. Efficient and effective remedies against violations of rights are provided for all without any distinction. Complaints may be referred to the competent judicial bodies or higher administrative authorities and independent human rights institutions (National Human Rights Commission, Office of the Ombudsman). By way of example, since the Office of the Ombudsman was set up in 2003, it has examined several cases of injustice and found solutions for many of them. In 2005, the Office received 3,056 complaints about injustice, of which 2,257 were settled formally or directly during discussions or meetings held at the Office with the government departments concerned.¹⁴ In 2006, the Office registered 961 complaints, of which 459 were resolved, 203 were referred to the departments concerned¹⁵ and 299 remain under consideration.

230. In order to guarantee the right to a judge, article 18 of the Constitution of 4 June 2003 provides that no one shall be reassigned, against his will, to a court other than that designated by law.

231. The right to be informed of the nature of the offence and the basis of the charges as well as the right to a defence are absolute rights at all stages and levels of proceedings before all administrative and judicial bodies and other decision-making organs.

232. The right to a defence is not subject to any restrictions, even for the poorest citizens, be they defendants or complainants.

233. A new draft law amending the current law on the establishment of the Rwanda Bar Association makes provision for legal aid and requires lawyers to assist persons who have no resources or are deemed to be destitute. This draft law carefully reminds lawyers of their duty to respond to the new imperatives on promoting justice that is fair. Accordingly, it forbids any lawyer to engage in corrupt practices or commercial activities. In furtherance of the progress already made on judicial reform, the draft law sets high professional standards for prospective lawyers so that all parties in legal proceedings may be placed on an equal footing and equality of arms may be guaranteed.

234. With regard to the guarantee of a public hearing, the law and judicial practice are consistent with article 14, paragraph 1 of the Covenant. Indeed, the Act on the organization,

¹⁴ Report of the Office of the Ombudsman, 2005, p.52.

¹⁵ Report of the Office of the Ombudsman, 2006, p.37.

functions and jurisdiction of the courts, as subsequently amended by Act No. 14 /2006 of 22 March 2006 (*Official Gazette*, special edition, 23 March 2006), stipulates, in article 167, that hearings by courts and tribunals must be held in public, unless a court decides to hold a hearing in camera because of a threat to public order or public morals.

235. Article 145 of the Code of Criminal Procedure states that hearings must be conducted in public but goes on to say that a court may order a hearing to be held in camera pursuant to a ruling that a public hearing would jeopardize public order or public morals. The same article states that the judgement must in any case be delivered in open court.

236. Articles 59 and 60 of Act No. 18/2004 of 20 June 2004, concerning the Code of Civil, Commercial, Social and Administrative Procedure, as amended by Act No. 09/2006 of 2 March 2006 (*Official Gazette*, special edition, 5 April 2006), state that proceedings must be conducted inter parties and in public, unless a court decides to conduct proceedings in camera, on its own initiative or at the request of one of the parties, in order to safeguard public order, public decency or privacy. In that event, however, the court must issue a decision stating the grounds for holding the hearing in camera.

237. In civil cases, the parties appear in person or are represented by counsel (Code of Civil, Commercial, Social and Administrative Procedure, art. 42), while in criminal cases, the accused appears in person. The court can always give permission for a defendant who cannot attend in person to be represented by counsel, however (Code of Criminal Procedure, art. 139).

238. The right to a fair trial includes the right to an independent and impartial tribunal. The independence of the courts prevents any interference by the executive in judicial matters and, in particular, in the work environment and careers of judges. The independence of the judiciary is guaranteed by the Constitution of the Republic of Rwanda, article 140 (2) of which states that the judiciary is independent and separate from the legislature and executive. The judiciary enjoys administrative and financial autonomy and the independence of judges is guaranteed. Judges are fully independent and discharge their duties subject to no authority other than the law. They have full discretion to hear the cases before them and decide on the action to be taken independently of any external pressure (article 22 of Act No. 6 bis/2004 of 14 April 2004, concerning the rules on judges and judicial personnel). This independence is boosted by the role that the Superior Council of the Judiciary plays in appointing judges, except for the president and the vice-president of the Supreme Court who are appointed by the Senate.

239. Once appointed, judges have security of tenure; they cannot be suspended or transferred, even for a promotion, nor can they be pensioned off or dismissed, except in the cases provided for by law.

240. In order to eradicate corruption in judicial bodies, inspectorates have been set up within the Supreme Court and the State Prosecution Service.

241. Act No. 23/2003 of 7 August 2003, concerning the suppression of corruption and related offences, provides the legal basis for criminalizing corruption.

III.11 The right to legal personality and privacy (articles 16 and 17 of the Covenant)

242. Recognition of the legal personality of individuals or bodies corporate is expressly given by the law. Article 15 of Act No. 42/1998 of 27 October 1988, introducing the preliminary title and book 1 of the Civil Code, states that the human person is a legal person from birth. The Rwandan Civil Code declares that legal personality begins at birth but that a child, simply by virtue of being conceived, enjoys these same rights, as dictated by his or her interests. Consequently, abortion and advertising of abortion methods are prohibited under the Criminal Code (arts. 325 to 328 and 379).

243. Rwandan law recognizes the legal personality of bodies corporate such as enterprises (Act of 12 February 1998, regulating commercial enterprises) cooperatives (Act of 12 October 1988, regulating cooperatives) and non-for-profit associations the object of which is to further the attainment of humanitarian goals and promotion of social welfare (Act No. 20/2000 of 26 July 2000).

244. The right to privacy of all inhabitants of Rwanda is protected by the Constitution in article 22, which states that a person's private life, family, home or correspondence shall not be subject to arbitrary interference, nor shall his or her honour or good name be impugned. Homes are inviolable. They may not be searched or entered without the owner's consent, save in the circumstances and according to the procedures specified by law. Hence, a police officer who ascertains that evidence may only be secured from papers, documents or other articles or effects in the possession of a suspect or third party may only enter and search a home with a warrant issued by a prosecution officer.

245. The confidentiality of correspondence and communications may be breached only according to the procedures prescribed by law. Any other breach is an offence under articles 215 and 216 of the Criminal Code.

III.12 Right to freedom of thought, opinion, conscience and religion (articles 18 to 21 of the Covenant)

246. Freedom of thought, conscience and religion is provided for in article 33 of the Constitution, which stipulates that freedom of thought, opinion, conscience, religion and belief and of the public manifestation thereof is guaranteed by the State under the conditions set down by law.

III.12.1 Freedom of thought and opinion

247. The right of politicians and political groups to freedom of thought and opinion is recognized in the Constitution and Organic Act No. 16/2003 of 27 June 2003, concerning political groups and politicians.

248. Political groups form and pursue their activities freely and contribute to the democratic education of the public. They must not, however, undermine the Constitution, laws, public order or national unity (Constitution, art. 52 and Organic Act No. 16/2003, art. 2). No political group may identify itself with a particular race, ethnic group, tribe, region, clan, religion, sex or any other category that could be used as a basis for discrimination.

249. With the exception of judges, prosecutors and members of the armed forces, police and national security service, all Rwandans of 18 years old and over are free to join or not to join a political group (Constitution, art. 59 and Organic Act No. 16/2003, arts. 4 and 16).

250. The press is regulated by Act No. 18/2002 of 11 May 2002, which recognizes the right of individuals to establish media companies - until very recently a State monopoly. Since the passing of Act No. 18/2002, which was designed to liberalize the print and audiovisual media, the print media (newspapers) have expanded and private and community radio stations have sprung up.

251. In Rwanda today, there are over 47 newspapers, of which 26 were launched in 1994 and 13 in 2005.

252. A total of 14 private radio stations are on air¹⁶ and many of their owners plan to launch television stations in the near future.

253. Apart from national radio, which began broadcasting in 1961, the other radio stations first went on air in 2003.

254. The presence of the international media, including the British Broadcasting Corporation, Voice of America and Radio Deutsche-Welle, is a further example of the freedom of opinion and expression that exists in Rwanda.

255. The High Press Council, which is responsible for promoting freedom of the press and creating equitable regulatory mechanisms, was established in conformity with article 34 of the Constitution. It has been operational since 2003 and its main tasks are clearly defined in the Constitution. They include:

- Guaranteeing the freedom and protection of the press
- Making sure that professional ethics in journalism are upheld
- Ensuring that political parties and associations have equitable access to official information and communication media
- Advising on the issuance of licences for press and audio-visual media companies
- Advising on decisions to suspend or ban a newspaper or periodical or to close down a radio station, television station or news agency
- Issuing or revoking press cards

¹⁶ Radio 10; Radio Flash; Radio Contact FM; Adventist Radio; City Radio; Radio Ijwiry'Ibyiringiro; Radio Sana (Restore FM); Radio Umucyo in Kigali; Radio Salus Popoli at the National University of Rwanda; Radio Maria in the southern province; Radio Izuba in the eastern province; and community radio stations in the western and northern provinces.

256. The Constitution only restricts freedom of speech and information when this is necessary to safeguard public order and public morals and protect young persons and children and the right of every citizen to his or her honour, reputation and personal or family privacy (art. 34 (2)). Hence, notwithstanding the wide degree of freedom of opinion and speech enjoyed in the country, any propaganda for war or incitement of war is designated as an offence punishable under articles 164 to 177 of the Criminal Code.

257. The Constitution furthermore prohibits all ethnic, regionalist and racist propaganda and all other kinds of divisive propaganda.

258. The right to information is supported by the Government's policy of promoting information and communication technologies. State institutions, private institutions and individuals have access to and use the Internet and intranet on a regular basis.

259. The following challenges need to be addressed, however:

- A lack of professionalism in journalism that results in the press laws being violated
- Difficulties in gaining access to information
- Material dependence of media companies and journalists
- High printing costs

260. Measures to address these problems are planned, including the establishment of a continuous learning centre for journalists, facilitation of access to information and tax exemptions on printing materials.

261. Freedom of thought, as recognized in the Covenant, is a right that does not require legal protection, since thought, when not expressed, cannot be repressed, and when expressed, falls within the scope of freedom of speech and opinion under article 33 of the Constitution.

III.12.2 Freedom of conscience and religion

262. Under Rwandan law, freedom of conscience and religion is manifested on two different levels: the freedom to join a religion and the freedom to manifest it in public. The freedom to establish a faith-based community is part of freedom of association, and the procedures for forming and joining such a community are regulated by Act No. 20/2000 of 26 July 2000, concerning non-for-profit associations (*Official Gazette*, No. 7, 1 April 2001).

263. Freedom of conscience and religion is not only a matter of law and State actions; Rwandan culture and faiths demonstrate a marked degree of religious tolerance. Generally speaking, there is a deep respect for other faiths, which creates an atmosphere of harmonious coexistence. Different faiths find their place in Rwandan society by accepting that others preach a different message. The State has adopted secularism, and there is no State religion (Constitution, art. 1).

264. The freedom of parents and children to choose their religious education is assured.

265. As a guarantee of this right, the Rwandan Criminal Code, as amended, (Act No. 08/1983 of 10 March 1983; *Official Gazette*, 1983), in articles 293 to 296, prescribes penalties for violating freedom of worship.

III.13 Freedom of assembly and association (articles 21 and 22 of the Covenant)

III.13.1 Freedom of assembly (article 21 of the Covenant)

266. According to article 36 of the Constitution, the Rwandan State guarantees the right to freedom of assembly, which implies the right to hold peaceful meetings at which no participants are armed. Rwandan law distinguishes between public and private meetings. Private meetings are held in a closed venue or private home that is only accessible to persons invited or summoned to attend. Public meetings are held in a public place. Only public meetings are subject to restrictions.

267. Restrictions on this right are only such as are lawful and acceptable in a democratic society. Their main purpose must be to maintain public order and safety or to protect health, the rights and liberties of others and public morals. According to the Rwandan Constitution, prior authorization is only required by law for gatherings held in the open air, on a public street or in a public place and for reasons of public security, public order or public health (Constitution, art. 36).

III.13.2 Freedom of association (article 22 of the Covenant)

268. The Constitution of the Republic of Rwanda fully guarantees freedom of association. No prior authorization is required to form an association. This freedom is exercised, however, under the conditions set down by law (art. 35).

269. The Constitution and other laws in force also protect enterprises (Act of 12 February 1988 regulating businesses; *Official Gazette*, 1991), cooperatives (Act of 12 October 1988 regulating cooperatives; *Official Gazette*, 1989) and other associations with a humanitarian and social object (Act No. 20/2000 of 26 July 2000, regulating non-for-profit associations; *Official Gazette*, No. 7, 2001).

270. Article 3 of Act No. 20 /2000 grants everyone the right freely to join or to withdraw from an association, although resignation or withdrawal does not release a member from any contractual obligations or commitments made to the association.

271. In line with its policy on poverty alleviation, the Government encourages the population to form associations with a view to creating financial institutions that can improve their economic circumstances.

272. As for the right to form trade unions, article 38 of the Constitution states: "The right to form trade unions to defend and promote legitimate professional interests is recognized. Any worker may take trade union action, subject to the conditions laid down by law, to defend his or her rights". Paragraph 3 of this article of the Constitution guarantees this right not only to workers but also to employers. It states: "Every employer has the right to join an employers' association". Trade unions and employers' associations may enter into general or specific agreements regulating their working relations (Constitution, art. 34).

273. Trade unions are completely independent and cannot be dissolved or suspended by an administrative decision, unless in accordance with the wishes of their members, as expressed at a general assembly, or pursuant to a court decision (Labour Code, art. 147).

274. The Confederation of Trade Unions in Rwanda (CESTRAR) represents all trade unions, whereas employers are represented by the Rwanda Employers' Association.

275. Article 39 of the Constitution recognizes the right to strike and the right of employers to order a lock-out. These rights are regulated by Act No. 21/2001, concerning the Labour Code, and are exercised in accordance with the law. They cannot be exercised in a manner that impairs the freedom of employment accorded to all.

276. It should be noted, however, that strikes by workers and civil servants are very rare, because any demands are dealt with by other means, in particular through negotiations with employers.

277. In addition to workers' and employers' organizations, Rwandan law protects many professional associations and organizations, such as the medical association, the Bar Association, the association of professional bailiffs, etc.

III.14 Right to take part in the conduct of public affairs (article 25 of the Covenant)

278. The Constitution grants citizens the right to take part in the conduct of public affairs, directly or through representatives, and to vote and be elected to public office.

279. Article 2 of the Constitution stipulates that all power is derived from the people. No group or individual can assume power unilaterally. National sovereignty belongs to the people, who exercise it directly in referendums or through their representatives. Article 45 states that all citizens have the right, subject to the rules determined by law, to participate in the running of their country either directly or through freely chosen representatives. The right to vote is a right that gives the system of government in Rwanda its legitimacy. At the same time, it gives effect to the principle that sovereignty belongs to the people. The right to vote is not just a right, but also a duty. It is a moral duty, however, and no penalties are imposed for failing to vote.

280. To be eligible, a voter must be a Rwandan of at least 16 years of age who has not forfeited his or her civic rights as a result of a criminal conviction or who does not lack capacity by virtue of being a minor. Voting is by free and secret ballot. One or several polling booths must be installed in the polling station so that voters can make their choice in secret. Polling officers must always explain the voting procedures to the voter.

281. In keeping with the Constitution, the technical and administrative aspects of elections are managed by an independent electoral body called the Electoral Commission. It was through this electoral process that the people of Rwanda voted in the new institutions which put an end to the transition.

282. Periodic elections are held for institutions all the way up to the highest levels (the President of the Republic, Members of Parliament, mayors, etc).

283. In addition to direct participation in public affairs, through the exercise of the right to vote, participation in the political management of the country, through the exercise of the right to join a political party, is assured in article 53 of the Rwandan Constitution.

284. The right of the Rwandan people to participate in the conduct of public affairs is guaranteed by decentralization mechanisms that delegate most central government functions to local authorities and thus allow the people to play an active role in the management of public affairs.

285. As regards the Civil Service, the conditions for participation are based on the abilities and capacities of candidates. Under article 45, paragraph 2, of the Constitution all citizens have the right of equal access to public service in accordance with their abilities and capacities. Recruitment for senior State positions and all jobs is based on competition and equal opportunities are offered to all applicants.

286. A civil service commission, due to be established shortly, is required by the Constitution to monitor compliance with these principles.

III.15. Protection of national minorities (article 27 of the Covenant)

287. A national minority is a group of persons in a State who: reside in that State and are citizens thereof; maintain long-standing, firm and lasting ties with that State; display distinctive ethnic, cultural, religious or linguistic characteristics; are sufficiently representative, although smaller in number than the rest of the population of that State or a region of the State; and are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their tradition, their religion or their language.¹⁷

288. No minority according to this definition can be identified in Rwanda. The Rwandan Government is aware that there are some communities that have historically been marginalized and deserve greater attention than the rest of the population so that their full socio-economic integration can be achieved. Article 82 of the Constitution makes special provision for marginalized national communities, stipulating that they must have eight parliamentary representatives, appointed by the President of the Republic.

289. Given the factors that led to the Rwandan genocide of 1994, however, the Government refuses to recognize as a category communities seeking to identify themselves as ethnic minorities or groups that claim to have been born with rights denied to the rest of the population.

290. The national poverty reduction programme is a comprehensive development plan designed to improve the economic situation of the population, beginning with the most vulnerable groups, irrespective of ethnic, religious or regional ties or any other identifying characteristic.

¹⁷ Francesco Capotorti, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/1979/384, para. 568).

Conclusion

291. This third periodic report on the implementation of the International Covenant on Civil and Political Rights attests to the determination of the Republic of Rwanda to abide by its international commitments. Implementation has not been easy, however, especially in the initial stages of the democratization process, including the lengthy period of time overshadowed by a regime characterized by massive violations of human rights and a situation of impunity which culminated in the 1994 genocide - a complete negation of human rights.

292. Worthy Rwandans did not take long to react and to find a solution to that situation of human rights violations. As this report has shown, the Transitional Government established after the genocide and the institutions set up in the post-transition phase were given the crucial task of establishing a State governed by the rule of law and guarantees of respect for fundamental freedoms and human rights

293. These developments show that, whatever the difficulties in implementing the Covenant, Rwanda is committed to protecting and promoting human rights in general, as enshrined in regional and international instruments, and civil and political rights in particular.

294. While Rwanda is proud of the achievements described in this report on the implementation of the International Covenant on Civil and Political Rights, it intends to do more to make these rights more effective and accessible to all, as it recognizes that the Covenant does not guarantee purely theoretical and illusory rights but rather practical, effective and accessible rights.
