



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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**Reports submitted by States parties under article
9 of the Convention**

Thirteenth to seventeenth periodic reports due in 2008*

Rwanda**

[27 April 2010]

* This document contains the thirteenth to seventeenth periodic reports of Rwanda, due on 16 May 2008. For the eighth to twelfth periodic reports and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/335/Add.1 and CERD/C/SR.1385 and 1386.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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List of abbreviations/acronyms

| | |
|-----------|--|
| ACHPR | African Charter on Human and Peoples' Rights |
| AJEPRODHO | Association de la Jeunesse Pour la Promotion des droits de l'Homme |
| Art. | Article |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CEPGL | Communauté Economique des Pays des Grands Lacs |
| CESTRAR | Centrale des Syndicats des Travailleurs au Rwanda |
| CLADHO | Collectif des Ligues et Associations de Défense de Droits de l'Homme |
| CMC | Centre for Conflict Management |
| COMESA | Common Market of East and Southern Africa |
| EAC | East African Community |
| Ex-FAR | ex-Rwandese Armed Forces |
| GBV | Gender Based Violence |
| GoR | Government of Rwanda |
| HIDA | Human Resources and Institutional Capacity Development |
| HIMO | Haute intensité de main d'œuvre |
| HMP | Historically Marginalised People |
| ICCPR | International Covenant on Civil and Political Rights |
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICRC | International Committee of the Red Cross |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICTR | International Criminal Tribunal for Rwanda |
| IJR | Institute for Justice and Reconciliation |
| ILO | International Labour Organization |
| IRDP | Institut de Recherche de Dialogue pour la Paix |
| KHI | Kigali Health Institute |
| KIE | Kigali Institute of Education |
| KIST | Kigali Institute of Science and Technology |
| KIU | Kigali Independent University |
| LAF | Legal Aid Forum |
| LD | Local Defence |
| LDGL | Ligue des Droits de la Personne dans la Région des Grands Lacs |
| LIPW | Labor Intensive Public Works |

| | |
|--------|--|
| LMIS | Labour Market Information System |
| MMI | Military Medical Insurance |
| MoH | Ministry of Health |
| NCFG | National Commission for the Fight against Genocide |
| NCR | National Council for Refugees |
| NHRC | National Human Rights Commission |
| NUR | National University of Rwanda |
| NURC | National Unity and Reconciliation Commission |
| O.G | Official Gazette |
| Para. | Paragraph |
| RDF | Rwandese Defence Forces |
| RIAM | Rwanda Institute of Administration & Management |
| RPF | Rwandese Patriotic Front |
| SCUR | Students Clubs for Unity and Reconciliation |
| SSF | Social Security Fund |
| TIG | Travaux d'Intérêt General |
| TU | Trade Unions |
| TVET | Technical and Vocational Education Training |
| UDHR | Universal Declaration of Human Rights |
| ULK | Université Libre de Kigali |
| UN | United Nations |
| UNILAK | Université Laïque Adventiste de Kigali |
| UPE | Universal Primary Education |
| WDA | Workforce Development Authority |

I. Introduction

1. This is the combined thirteenth to seventeenth periodic report submitted by the Government of Rwanda on the current implementation status of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

2. Committed to total protection and promotion of human rights and parting with the previous obnoxious legacy, Rwanda notices and deeply regrets the delay in submission of its periodic due reports. This has however been attributed to a combination of reasons. The primary among others was the nature of imperative needs and instantaneous priorities in the aftermath of genocide. In addition, reporting was further hampered by lack of proper structures and technical personnel to undertake the reporting obligations.

3. As recommended by the Committee on the Elimination of Racial Discrimination, the present report addresses in particular the matters raised in the concluding observations that the Committee adopted after considering the twelfth periodic report of Rwanda at its 1385th and 1386th sessions, 23 March 2000 (CERD/C/SR.1385 and 1386). In addition, the report includes further information on recent legislation and measures taken in order to eliminate racial discrimination.

4. The present report has been prepared by government's ministries and institutions in close collaboration with different stakeholders.¹ Non-governmental organizations and various other bodies were consulted and where necessary issued written statements for incorporation in the report. In addition, the report benefited from an open hearing that took place in January 2009 for public authorities/institutions, non-governmental organizations (NGOs), labour market organizations and advisory boards. Indeed, the opportunity was hailed as a platform for stakeholders to present their views and comments on the report. All the comments were seriously considered.

II. General information on Rwanda

A. Background

5. Rwanda acceded to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by Decree-Law No. 8/75 of 12 February 1975, which approved and ratified various international conventions concerning human rights, disarmament, and the prevention and suppression of certain acts endangering peace between peoples and nations.

¹ The Ministries included: Ministry of Foreign Affairs and Cooperation (MINAFET), Prime Minister's Office (PRIMATURE), Ministry of Internal Security (MININTER), Ministry of Local Government, Good Governance, Rural Development & Social Affairs (MINALOC), Ministry of Internal Security. Other stakeholders included: The Supreme Court, The National Commission for Human Rights (NCHR), National Commission for the Fight against AIDS, The National Commission for Unity and Reconciliation (NURC), The National Commission for the Fight against Genocide (NCFG), Gender Monitoring Office, Rwanda Bar Association, Rwanda National Council for Examination, National Police (NP), the Ombudsman office, the National Parliament, Genocide Survivors' Fund etc. Also, NGOs and CSOs included: Fact – Rwanda, Legal Aid Forum, Association de la Jeunesse Pour la Promotion des droits de l'Homme (AJPRODHO), Ligue des Droits de la Personne dans la Région des Grands Lacs (LDGL), Collectif des Ligues et Associations de Defence de Droits de l'Homme (CLADHO) and Centrale des Syndicats des Travailleurs au Rwanda (CESTRAR).

6. Although Rwanda ratified the Convention in 1975, it was not actively employed in domestic law until the adoption of the 2003 Constitution – as amended to date and the subsequent move to democracy. The Constitution entrenches Rwanda’s attachment to the principles of human rights contained in the ICERD, as well as those found within the Charter of the United Nations (UN), the Universal Declaration of Human Rights (UDHR) and the International Bill of Human Rights. The prevailing democratic system of governance works to ensure that these instruments are enforced by allowing the voice of every Rwandan to be heard without any form of discrimination.

7. According to the law repressing the crimes of discrimination and sectarianism² in its article one, discrimination is defined as any speech, writing, or actions based on ethnicity, region or country of origin, the colour of the skin, physical features, sex, language, religion or ideas aimed at depriving a person or group of persons.³ It is noted that this law is new and was enacted following the 1994 genocide that saw discrimination and extermination at its ceiling.

8. The 1994 Tutsi Genocide was a direct impact of discriminatory practices that were institutionalised over a period of time. During the pre-colonial era, Rwandans swore allegiance to the same monarch, “Umwami”, had the same culture, the same language “Ikinyarwanda” – and lived together on the same territory from time immemorial. Those sets of links were also important elements of social cohesion. Everybody recognized one another as being Umunyarwanda and each recognized the other as having the right to be a Munyarwanda.

9. At that time, the Rwandan identity reference was more inclined to the clan first (the clans included: abazigaba, abatsobe, ababanda, abega, abajiji, abasinga, abashingwe etc.). This manifested often when a person was required to disclose his/her identity, he/she would mention his/her clan without ambiguity. Belonging to the same clan implied that the concerned persons were of the same origin – the same distant ancestor. Furthermore, the myths related to the origin of the Hutu, the Tutsi and the Twa were discounted by the fact that all Banyarwanda shared the same ancestral father, Kanyarwanda⁴ – something that contradicts the ethnic myth.

10. Even though the sense of belonging among Rwandans prevailed before colonisation, it is without any doubt that they did not have the same content and were neither primary identity references nor genetically locked as was advocated by the colonial discourse. They came under other more significant identity belongingness, such as clans and lineages, and were generally in connection with achieved economic activities.⁵

11. The “Tutsiness” and “Hutuness” did not mean static belongingness as the two invariably changed. The mechanisms of social promotion to “Tutsification” for the Hutus but also for the Twas, were characterized by a gain of an important herd of cows. Equally, this could be the result of three fundamental acts: the King’s decision, the marriage with an

² Law No. 47/2001 on prevention, suppression and punishment of the crime of discrimination and sectarianism.

³ As above. Note that this law has been very instrumental in the fight against discrimination especially in the post genocide Rwanda. Various cases have been decided by courts of law as will be illustrated in the following presentations

⁴ See S.M. Sebasoni, *Les origines du Rwanda*, Paris, Harmattan, 2000. Other accounts give the name of “Gihanga” to that ancestral father of all Rwandans.

⁵ The social classification referred to the Hutus as rather farmers, the Tutsis cattle breeders and the Twas fisherman, hunters and potters.

“important Tutsi” and the adoption by a Tutsi.⁶ The reverse phenomenon, “Hutufication”, a kind of social deterioration, was also true for the Tutsis who could find themselves deprived of their herds. Those facts show clearly that, at that period, “Tutsiness” and “Hutuness” did not have, in the concerned persons’ mind, a genetic dimension contrary to clan belongingness.

12. Besides, from an anthropological point of view, the most fashionable conception of ethnic group for four decades has been based on the theory that – the two human groups form two different ethnic groups if, and only if, they belong each to a different community of language, culture, history and territory. However, as the case of Rwanda demonstrates, such a difference has never existed. And even if we considered that the common territory was re-structured due to the successive exiles, and that the common history was put into question by divisionist ideologies, it is worth to recognise that the common language and culture of Rwandans have so far resisted to the ordeal of re-structuring discourse and identity fracture propagated by divisionists.⁷ If the uniqueness of language and culture is a decisive element of ethnic group qualification, it should then be admitted that there exists one inimitable ethnic group in Rwanda – the ethnic group of Banyarwanda.

13. Despite such telling history of strong bondage that had kept Rwandans together over a period of time, it soon became apparent that with the advent of colonialist, a different gospel was to be preached – often meant to divide and rule. The ticket of identity was highly manipulated and institutionalized in the then government organs. People were made to believe (and indeed they believed) in colonialists theories of ethnicity – a manoeuvre that was to later work well in the interests of colonialists. Divisionism and discrimination in Rwanda became the order of the day in the first and second regimes. The climax of it was the 1994 genocide. It is indeed the mission of this report to take stock and communicate diverse efforts made by the post-genocide regime, specifically after the 1998 report, measures undertaken within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter referred to as the Convention).

B. Land and people

14. Rwanda is a country situated in Central Africa, bordering with Uganda in the North, Burundi in the South, Democratic Republic of the Congo (DRC) in the West and the United Republic of Tanzania in the East. Rwanda’s countryside is covered by grasslands and small farms extending over rolling hills, with areas of rugged mountains that extend southeast from a chain of volcanoes in the northwest.

15. Administratively, Rwanda is subdivided into 4 provinces and the City of Kigali. These provinces and the City of Kigali have a legal personality, although they currently own no assets. They (provinces) are in turn divided into 30 Districts which have both legal personality and their own assets. Districts are themselves divided into 416 Sectors, Sectors subdivided into 2,148 cells, Cells subdivided into villages (called *imidugudu* in Kinyarwanda) – the lowest administrative unit.

16. The total area of the country is 26,338 km² and the population currently stands at over 9.5 million. The population was 2 million in 1952, 4.8 million in 1978, 6.5 million in 1996, 7.7 million in 2000, 8.5 million in 2003 and 9.5 million in 2008 with a population

⁶ The most known case is that of a Twa named Busyete, promoted Tutsi in the 19th century, became chief of province and married the king’s daughter. His descendants became Tutsis known under the name of Basyete.

⁷ S.M Sebasoni (n 4 above) p. 117.

density of 368 habitants per km.⁸ Rwanda's population density, even after the 1994 genocide, remains the highest in continental Sub-Saharan Africa.

17. Rwanda is one of the most densely populated and fastest growing populations in Africa, although recent figures indicate that population growth has slowed down from 3% in 2005 (Demographic and Health Survey 2005) to around 2.7% in 2008. On the poverty front, 56.9% of the population are below the poverty line (NISR, 2007) but this indicates a modest reduction from 60.4% in 2000. The Government implemented a poverty reduction strategy 2002–2005 and this modest reduction is attributed to such efforts. There are, however, geographical disparities as table 1 below shows. In the southern and northern provinces which have the highest incidences and higher than the national average, this was attributed to soil degradation and overpopulation respectively (MINECOFIN, 2000a; MINECOFIN 2002a; NISR, 2005).⁹

Table 1
Poverty headcount and share of poor

| Province | Poverty headcount (%) | | Share of the poor (%) | | Extreme poverty headcount (%) | |
|----------------|-----------------------|-------|-----------------------|-------|-------------------------------|-------|
| | EICV1 | EICV2 | EICV1 | EICV2 | EICV1 | EICV2 |
| City of Kigali | 24.4 | 20.2 | 4.1 | 3.4 | 15.4 | 11.1 |
| Southern | 65.8 | 67.3 | 27.1 | 30.2 | 45.9 | 47.2 |
| Northern | 66.9 | 62.7 | 23.5 | 20.3 | 47.2 | 40.8 |
| Eastern | 61.8 | 50.4 | 20.4 | 19.7 | 41.7 | 28.7 |
| Western | 63.1 | 62 | 24.9 | 26.3 | 41.8 | 40.9 |
| National | 60.4 | 56.9 | 100.0 | 100.0 | 41.3 | 36.9 |

Source: EDPRS 2007 (Principal data sources are: EICV1 and EICV2 surveys).¹⁰

18. Summary of key demographic characteristics that are important for the RDRP III:

- *A young population* – some 5,546,015 persons (68 %) were under 25 years in 2002, 81% under 35 years (National Census Service 2005) and only 3% older than 65 years
- *High birth/fertility rates* averaging about 5.8 (DHS 2005) and with serious consequences – e.g. pressure on land, deforestation and poverty and conflicts
- *High population densities* – 378 persons per sq. km of habitable surface area, and a growth rate of about 3% (National Census Service 2005), one of the highest growth rates in Sub-Saharan Africa
- *Predominantly rural* – urban population only constitutes about 17%, with the rest being rural
- *More female than male* – females outnumber males by 4% (i.e. F:M = 52: 48)
- *Skewed spatial population distribution* – with the exception of urban areas, the north and north-western provinces (which have high fertility levels and high agricultural

⁸ National Service of Census, General census of population and habitation, 2002.

⁹ Participatory Poverty Assessment 2000; Poverty Reduction Strategy Paper (PRSP 1) 2002; Second Household Living Conditions Survey (EICV II) 2005.

¹⁰ EICV 2 is the most recent Household Living Conditions Survey 2005, while EICV 1 was undertaken 5 years earlier.

production potentials) are more densely populated than southern and eastern dry plains which were mainly inhabited by pastoral communities

- *About 24% of the population is in school* (MoH 2005) and this, coupled with the fact that the population is generally young, implies high dependency levels

19. Women account for 52.2% of the total population. Approximately 34% of heads of household are female today, an increase of 21% compared to the 1992 figures. The age structure shows that 42% of the youth are 15 years, 55% are less than 25, and about 80% are under 35.¹¹ The most aged represent about 3% of the Rwanda population.¹²

C. General political structure

20. Rwanda is a sovereign republic. The rule of law is respected, which means that public sector activities are governed by law. Legislative power is exercised by a bi-camera Parliament (the chamber of Deputies and the Senate)¹³ with 80 Deputies – elected every five (5) years¹⁴ and 26 Senators for a term of eight (8) years.¹⁵ Executive power is vested in the President of the Republic and in the Government. The President is elected directly by the people every seven (7) years. Judicial power is exercised by independent courts of law.

21. Political parties are recognised under the Rwandan constitution.¹⁶ Contrary to the previous constitutions, the current constitution allows multiparty democracy where people form different political parties with a stake in the governance of the country. Indeed, these political parties share ministerial and other government institutional positions. This has created a sense of togetherness and ownership of the country.

22. The public administration consists of the highest governmental organs and a system of State administration divided into central, provincial and local government.

23. Rwanda is 14 years post war, genocide of 1994 of Tutsi. This has clearly had an impact on the country's present political structure. After a Transitional Government that came to power after 1994 ended its term in 2003, a new Constitution of the Republic was adopted in May 2003.

24. The Constitution of 2003 makes provision for the following national institutions: the Presidency of the Republic, the Government of National Unity (a broad based government which benefits the participation of all political organisations operating in Rwanda and representing all categories of Rwandans), the Parliament composed of the two chambers (The Senate and the Chamber of Deputies) and the Judiciary. These institutions make up the three branches of government, namely the executive, legislature and judiciary.

1. The executive

25. The authority of the executive is exercised collectively through decisions taken by the cabinet and the president of the Republic. The Presidency of the Republic is entrusted to a President. The Government comprises of a Prime Minister, Ministers and State Ministers.

¹¹ Ministère du Genre et de la Promotion de la Famille, Rapport Final du Profile du Genre au Rwanda 2005–2007, February 2009.

¹² As above.

¹³ Art. 62 of the 2003 Rwandan Constitution as amended to date.

¹⁴ Rwandan Constitution (n 13 above) art. 76 (2).

¹⁵ Rwandan Constitution (n 13 above) art. 82.

¹⁶ Rwandan Constitution (n 13 above), art. 52–59.

The Government administers the country matters relating to their ministerial departments and directs national policies thereof.

2. The legislature

26. Legislative authority is exercised by the Parliament composed of the two chambers: the Chamber of Deputies and the Chamber of Senate. Each chamber has its Bureau consisting of a President, two Vice-Presidents and a Deputy/Secretary. It exercises its authority through legislation.

3. The judiciary and its independent status

27. Judicial authority is exercised by the courts and other judicial bodies. The judiciary is independent from the other branches of government.

28. The system of courts comprises ordinary courts and specialised courts. Ordinary courts include Primary courts, Intermediate courts, the High court and the Supreme Court. Specialised courts include *Gacaca* courts entrusted to handle genocide trials, Military courts (Military tribunal and Military high court) and Commercial courts.

29. The independence of the judiciary is guaranteed under the Constitution in its article 140 paragraph 2 which provides that the Judiciary is independent and separate from the legislative and executive branches of government. It enjoys financial and administrative autonomy. Accordingly, as part of the mechanism for ensuring the independence of the judiciary, the Constitution establishes the Superior Council of the judiciary whose main function powers are the following:

(a) To decide on the appointment, dismissal and all matters affecting the careers of judges with the exception of the President and Vice-Presidents of the Supreme Court;

(b) To offer consultative opinions, at its own initiative or upon request, on any matter which it is competent to examine concerning the regulations governing the terms and conditions of service of the judiciary;

(c) To offer consultative opinions, at its own initiative or upon request, on any matter concerning the administration of justice.

30. Article 160 of the constitution provides for the establishment of a National Public Prosecution Authority responsible, inter alia, for investigation and prosecution of crimes committed in the whole country.

31. Equally, article 159 of the constitution provides for the establishment of mediation committees – responsible for mediating between parties to certain disputes involving matters determined by the law prior to the filing of a case with the court of first instance.

D. The history of Rwanda and the post genocide situation

1. The history of Rwanda and its linkage with discrimination

32. Since the 11th century, Rwanda existed as a nation founded on a common history of its people, shared values, a single language and culture, extending well beyond the current borders of the country. The unity of the Rwandan nation was also based on the clan groups and common rites with no discrimination based on ethnicity.

33. The colonial power, based on an ideology of racial superiority and in collaboration with some religious organisations, exploited the subtle social differences and institutionalized discrimination. These actions distorted the harmonious social structure, creating a false ethnic division with disastrous consequences.

34. In particular, during the colonial period, the Belgian administration applied divide and rule tactic, thereby deeply dividing the people of Rwanda. This unfortunate development can be seen as laying the foundations for subsequent mass killings even after independence in 1962. Indeed, such perpetual practices culminated in the 1994 genocide of the Tutsi.

2. The security situation after 1994

35. The Rwandese Patriotic Front (RPF) succeeded in overtaking the Habyalimana regime – ending Tutsi genocide in July 1994. A Government of National Unity was immediately established on 19th July 1994. Since then, the defeated army and members of the allied militia group (*interahamwe*) backed by certain countries — supporting them with arms — have refused to lay down their weapons. After the mass return of refugees in 1994, the ex-Rwandese Armed Forces (Ex-FAR) and the *interahamwe* militia began in 1996 to jeopardize the security of the population by launching attacks on Rwandan territory, especially in the north-western part.

36. To date, the situation is calm following the efforts of the Government of National Unity to raise public awareness as a result of which the population has completely dissociated itself from the infiltrators. The majority of Rwandans in exile have returned back in their homeland and are concentrating on developmental activities. The Rwandese Defence Forces (RDF) and the national police together with national security apparatuses ensure and guarantee safety of citizens and security their property more effectively.

3. The socio-economic situation after 1994

37. Following the established security stability in the country, Rwanda is now making its efforts to boost its economy and to improve every Rwandan's access to basic needs such as shelter, food, education, health care, water, and energy. Rwanda has made a shift from a state of emergency to a new level of developmental programmes and government policies.

4. Legal and social justice after 1994

38. The genocide of Tutsi of 1994 resulted in the deaths of over a million Rwandans and the destruction of property. The scale of the damage was in proportion to the large number of people involved in the genocide. Accordingly, detention procedures and prisons conditions were affected by the overwhelming number of suspects. This explains why a number of genocide suspects have been detained in violation of the normal procedures. In order to resolve this problem, a mobile group composed mainly of criminal investigation officers were formed to check and review irregular case-files of genocide suspects.

39. In addition, *gacaca* as a traditional model of dispute resolution became inevitable in the post-genocide era. With the judicial infrastructure destroyed and most prosecutors and judges killed in 1994, there was no chance that the national court system could prosecute over 100,000 genocide suspects. Even now, 15 years after the genocide, national courts have failed to handle first category cases – the reason that the organic law on *gacaca* has been amended to allow *gacaca* courts to try category one formerly tried by conventional courts. Thus, *gacaca* is appreciated as a strategy to expedite trials and relieve congestion in prisons that would otherwise be the source of many human rights violations. Additionally, the reintegration of suspects back into the community and the truth-telling nature of confessions offer hope for reconciliation.

40. The practice of *gacaca* has resulted in the release of many people who were either detained without proper case-files or their cases have been decided by *gacaca* courts. Besides, the presidential decree released certain categories of people including the

vulnerable such as the old, HIV positive and those who confessed and pleaded guilty. Around 40,000 detainees have been released in total.

41. Conditions of detention have over time steadily improved. Currently, the Government is building new detention centres, thus alleviating overcrowding in older facilities. Central prisons originally had the capacity to house 30,000 inmates. The prison expansion programme and the construction of new prisons have created 11,550 new places, thereby increasing the overall prison capacity to 41,550 places. Yet even such conditions of detention are still far from satisfactory, given the effects of 1994 genocide. The total number of detainees was estimated at slightly over 70,000 in 2002. However, subsequent prison releases from detentions i.e. 24,903 in 2003, 4,500 in 2004, 20,859 in 2005, 9,276 in 2006 and 649 for 2007/2008¹⁷ greatly relieved overpopulation in prisons. Note that around 95% of the prison population were accused of genocide.

42. Assistance is provided to survivors of the Tutsi genocide through a fund set up under the law.¹⁸ Besides, the constitution of 2003 as amended to date commits the state to take special measures for the welfare of survivors who were rendered destitute by the 1994 Tutsi genocide.¹⁹ The interventions range from education to health care and housing. Finally, the Government of National Unity is making every effort to protect survivors and ensure that the perpetrators of genocide who have refused to disarm do not repeat their heinous crime, by resisting separatist ideas and combating those who continue to hold and disseminate such views. To this regard, the genocide commission has been established and seeks to fight and combat against the ideology of genocide.

E. General legal framework within which human rights are protected

1. Protection under the law through authorities and courts

43. Human rights are guaranteed by the Constitution, the international instruments to which Rwanda is a party and national legislations. It is the duty of the courts to protect these rights, since violation of a right gives rise to legal proceedings to secure compensation for any damage that has been caused. The administrative authorities have a special responsibility to ensure that rights are respected. If a decision taken by these authorities violates any right, the party concerned is entitled to apply to the Administrative courts to have the decision overturned or reviewed.

2. The specialised organs

44. Rwandan recognises the importance of human rights in any democratic and inclusive society that respects the rule of law, human dignity, equality and freedom. Their protection remains the preoccupation of the government specific institutions. Under this particular arrangement, human rights are especially protected by the National Human Rights Commission (NHRC), which is envisaged by the constitution.²⁰ The Commission was originally set up under the Presidential Order No. 26/01 of 11 November 1997 as amended to date by the law No. 30/2007 of 06/07/2007, determining the organization and functioning of the National Commission for Human Rights.

¹⁷ MINIJUST Report of 2008 on Countrywide Prison Conditions.

¹⁸ Law No. 69/2008 of 30/12/2008 relating to the establishment of the fund for the assistance and support to survivors of genocide against the Tutsi and other crimes against humanity committed between 1st October 1990 to 31st December 1994 and determining its organisation, competence and functioning.

¹⁹ Rwandan constitution (n 13 above), art. 3.

²⁰ As above, art. 177.

45. The primary responsibility of the Commission is enshrined in article 4 of the law establishing the Commission as amended to date.²¹ Its elaborate mandate includes examining the human rights violations committed by any person on Rwandan territory, with special emphasis on violations by governmental bodies and agents or any other national organization operating in Rwanda. Specifically, the function of the Commission is to raise awareness of human rights among the Rwandan population and organize relevant training programmes, prepare and disseminate annual and other relevant human rights reports and also to initiate legal proceedings against anyone who commits human rights violations. The reports are open to the public and thereafter transmitted to the parliament and other state organs as may be determined by law.²²

46. The Office of the Ombudsman was also established by the Constitution of 4th June 2003, in its article 182 and the Organic law No. 25/2003 of 15th August 2003 as amended by the law No.17/2005 of 18/08/2005, with a mandate to fight against injustices and corruption. It receives the complaints on injustices and corruption against the acts of public officials or organs and private institutions. It has powers to request explanations, to carry out investigations on actions, to point out laws hindering and to submit the cases to the concerned institutions for settlement. This Office has been renowned to be a bridge between the government services and other private organisations on one hand and the citizens on the other hand who are affected. In addition, institutions like NURC, FARG, National Commission for the Fight against Genocide, National Electoral Commission, the Public Service Commission, Gender and Monitoring office are provided under the constitution for better protection and safeguard of human rights.

F. Information and publicity

47. The Government has launched information campaigns on human rights themes. Human rights courses have been incorporated into the school curriculum. The population is also kept informed of its rights *via* radio and television broadcasts either on the judicial system in general or human rights in particular. This is reinforced by the NHRC in its campaigns to raise awareness of human rights among the Rwandan population and organize relevant training programmes. The commission conducts various radio and television programs on human rights – particularly, women, children and other rights in general. Prison and unlawful detentions are conducted every year. The reports are thereafter shared within state institutions for reaction.

48. Rwanda boasts of other organised media of information dissemination that include education of human rights in schools, hosts both local and international conferences, national recognition of international human rights days, distribution of human rights brochures and posters and translation of human rights documents into local language.

G. Structure of the report

49. Within the format required by the Convention, this report briefly outlines the context within which compliance with the Convention must take place in Rwanda. In this regard, the report draws attention to the reality of the legacy of previously institutionalised injustices and appropriate measures that have been put in place to combat the status quo. Part one of the report briefly gives the introduction, and part two provides the historical

²¹ Law No. 30/2007 of 06/07/2007, determining the organization and functioning of the National Commission for Human Rights.

²² Rwandan constitution (n 13 above), art. 177.

background, geography, legal framework and political structure of Rwanda. Part three presents responses on earlier recommendations, in particular the matters raised in the concluding observations that the Committee adopted after considering the twelfth periodic report of Rwanda at its 1385th and 1386th sessions, in 2000 (CERD/C/SR.1385 and 1386). Part four highlights key measures that have been adopted since 1998, the last time Rwanda's periodic report was submitted, to eradicate existing ethnic and racial discrimination while preventing future acts of this nature, in compliance with the Convention and Rwanda's own Constitution.

III. Earlier recommendations

50. Following the concluding observations that were submitted and adopted by the Committee upon consideration of the combined eighth to twelfth periodic reports of Rwanda at its 1385th and 1386th meetings, in 2000 (see CERD/C/SR.1385 and 1386), the subsequent presentation responds to the issues raised. Rwanda also notes that since the presentation of the combined eighth to twelfth periodic reports and the subsequent receipt of the committee's concluding observations (CERD/C/304/Add.97), a myriad of changes and innovations have been effected – either as a result of national unilateral initiative/commitment or as a heed to the considerations that were drawn to the attention of the country.

A. Impunity

51. In its concluding observations made in 2000, the Committee on the Elimination of Racial Discrimination (hereafter called the "Committee") expressed concern about impunity in Rwanda especially in the case of illegal acts committed by members of security forces, and recommended the State party to pursue efforts to eradicate impunity through judicial mechanisms and taking other necessary measures to stop illegal acts committed by agents of civil and military bodies.

52. The report observes that the post-genocide government has undertaken serious efforts to eradicate the culture of impunity that had characterised Rwanda for a long period of time. This needed to change the past history where some people were allowed to take power in their hands and as a result their acts went uncommented. Such was the case irrespective of the impact and nature of the suffering that it caused to victims. Currently, the attempt to mend this situation is reflected in different measures that have been put in place. The Rwandan constitution provides that every citizen, whether military or civilian has the duty to respect the constitution, other laws and regulations of the country.²³

53. In the same endeavour, the post-genocide government has brought an end to arbitrary killings and other illegal acts based on ethnic intolerance committed by members of security forces or any other members of the society.

54. The Government has undertaken zero tolerance of such acts through both prosecution and execution of the sentences provided under the Rwandan law. Though this struggle has enjoyed the support of administrative measures, the judicial mechanisms have played a decisive role in the success of the struggle. To this end, several military cases have been adjudicated irrespective of the perpetrators ranks and background. In the case of *Major George Rwigamba et al. Vs Military Prosecution*, the Military Court convicted the

²³ Rwandan constitution (n 13 above) art. 48.

two senior and two junior officers for imprisonment term of 28 months.²⁴ In addition, the military high court of Nyamirambo tried and found guilty *Major Claver Rugambwa et al. Vs the Military Prosecution*.²⁵ Certainly, this illustrates the determination of the Rwandan government to instil equality and fairness in a society that was highly ridden with impunity and favouritism.

55. Emphasis was also put on preventive measures that aim at eliminating any forms of nepotism, intolerance, discrimination and hence promote the culture of unity and harmony among all Rwandans. In a bid to reinforce the above, relevant laws regulating and governing national security organs have been elaborated for each of the three state security organs. In addition, the police, national security service and the Rwanda defence forces are provided under the constitution.²⁶ The conduct and the scope of each organ are determined by both the constitution and the respective laws that elaborate each of the three organs.

56. To date, it is noted that impunity has largely been reduced as the current situation in Rwanda attests. Indeed, such incidences are minimal and where they are discovered, severe measures have been sought/applied to serve as future lessons for potential perpetrators.

B. Detention or prison conditions

57. The Committee expressed concern about the large number of detainees in bad prison conditions and noted the fact that majority of them are from one ethnic group – the Hutu.

58. The post-genocide justice dispensation needs to be understood in the context in which the genocide was planned and executed. The nature of genocide was arranged in a way that members of one ethnic group (the Tutsi) were killed by the members of another group (the Hutu). Impliedly, the suspects are largely from one ethnic group that participated in genocide and their subsequent detention in allegation of the crime and related crimes committed.

59. The Rwandan genocide involved a high number of victims in a relatively short spell of time which in turn implicates a big number of authors, and hence a large number of detained persons. Besides, the post-genocide government inherited a shattered infrastructure with both inadequate and inexistent facilities to support such large population of genocide suspects. The two main facts remain the only reasons for justification of bad conditions that prevailed in prisons.

60. Apparently though, the government has initiated several measures with a purpose of reducing the number of detainees in prisons. To this effect, some categories of detainees such as minors (children), old people, people with poor health conditions, people with no charges, people with minor charges and people who confessed their charges and are deemed not to be dangerous to the society were released at different occasions and intervals. As a result, the number of detained people has significantly reduced and consequently reduced pressure on infrastructure and logistics in prisons as well. For more details, refer to paragraph 0 above.

²⁴ This case grouped Major George RWIGAMBA, Major Goodman Bagureti RUZIBIZA, 2LT Emmanuel RUTAYISIRE and 2LT Vincent SANO Vs the Military Prosecution, RMP. 0019/AMG/NR/97 – RP 0033/CM/KGL/97. They were all convicted and sentenced to two and four months imprisonment.

²⁵ Major Claver RUGAMBWA et al. Vs the Military Prosecution, RMP 0020/AMG/HKJ/KGL/97 – RP 0037/CM/KGL/97.

²⁶ Rwandan constitution (n 13 above) arts. 170 & 171 for the National Police, art.172 for the National Security Service and art. 173 for the Rwanda Defence Forces.

61. Equally, an alternative sanction popularly known as community service (TIG) performed outside the prison introduced in Rwandan legal system in 2005 has contributed to the reduction of the number of people in prisons, and hence improvement of prison conditions.²⁷ Community service is an alternative imprisonment arrangement which allows convicted detainees to mend their relations with the society they wronged as well as participate in national developmental programs.

62. Production initiatives in prisons where inmates have been involved in productive activities have also contributed to the increase of resources for prisoners' welfare improvement. More importantly, this has eased the pressure in prisons as most of the prisoners are engaged outside the prisons.

63. Above all, the government has recently built more and better furnished detention facilities that have not only made the lives of prisoners simple and comfortable but also reduced the pressure on the poor and inadequate existing infrastructure. Among other prison facilities built include the Mpanga prison facility which has the capacity to accommodate a large number of prisoners with extremely good environment. The facility has been rated and appreciated on international standards. Furthermore, the existing prison facilities have been either rehabilitated or renovated to decent standards.

64. To ease pressure on prisons, the government of Rwanda established *gacaca* courts with a specific mission to try genocide suspects. Indeed, a large number of suspects have been tried and either acquitted or sentenced by *gacaca*. For details of tried or pending cases refer to paragraph 0 of the present report.

65. There has been establishment of health centres in prisons with nurses to look after prison patients. Particular attention is paid to HIV/AIDS patients in prison in recognition of the health vulnerability.

66. It is noteworthy to mention that these interventions condition positive obligation on the part of the government. As a result, the government allocated a certain percentage of the budget in the national fiscal year. Arguably, Rwanda observes that despite the overwhelming situation that was inherited after the genocide, the present situation illustrates an impressive progress.

C. Procedural detention

67. The Committee expressed concern about long detention and unequal treatment before the law.

68. The post-genocide situation justice dispensation was veritably a complex issue in Rwanda. The large number of genocide perpetrators that awaited trial with limited judicial infrastructure coupled with lack of adequate resources such as human, material and financial assets was to later bear an impact on the pace of justice administration. It is undeniably the main reason for the eventual prolonged procedural detention.

69. Aware of the need to conduct trials within a reasonable period of time and speed up the process, the post-genocide government initiated in 2001²⁸ a system of traditional courts

²⁷ Presidential order No. 10/01 of 7/03/2005 determining the modalities for the implementation of community service as alternative penalty to imprisonment as modified by the presidential order No. 50/01 16/10/2005, O.G. No 24 of 15/12/2005.

²⁸ Organic law No. 40/2000 of 26/02/2001 establishing the organisation, competence and function of *gacaca* courts charged with prosecuting and trying the perpetrators of the crime of genocide and other the crimes against humanity, committed between October 1, 1990 and December 31, 1994, O.G.,

(*gacaca* courts) that complemented classical courts. The number of tried cases has tremendously increased ever since *gacaca* courts were introduced. It is noted that since their inception up to October 2008, 1,127,706 cases have been received, out of which 1,123,027 have already been tried and only 4,679 are pending completion.²⁹

70. The 2004 judicial reform favoured a fast-tracking judicial system in both penal and civil procedure. The detention period was put at 72 hours at most while still awaiting investigation before the prosecution services.³⁰ Unless authorised by the judge of a competent court, no authority is allowed to detain a person beyond the limits established by the law. The seized Court must examine the case within fifteen (15) days from the reception of the case.³¹ The presidential decree has also facilitated the expedition of procedural issues especially in helping to release certain categories of prisoners (genocide suspects).

71. Rwanda categorically outlaws inequality based on whatever distinction. The constitution stipulates that all Rwandans are born and remain free and equal in rights and duties. Discrimination of whatever kind based on, inter alia, ethnic origin, clan, colour, sex, region, social origin, religion or faith, opinion, economic status or any other inequality is prohibited by the law.³²

D. Release of detained persons with minor charges and their reintegration

72. The Committee recommended to the State party to release detained people with minor charges who confessed their charges, and to take necessary measures to allow the population be informed on the procedure of detainees' release for their better reintegration.

73. In 2000, the President of the Republic of Rwanda requested the concerned judicial authorities in conjunction with other relevant institutions to devise measures of reducing numbers of detained people by releasing some categories of detainees. The plan was mapped out and necessary preparations done to give effect to the presidential communiqué. As a result, categories of detainees such as minors (children), old people, people with poor health conditions, people with no charges, people with minor charges and people who confessed their charges and were deemed not to be dangerous to the society were released.

74. Through various mechanisms such as the Selection Commission (Commission de triage) and *gacaca* courts, specified categories (mentioned above), of which people with minor charges who confessed and pleaded guilty to their crimes were released and facilitated to reintegrate in the communities. The reintegration has been facilitated by prison programs which initiate prisoners to government programs that seek to promote unity and reconciliation and social reintegration.

75. Before every release of a large number of detained people, administrative measures designed to allow their proper reintegration are always taken. Detained people intended to be released are taken to transit centres from where they receive a briefing on the prevailing political situation in the country and corresponding appropriate reintegration tips. At the same time, the population and the involved administrative and security personnel are also briefed on the need to facilitate reintegration of released people within their respective society. Such was done through various channels such as the community sensitisation

2001.

²⁹ National Services of *Gacaca* Courts, Rwanda 2008.

³⁰ Law No. 20/2006 OF 22/04/2006 Modifying and completing law No 13/2004 OF 17/5/2004 relating to the code of Criminal Procedure. Art. 7.

³¹ As above.

³² Rwandan constitution (n 13 above) art. 11.

programs, media outlets and administrative meeting that often bring together the population and the local leadership. This has subsequently helped a lot in the reintegration process as well as enhanced unity and reconciliation.

76. Also, some programs of collective character such as Umuganda, Ubudehe (Local Collective Action), Labor Intensive Public Works – HIMO, among others (as mentioned below) have been initiated to allow meaningful social and economic reintegration of released people. Normally, programmes intended to help integration are undertaken. They include civic education and sensitisation on government policies and programmes. Under such arrangements, it is important to note that the communities have been able to discover and confront real and common problems of poverty and ignorance that have possessed their past.

E. Cooperation with the International Criminal Tribunal for Rwanda

77. The Committee recommended the State party to assist and cooperate with the International Criminal Tribunal for Rwanda (ICTR).

78. The nature of the mandate of the ICTR requires total collaboration with Rwanda to enable the former to successfully achieve its mission. By and large, Rwanda acknowledges the greatest contribution and precedent that the international community has played through ICTR. In the minds of many Rwandans, ICTR guarantees to the present and future world generation protection from such unspeakable horrors by judging the masterminds and main perpetrators of the 1994 genocide. Certainly, by doing that the ICTR helps return human dignity to survivors of genocide who had been dehumanised by perpetrators. Through the witness program which Rwanda facilitates in collaboration with the ICTR, witnesses have been allowed to testify before the international judges – an opportunity many survivors consider as paying final homage to the victims and, in a sense, requesting those judges to spare their children from such horrors by punishing their tormentors.

79. Rwanda's cooperation with the ICTR has been useful in so many ways: witnesses from Rwanda have helped at the best to testify in many cases; cooperation and sharing of information on the whereabouts of fugitives/suspects; training and internships extended to students from Rwanda; outreach programs done by ICTR with the facilitation of the Rwandan government; the amicus curiae role played by Rwandan experts in the hearings; and the cordial relations that exist between the ICTR and Rwanda.

80. In addition, Rwanda has expressed unwavering commitment to work with the ICTR on the pending file/case transfers – an arrangement where Rwanda will receive pending cases for trial or prisoners. Subsequently, preparatory arrangements have been undertaken and necessary laws elaborated providing for transfer of cases.³³ Articles 18–20 of the law on transfer of cases to Rwanda provides for collaboration between ICTR and Rwanda.³⁴ Besides, a new prison with international standards (Mpanga prison) has been constructed with high capacity and facilities to accommodate a large number of prisoners – the transferred ones included.

81. More importantly, the dispensation of justice against the crimes which shock the universal conscious sends the message that they cannot go unpunished, regardless of the position of their author and where they are committed. Undeniably, Rwanda as a victim to

³³ Notable among those laws is the Organic law No. 11/2007 of 16/3/2007 concerning transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda (ICTR) and other states.

³⁴ As above, arts 18–20.

the holocaust of genocide welcomes any collaboration effort to bring the perpetrators to justice.

F. Forced settlement of people

82. The Committee expressed concern about forced relocations of people in Rwanda.

83. Rwanda does not agree with this observation made by the Committee on the Elimination of Racial Discrimination on forced relocations of people. The principal reason for disagreement is based on the clear and elaborate country settlement policy that seeks to improve and respond to the general needs of Rwandans irrespective of whomever in question.

84. To clarify, two main features likely to be confused with forced settlement in Rwanda are illustrated. First, a settlement policy whereby people are advised and helped to stay in agglomerations was adopted in line to save land, space and facilitate easy access of developmental programs. Secondly, expropriation process where people have been relocated mainly for reasons of public utility have also been confused with forced settlement.

85. It is noted that the above scenarios are all legally established practices with no intent or likelihood of whatsoever to cause suffering or prejudice to one group at the expense of the other.³⁵ Besides, agglomeration or *Imidugudu* settlement as popularly known in kinyarwanda and expropriation are general policy operated for public interest. They are never used for discriminatory reasons but rather they are simply implemented for common interests.

G. Release and reintegration of children

86. The Committee on the Elimination of Racial Discrimination expressed concern about children who are still under detention and recommended that they be reintegrated as soon as is possible.

87. According to the Rwandan law, children accused of crime are put under two categories. Those under 14 years and those under 18 years. On the particular subject matter of children accused of the crime of genocide, children under the age of 14 were taken to the Gitagata rehabilitation centre from where they were rehabilitated and reintegrated in their respective communities. Those under 18 years were among the first category to benefit from the presidential communiqué that released various categories of prisoners. This was a clear initiative in an attempt to respect rights of children and uphold human rights instruments – including the convention on children to which Rwanda is a party.

88. The initiative to release children similarly communicates a strong resolve on the government side on one part and probably, an aspect of frustration on the part of the victims. The popular appreciation contended that the large scale participation of young people in genocide was an adequate basis for their trial. To many in Rwanda, they thought that these young people ought to be brought face to face with the wrath of the law and account for their actions – a precedent that would transmit a strong message to the future

³⁵ Rwandan constitution (n 13 above) art. 29 (3), Law No. 18/2007 of 19/04/2007 relating to expropriation in public interest. Both the constitution and the expropriation law provide for expropriation in public interest upon thorough determination of circumstances and procedures by the law and subject to fair and prior compensation.

generations. This was nevertheless different from the post-genocide government position which sought to jealously shield and protect the rights of children from such scrutiny. The motivation of the government position was centred on the vulnerable nature of young people and mental capacity to make mature decisions.

89. As a result, children suspects for the crime of genocide were taken to transit centres from where they were rehabilitated and reintegrated in the society they had wronged. Also, their families and the society in general were prepared to receive them and facilitate their total and meaningful reintegration into the society.

H. Local Defence forces/services

90. The Committee expressed concern about the newly formed Local Defence forces/services. It is important to understand the underlying context under which the Local Defence (LD) service was created. Rwanda believes that security is a product of the efforts and labour of its citizens. The LD service was created with a view to allow the local population to participate in the security keeping of their areas of residence. Art. 8 of the law on the services of local defence provide that the Cell Council determines the number and selects members of LD service.³⁶ The same law provides the criteria of selection in the service of Local Defence. They include being of Rwandan nationality; a person of integrity; at least of 18 years of age; well known by the residents of that Cell in which he or she also resides; and capable and willing to perform such duties.³⁷

91. The history of tyranny and divisionism had created a myth that security was an apparatus meant to serve the interests of the ruling class and not the ordinary citizens. To undo such a long-standing constructed myth, peoples' forces and security personnel were created with the mission to serve their community.

92. Besides, necessary measures for the proper control of the services of LD have been taken. Article 30 (3, 4, & 5) provides for circumstances under which the duties of a LD service member may cease. Among others, it is emphasised that security equipment such as guns shall only be used during appropriate circumstances. If one of the members of the Local Defence service uses them in disrupting security, he or she shall be punished in accordance with Rwandan penal provisions.³⁸ The organisation and functioning of the Local Defence service is governed by the referred law and as a result any improper behaviour or acts are punished by the law.

93. Since its creation up to now, the situation attests that the work of LD services has been fruitful with positive results. The services of LD have been instrumental in combating genocide ideology in their zones of deployment and hence minimising possible actions that would risk provoking new explosions of violence based on ethnic character. In brief, the LD has done well in as far as maintaining law and order of people and property is concerned.

I. Intimidation against judicial authorities

94. The Committee on the Elimination of Racial Discrimination expressed concern about intimidation inflicted on judicial personnel who might be involved in investigating

³⁶ Law No. 25/2004 establishing and determining the organisation and functioning of the local service in charge of assisting in maintenance of security referred to local defence, O.G. No. 01 of 01/01/2005.

³⁷ As above, art. 9.

³⁸ As above, art. 15.

cases of human rights violations committed since 1994, and called on the State party to make additional efforts to investigate allegations of ethnic violence and humanitarian law violations.

95. Rwanda's constitution enshrines the principle of separation of powers as one of the cardinal principles of constitutionalism. This is not only stated on paper but also exercised by the three organs of the governments i.e. the executive, judiciary and legislature. Each organ exercises its mandate with full independence.³⁹

96. The constitution further guarantees in its Chapter V article 140 that Judicial Power is exercised by the Supreme Court and other courts established by the Constitution and other laws. In addition, the provision stresses that the Judiciary is independent and separate from the legislative and executive branches of government. Article 157 (2) reiterates the independence of the judiciary in appointment, promotion or dismissal from office of judges and general carrier management. This is different from the previous practice where the executive appointed, promoted or dismissed judges.⁴⁰ Besides, within the judiciary itself, superior judges cannot influence or order their juniors to pass judgements in their favour.

97. The independence of the judiciary further becomes more and more evident in the Rwandan legal system where its personnel carry out duties with no fear or intimidation in their day to day activities. Several cases have been investigated and tried by Rwandan justice personnel without any consequential threats. Chapter II of the law on the statute of judges and other judicial personnel stipulates that "Judges are fully independent in the discharging of their activities. In the exercise of their duties they shall only be subject to the law. They shall be fully independent of the legislative and executive powers. They shall have unfettered discretion in assessing cases before them and making decisions on them without any pressure. The President of the Supreme Court shall guarantee the independence of the judicial power".⁴¹

98. As regards the enquiry of human rights violations, cases handled related to impunity are many and varied. Aware of its poor human rights record and its subsequent consequences, Rwanda has committed to perform even more in its endeavour to part from the shameful record of violations and uphold respect of human rights.

J. Information on other issues

1. Measures taken in the field of human rights to facilitate better comprehension among all the members of the population

99. Information dissemination is a crucial tool for the construction of a stable and secure country. The particular circumstances of Rwanda, including the 1994 genocide, make this call more imperative. Key things responsible for the perpetration of genocide were wide and effective spread of hatred and divisionism information in the pre-genocide period. The post-genocide government understood this well and created avenues/forums for information dissemination that seek to promote the unity of Rwandans. Notable among others are the National Commission for Unity and Reconciliation (NCUR) and National Commission for Human Rights (NCHR). The NCUR was created and mandated to prepare and coordinate all the country's programmes on promotion of national unity and reconciliation.⁴² Great

³⁹ Rwandan Constitution (n 13 above), art. 60 (2).

⁴⁰ Reference is made to the appointment and dismissal of judges in the previous regimes

⁴¹ Law No. 14/4/2004 – Law No. 6 BIS/2004 on the Statute for Judges and other Judicial Personnel, O.G. No. 10 of 15/05/2004. Reference is made to art. 22 of this law.

⁴² Rwandan constitution (n 13 above), art. 178 (1).

achievements have been attained by this commission in promoting tolerance unity and reconciliation among all members of the populations⁴³ Through the Commission's work, Rwandans have come to understand and appreciate the value of coexisting and living in harmony with each other as they strive to build a peaceful nation that they will leave to their children. Indeed, very strong and useful social values and components are communicated through the Commission to all walks of Rwandans.

100. The uniqueness and achievements of the NURC lies in a number of factors: (a) unlike other reconciliation mechanisms in Africa and rest of the world, the mandate of the commission goes beyond the formal transitional period; (b) it has successfully transferred ownership of reconciliation tools to communities and established longer term structures; (c) it has promoted reconciliation as a strategic challenge to be taken up by individuals, communities and public and private organs; (d) it has developed a broadened notion of reconciliation that includes fighting poverty and raising household incomes; and (e) it has encouraged communities to become the primary actors in the reconciliation process.

101. In short, NURC has popularized the reconciliation agenda at community level. It established an innovative approach to restore and consolidate unity among Rwandans through education, mobilization, sensitization and training. It also laid a strong foundation for institutionalizing reconciliation through establishing the *bakangurambaga*, regular reconciliation summits, *Ingando*, and community based associations.

102. The NCHR was also established with a two-fold mission i.e., investigating and following up on human rights violations and educating the population on their rights.⁴⁴ While the latter seems particular on this issue, the two are more complementary and intertwined. In persuasion of its tasks, all Rwandans have benefited from the unique interventions of the Commission, an act that has been regarded as a tribute and homage to the cause of humanity. Various outlets have been organised by the Commission to sensitise and educate people on different laws and the rights therein contained. Until now, sensitization remains the greater tool for better understanding and communicating to the population. Equally, various discussions and country programs have benefited from the wealth participation of the NCHR. Such programs have included student clubs for unity and reconciliation, *ingando*, schools and universities, communities, and both national and international days with particular concern on human rights.

103. In particular, it is worth noting that the NHRC has stepped up its work on the promotion and protection of human rights. From 2000 to 2009, a number of human rights training and education programmes took place including the provision of training for junior and senior police officers, senior non-commissioned officers in the army, secondary school students and students in higher learning institutions of Kigali Independent University (KIU), Kigali Institute of Education (KIE), National University of Rwanda (NUR), Kigali Institute of Science and Technology (KIST) and the Kigali Health Institute (KHI). In addition, training sessions for staff on human rights investigation techniques were provided under the auspices of the Commission in collaboration with the government officials from the Ministry of Justice and the Ministry of Social Affairs, Human Rights Watch, the International Committee of the Red Cross (ICRC), the NUR, and the International Criminal Tribunal for Rwanda (ICTR). The Commission has also undertaken an initiative to assess the conditions in *cachots* and prisons. The first phase of assessing conditions in *cachots* in

⁴³ See the Law No. 03/99 of 12/03/1999 establishing the National Unity and Reconciliation Commission, O.G. No. 6 of 15/03/1999.

⁴⁴ See law No.04/99 of 12/03/1999 establishing the National Commission of Human Rights, O.G. No. 6 of 15/03/1999.

Muhanga, Butare, Gikongo and Rubavu were initiated in June 2000. To date, reports on the situation of detention centres and prisons have been gathered all over the country.

104. Prison visits have been undertaken all over the country to assess and advise on the prevailing conditions. The Commission participates in both local and international conferences focusing on fighting discrimination. Notable among others was the preparatory Conference against Racism, Discrimination and Xenophobia, which was followed by the Durban Conference. There has been televised panel discussion by the Commissioners on the Universal Declaration of Human Rights and weekly radio broadcasts on the work of the Commission. Ten (10) regional offices throughout the country have been opened to enable the NCHR better investigate allegations of local human rights abuses, be more accessible to rural communities, and to act as a regional “antenna” for human rights issues. The regional offices equally performed a useful function in monitoring the *gacaca* trials.

105. Civil society and government partnership programs that promote better comprehension of human rights have been introduced. These include various trainings that have been jointly organised and carried out for various beneficiaries – leaders, women and youth included. Such trainings in human rights for leaders have allowed smooth application and transmission of human rights values to the populace they represent.

106. Specialised units that advocate for rights of different groups have been established for comprehension and dissemination convenience purposes. Such units include a gender unit, a children protection unit, youth council, disabled organisations and other vulnerable groups. Either as a group or individually, each of these groups has benefited from trainings or seminars on human rights. Human rights clubs are also common all over the country and have helped in the dissemination of human rights.

2. New measures taken to address violations of human rights related to discriminatory treatment

107. Aware of its dark past, Rwanda has spared no effort in partnering with the international community to change the entire world for the good of the world citizens. The Durban Review Conference and other international forums have been used as forums to forge an international struggle against discrimination. Rwanda has signed and ratified international conventions penalising discrimination, ICERD included, and being the basis of the present report.⁴⁵

108. Rwanda has adopted domestic laws to eradicate and combat discrimination.⁴⁶ These laws are intended to give effect to the undertaking of prevention and protection against racism, racial discrimination, xenophobia and related intolerance. Some of them date to even before 1994 while many others are post 1994 genocide. Depending on the relevance and responsive nature of some laws, they were abrogated, amended or maintained and applied within the post conflict context.

109. In addition, various cases related to discrimination have been adjudicated both under the Rwandan law and international conventions ratified by Rwanda. Particularly, cases

⁴⁵ Other international instruments penalising discrimination signed and ratified by Rwanda include ACHPR, the Convention against genocide and other crimes against humanity, ICCPR, ICESCR, CAT, CEDAW and CRC among others.

⁴⁶ These laws are many and varied. They include the constitution, the criminal code, the law on repression of the crime of genocide, crimes against humanity and war crimes, the law on repression crimes of discrimination and sectarianism, the law regulating public service, the labour code, the law regulating the functioning and organisation of political parties, the law on corruption, the law on the media.

regarding the crime of genocide and genocide ideology have received immediate attention in the post genocide era. The Supreme Court in the case of Hesron Manirakiza noted that the defendant was liable for the crime discrimination and genocide ideology and sentenced to 12 years in prison. Similar cases will be later highlighted in this report.

3. Activities undertaken and results achieved by the National Commission for Human Rights

110. The National Commission for Human Rights inherited a mandate that was new and complex for a newly established institution as the Commission. Nevertheless, the achievements have been positive and promising, hence ushering in a new era of equity and fairness. In particular, the NHRC has investigated cases of human rights violations, made constant follow-up on victims of human rights violations, put in contact the relevant organs and the victims, and advised the victims on what appropriate procedures and actions were required to seek administration of justice. Equally important, human rights education has been at the core of the Commission's mission – a component that lays the foundation of the flourishing of the human rights culture in Rwanda. The endeavour of the Commission's work is to restore destroyed human dignity by offering the promise of a more just and human context and culture of human rights respect. Reference is made to paragraphs 102–105 above for a detailed discussion of the NCHR achievements.

IV. Information relating to articles 2 to 7 of the Convention

111. The discussion under each article deals with the legal and policy framework through which the provisions of the Convention are implemented. In most instances, the presentation commences with reference to the provisions of the Constitution⁴⁷ and a brief overview of national laws of the land and administrative arrangements. Where appropriate, examples of daily occurrences of ethnic related incidents and emerging equality jurisprudence in the Rwanda's courts are outlined thereafter. Some of the key activities of the state and civil society that seek to achieve the objectives of the Convention are also mentioned.

Article 2: Measures to eliminate discrimination and promote equality

112. As a commitment to the eradication of all incitement to, or acts of racial discrimination, Rwanda has undertaken legislative, judicial and administrative measures to give effect to the provisions of the Convention. Rwanda is a State Party to the Universal Declaration of Human Rights (UDHR), African Charter on Human and Peoples' Rights (ACHPR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as it is to most regional and international treaties on human rights. Its Constitution entrenches a Bill of Rights.

⁴⁷ This is because article 200 of the Rwandan constitution provides for the supremacy of the constitution.

Paragraph 1 (a): Measures taken to engage in no act or practice of racial discrimination

113. Paragraph 1 (a) calls on each State party to engage in no act of racial discrimination and to ensure that no public authority or institution engages in acts of racial discrimination.

Legislative measures

114. A variety of laws have been adopted to give effect to the undertaking of eliminating discrimination in all its forms. Some of them date back a long time, even before 1998 when the last report was submitted, and are still in force and application to date.

115. Rwanda's Constitution explicitly singles out and protects equality and freedom from discrimination. It makes clear that "All Rwandans are born and remain free and equal in rights and duties".⁴⁸ In addition to that, paragraph (2) of the same article stipulates that "Discrimination of whatever kind based on, *inter alia*, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law".⁴⁹

116. In the spirit of enforcing and complementing the above mentioned constitutional principle, the Criminal Code has sound legal provisions that strongly repress any form of discrimination caused to individual or groups of people.⁵⁰ As a reference, article 393 of the criminal code provides as follows:

"(a) Any person who, by defamation or public insult, manifests aversion or hatred towards a group of persons or a given race or religion, or commits an act likely to provoke such aversion or hatred, shall be liable to imprisonment for a term of one month to one year and to a fine not exceeding 5,000 francs, or to one of these penalties;

"(b) The following shall also be liable to both or either of these same penalties:

"1. Any public official or citizen having responsibility for a public service who knowingly denies the enjoyment of a right to a person entitled to it, on the grounds of his origin or the fact that he belongs or does not belong to a given ethnic group, region, nation, race or religion;

"2. Any person supplying or offering to supply goods or services who, without good reason, refuses to do so, whether directly or through an agent, on account of the origin of the person requesting such goods or services, or because that person belongs, or does not belong, to a given ethnic group, region, nation, race or religion; or any person basing an offer on considerations related to a given origin, ethnic group, region, nation, race or religion;

"3. Any person who, in the circumstances referred to in paragraph 2 above, refuses to provide goods or services to an association or a society, or to a member thereof, on account of the origin of all or some of the members, or because they belong, or do not belong, to a given ethnic group, region, nation, race or religion;

⁴⁸ See Rwandan constitution (n 13 above), art. 11 para. (1).

⁴⁹ As above, par. (2).

⁵⁰ Criminal Code of the Republic of Rwanda as modified to date, *O.G.* of 18 August 1977, article 393.

“4. Any person employing one or more employees for his own or another’s account, in connection with his occupation or duties, who, without good reason, refuses to engage or dismisses a person on account of his origin or because he belongs or does not belong to a given ethnic group, region, nation, race or religion, or who makes an offer conditional upon or bases it on origin or membership or non-membership of a given ethnic group, region, nation, race or religion.”

117. Generally, articles 310–352 of the Criminal Code repress all forms of physical attempts against people. It is understood that physical discriminatory attempts are also implied within the catchment of this provision.

118. Another significant anti-discriminatory law is the law adopted in 2003 for punishing the crime of genocide, crimes against humanity and war crimes. This law represses the crime of genocide, crimes against humanity and war crimes. It should be noted that the crime of genocide is described as acts committed with intent to destroy, in whole or in part, a national, regional, ethnical, racial or religious group, whether in time of peace or in time of war.⁵¹

119. Following institutionalised discrimination and its consequences, the post genocide Government also enacted Law No. 47/2001 with the specific aim of repressing the crimes of discrimination and sectarianism. According to article 1 of this law, discrimination means any speech, writing, or actions based on ethnicity, region or country of origin, the colour of the skin, physical features, sex, language, religion or ideas aimed at depriving a person or group of persons and sectarianism means the use of any speech, written statement or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination. It is clear that the ultimate purpose of discrimination is deprivation of rights a person of his/her rights based on such acts, which is punishable by this law.⁵²

120. Discrimination is further outlawed and prohibited in employment under the General Statute of Public Service and the Labour Code. The latter provides that: “Any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national descent or social origin which has the effect of destroying or impairing equality of opportunity in employment shall be prohibited”⁵³ while the former also recommends objective and neutral recruitment in public service.⁵⁴

121. Discrimination has also been banned in the justice sector whereby justice personnel have a duty to serve the cause of justice with fidelity, integrity, objectivity and impartiality without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion, or social status. Laws governing the functioning and organisation of different justice actors such as the Police, the Prosecution and the Courts have been elaborated. For further inquiry, reference is made to these respective laws.

122. The education sector is another area that had been characterised by a long history of discrimination before the 1994 Genocide. The organic law organising education in Rwanda clearly outlaws discrimination in education and emphasises the promotion of culture of

⁵¹ Law No. 33 bis/2003 repressing the crime of genocide, crimes against humanity and war crimes, O.G. of 1 November 2003.

⁵² Law No. 47/2001 of 18/12/2002 on Prevention, suppression and punishment of the crime of discrimination and sectarianism.

⁵³ Law No. 13/2009 of 18/27/05/2009 regulation labour in Republic (art. 12).

⁵⁴ Law No. 22/2002 of 09/07/2002 regulating public service in Rwanda.

peace, tolerance, justice, respect of human rights, solidarity and democracy.⁵⁵ Rwanda as a State party to the Convention against Discrimination in Education (1960) further commits to outlawing and removal of all unfair practices in this sector. This will further be complemented in the next paragraph discussion of administrative measures.

123. Gender-based discrimination is prohibited both under the national legislations and international conventions that Rwanda has submitted. The supreme law of the land (the constitution) in its article 11 prohibits any discriminatory acts. In addition, the Gender Based Violence (GBV) law⁵⁶ outlaws violence in its chapter 2 (article 3–11) based on gender. The same law in chapter 3 provides for penalties and sections to those convicted of the crime (articles 12–37) and matrimonial regime and succession law⁵⁷ categorically create equal rights for both males and females.

124. Discrimination is further prohibited under the Rwandan press law. Freedom of the press is guaranteed subject to restrictions expressly provided for by the press law and international conventions for the protection of human rights to which Rwanda is a party.⁵⁸ The law in addition prohibits incitements that lead to the commission of crimes in which discrimination is implied.⁵⁹

125. Finally, Rwanda is a party to various international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the African Charter on Human and Peoples' Rights (ACHPR), CERD, UDHR, ICCPR, ICESCR and the Convention on the Prevention and Punishment of the Crime of Genocide, among others, which prohibit any form of discrimination. It is observed that such a wide array of commitments to international human rights instruments illustrates the government of Rwanda's determination to eliminate discrimination.

Administrative measures

126. Several policy and institutional measures have been put in place to give effect to the provision on not engaging in acts of racial discrimination.

127. The post-genocide Government has undertaken a number of measures to eliminate the practice of divisionism that characterized the past regimes. One of the major actions taken was to put in place a broad-based Government (Government of National Unity) within which all categories of Rwandans are represented. The equitable sharing of governmental powers (Legislative, Executive and Judiciary) has contributed to the eradication of ethnic, regional and other divisions and hence to the promotion of national unity among all people of Rwanda.

128. Another great concern has been enforcement of unity and reconciliation in the aftermath of genocide. To implement this policy, a national policy on unity and reconciliation has been developed. Equally, the Government of Rwanda established a responsible organ, the National Unity and Reconciliation Commission (NURC).⁶⁰ The

⁵⁵ Organic Law No. 20/2003 of 03/08/2003, Organising Education in Rwanda – O.G. No. 21 of 01/11/2003, p. 26. Particular reference is made to art. 2 Para. 2 and 3 respectively.

⁵⁶ Law No. 59/2008 of 10/09/2008 on prevention and Punishment of Gender Based Violence, O.G. No. 14 of 06/04/2009.

⁵⁷ Law No. 22/99 of 12/11/99, Regarding Matrimonial regimes, Liberalities and Successions, O.G. No. 22 of 15/11/1999. Reference is made to art. 50.

⁵⁸ Law No. 18/2002 of 11/05/2002, Regulating the Press in Rwanda – O.G. No. 13/2002. Reference is made to art. 11.

⁵⁹ As above, art. 83 (2).

⁶⁰ Law No. 03/99 of 12/03/1999 establishing the National Unity and Reconciliation Commission, O.G. No. 6 of 15 March 1999.

NURC was mandated to prepare and coordinate all the country's programmes for promoting national unity and reconciliation. It established an innovative approach to restore and consolidate unity among Rwandans through education, mobilization, sensitization and training using reconciliation tools such as *Itorero*, *Ingando*, Students Clubs for Unity and Reconciliation (SCUR), Community-based Initiatives, National Summit on unity and reconciliation and other home grown approaches. The NURC has registered an impressive record of achievements though other insights are still necessary to move the national unity and reconciliation to a new level.⁶¹

129. In view of the notorious history of human rights violation, the post-genocide Government has created a National Commission for Human Rights (NCHR).⁶² It was mandated with two main tasks of investigating and following up on human rights violations and educating the public on their rights. This has greatly improved rights awareness as well as helped to combat discrimination.

130. National employment policy further prohibits discrimination of whatever nature as against the country vision and laws regulating employment. The main objective of the policy is to offer equal opportunities for all Rwandans and allow them to make their personal choice of employment they wish to engage in.

131. The military is another area where the commitment of the state against discrimination had been witnessed before the 1994 Genocide. There was categorical exclusion of Tutsi ethnic group in the National Defence Forces. The post-1994 Government responded swiftly to this racial crisis by not only integrating members of the former army in the new formed national army but also by removing any exclusion in recruitment in the security organs. The present organisation, composition and formation of RDF by all ethnic groups of the people of Rwanda demonstrate this inclusiveness.

132. Cooperation and mutual initiatives between genocide survivors and genocide perpetrators has greatly bridged the gap between the two groups and as a result improved unity and reconciliation within the community. Such initiatives have included cordial and mutual dialogue between the two parties and forgiveness seeking by the offending party. As a result, trust and coexistence has improved.

133. Abolition of national identity cards that revealed the ethnic group of the holder. While this was intended to facilitate ethnic identification, it is a well documented fact that the then government used the ploy to further entrench discrimination policy. However, the current government has ended the practice as it treats all Rwandans with equal dignity and humanity.

Paragraph 1 (b): Measures taken to not sponsor, defend and support racial discrimination

134. Paragraph 1 (a) calls on each State party not to sponsor, defend or support racial discrimination by any persons or organisations. Although there is no specific law enacted to this end, some scattered provisions in Rwandan legislation are relevant to this issue.

135. Rwanda's Constitution in its part relating to the formation of political parties and the law on political parties does not allow political parties based on any form of division which

⁶¹ See the Institute for Justice and Reconciliation (IJR), *Evaluation and Impact Assessment of the National Unity and Reconciliation Commission (NURC)*, November 2005.

⁶² Law No. 04/99 of 12/03/1999 establishing the National Human Rights Commission, *O.G.* No. 6 of 15 March 1999.

may give rise to discrimination.⁶³ This clearly discourages any support that might be offered on the basis of discrimination or divisionism. The law goes further to provide punishments in case of violation.

136. Furthermore, the Penal Code provides that an association or a society is unlawful if it is formed for, inter alia, disturbing or inciting to the disturbance of peace and order, which is the end result of any form of discrimination.⁶⁴

137. Also, the laws on different organizations provide that the formation of an association cannot be founded for an illicit objective, contrary to laws, public order or morality.⁶⁵ This automatically makes peremptory the refusal to register organizations (associations, commercial firms, cooperatives, etc) which have, expressly or implicitly, racism and racial discrimination as their objects.

138. Furthermore, the newly adopted law on the fight against corruption makes public and private entities liable for corruption and other related acts.⁶⁶ It is understood that this law of general application also embraces corruption and other related acts committed for discriminatory reasons. Indeed, any act that seeks to discriminate against Rwandans – in the form of corruption, is prohibited and punished by law.

139. There has been adoption of numerous legislations that prohibit and punish discrimination acts. Most of these laws have been mentioned in the above presentation. They include the law on repression of the crime of genocide, crimes against humanity and war, the law on prevention, suppression and punishment of the crime of discrimination and sectarianism, the law against the crime of genocide, the law of the press and the penal and criminal code among others.

140. Courts have also been instrumental in combating discrimination. Judgements invalidating discriminatory practices — especially those related to women — have been rendered leading to the amendment of the discriminatory legislations. For example, in the case of *Speciose Murorunkwere v J.M.V. Sehene*, the Supreme Court noted that article 354⁶⁷ of the penal code which provided for different treatment between men and women convicted of the same crime of adultery was discriminatory. The Supreme Court ruled that the article was thereafter repealed on the basis that it was repugnant both to the constitution of the republic of Rwanda⁶⁸ and CEDAW⁶⁹ – an international treaty by which Rwanda is bound.

⁶³ See arts. 52–58 of the Constitution of the Republic of Rwanda, *O.G.* of 4 June 2003; Organic law No. 16/2003 of 27/06/2003 governing political organizations and politicians, *O.G.* of 27 June 2003, especially in its art. 5.

⁶⁴ Arts 281–283 of the Penal Code of Rwanda.

⁶⁵ Law No. 20/2000 of 26/07/2000 relating to non-profit making organizations, *O.G.* No. 7 of 01/04/2001, art. 2. See also the Law No. 06/1988 on the organisation of commercial societies, *O.G.* of 1988.

⁶⁶ Law No. 23/ 2003 of 07/08/2003 related to the punishment of corruption and related offences.

⁶⁷ Art. 354 of the penal code provided that a woman convicted of the crime of adultery will be punished with an imprisonment term from 1–12 months. While their male counterparts will be punished with an imprisonment term from 1–6 months with a fine of one thousand Rwandese Francs or one of the two. This clearly discriminated against between men and women.

⁶⁸ Rwandan constitution (n 13 above) arts. 11 (2) and 200. The later stipulates that the constitution is the supreme law of the land.

⁶⁹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratified by the presidential order No. 431/12 of 10/11/1980 and published in the *O.G.* No.4 of 15/02/1981. Indeed, the Court's decision was also inspired by the Convention, in particular, art. 2 which provides that: "states parties condemn discrimination against women in all its forms, agree to

141. Finally, specialised organs or institutions with specific mandate to promote and protect human rights have been established. They include NCHR, NURC, NCFG, Gender monitoring unit, Youth Council and the Ombudsman Office among others. These organs plus well elaborated legal framework have provided a firm ground for eradication of discrimination.

Paragraph 1 (c): Measures taken to review government policies and laws to eliminate racial discrimination

142. Paragraph 1 (c) calls on each State party to review governmental, national and local policies and to amend, rescind and nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination.

143. Various laws and government policies have been under review in recent years and changes have been proposed to eliminate any discriminatory effect and to ensure equality.

Legal measures

144. A new Constitution was adopted in 2003 with special emphasis on consolidation of national unity and equality among all the people of Rwanda. The 2003 Constitution as amended to date recognizes and respects the values and principles embodied in international human rights instruments and all international instruments prohibiting racial discrimination which Rwanda has signed and ratified. They include in particular: the Universal Declaration of Human Rights; the International Covenants on Human Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the African Charter on Human and Peoples' Rights and its 2 protocols (the protocol on the rights of women and rights of children); the International Convention against Discrimination in Employment and Profession (1981) and Security Council resolution 1325 (2000) on the protection of women in times of war among others.

145. In a bid to forestall inequitable sharing of national resources — a history that characterised the previous regimes — major reforms have been undertaken by the current government. Among others, sound control measures for better management of national resources have been introduced under the new adopted law on state finances and property.⁷⁰ This law sets out principles and modalities for a better use of public finances and property that inevitably results in equitable sharing of national resources.

146. There has been land reform and redistribution especially with the adoption of the constitution of 2003 and the new law on land management. Article 3 of the Constitution makes land a heritage of the past, present and future generations. Impliedly, land ownership is open to all Rwandans irrespective of whatever difference. It is noted that the law on land management abolishes practices of appropriation of big lands/firms by some individuals to

pursue by appropriate means and without delay a policy of elimination of discrimination against women and, to this end, undertake.....(C) to establish legal rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”.

⁷⁰ Organic law No. 37/2006 of 12/09/2006 on State finances and property, O.G. no special of 12 September 2006.

the detriment of others.⁷¹ For more explanations, see also the redistribution of land and settlement programs under administrative measures.

147. Review of political and administrative structures has also contributed to elimination of discrimination. Rwanda used to have a very strict centralized system that was dominated by specific ethnic groups. Today, however, a social contract linkage has been created through adoption of the 2003 constitution which emphasizes sharing of powers among all Rwandans. All categories of Rwandans are represented in the government – either based on political parties or individual merit.

148. Rwandans are fully represented in the three organs of the state i.e. the legislative, the executive and the judiciary. Elections have been held since 1999 where Rwandans elect their representatives from the grass roots level, Parliament, up to the President of the Republic. Rwanda has as a result received worldwide recognition for its free and fair elections. No discrimination issues either to elect or be elected were linked to elections.

149. The Constitution furthermore sets out a decentralized system where the citizens have an upper hand in determining their future. In compliance with the Constitution, laws on administrative structures have been reviewed to empower local government systems where people participate in the planning and implementation of programs set for their development. The participation in planning and implementation is done with objectivity and vision for the citizens than a group or an ethnic.

150. Also, number plates on vehicles based on the origin of the owner and inscription of ethnic groups in the national identity cards have been outlawed and deemed discriminatory. Documented evidence confirms that such practices were key tools of discrimination.

151. Another area that has undergone reform is nationality. Before the adoption of the 2003 constitution, the right to nationality was accordingly restricted in the former legislation. Arguably, this amounted to discrimination directed to a group of people who were forced into exile. The 2003 constitution as amended to date and the new law on nationality repealed all the restrictions. They both enshrine that every person has a right to nationality. Dual nationality is also allowed. No person may be deprived of Rwandan nationality of origin. No person shall be arbitrarily deprived of his or her nationality or of the right to change nationality. The Constitution goes further to provide that Rwandans or their descendants who were deprived of their nationality between 1 November 1959 and 31 December 1994 by reason of acquisition of foreign nationalities automatically reacquire Rwandan nationality if they return to settle in Rwanda. All persons originating from Rwanda and their descendants shall, upon their request, be entitled to Rwandan nationality.⁷²

152. Migration rules have been reviewed with an emphasis to allow free movement of Rwandans and make Rwanda an open society to foreigners as well.⁷³ There are no restrictions on issuance of passports and other travel documents to Rwandan citizens. Any person from zero age and above can easily acquire a travel document upon production of Rwanda national identity card, documents issued by the local administration and the fee charge of the travel document. For citizens below the age of 16, his/her parent's, guardian's or foster parent's identity along with a birth certificate of the child or declaration of birth of the child, shall be used for issuance of travel document. The reasons for which somebody is

⁷¹ Organic law of No. 08/2005 of 14/07/2005 determining the use and management of land in Rwanda.

⁷² More details can be found in the Constitution of the Republic of Rwanda, cited above, especially in article 7 and in the Nationality law.

⁷³ Law No. 17/99 on immigration and emigration, O.G. No. 24 of 15/12/1999.

required to return a passport or another document replacing the passport are defined by a decree of the Minister having immigration and emigration within his remit.

153. Corruption and other related acts such as nepotism, favouritism, etc. are also linked to discrimination. Rwandan criminal legislation underwent amendment and a new anti-corruption law was adopted with the purpose of incriminating such acts.⁷⁴

Administrative measures

154. Rwanda has a well developmental road map (vision 2020) that guides its interventions up to 2020. It envisions the kind of society the country aspires to be by 2020. The plans are concrete and refocus the country's efforts towards breaking down barriers and creating a unified and economically stable society. Worthy to note are the short term plans and the poverty reduction strategy paper and economic development poverty reduction strategy which are simply implementation phases of vision 2020.

155. Vision 2020 is mainly anchored on nine pillars. They include: Good Governance and a Capable State; Human Resource Development and a Knowledge-based Economy; Private Sector-led Development; Infrastructure Development; Productive High Value and Market Oriented Agriculture; Regional and International Integration; Gender Equality; Natural Resources and the Environment; Science, Technology and ICT. Among the nine 'Pillars' of Vision 2020, the present report will only focus on four, among others, which have direct relevance to the elimination of racial discrimination.

156. *Good governance and a capable state.* This Pillar contemplates a future where Rwanda will become a modern, united and prosperous nation founded on the positive values of its culture. The nation will be open to the world, including its own Diaspora. Rwandans envisage being a people, sharing the same vision for the future and being ready to contribute to social cohesion, equity and equality of opportunity. The country is committed to being a capable state, characterised by the rule of law that supports and protects all its citizens without discrimination. The state is dedicated to the rights, unity and well-being of its people and will ensure the consolidation of the nation and its security.

157. *Human resource development and a knowledge-based economy.* Rwanda considers its population as its fundamental resource and banks on it for its future development. Apart from raising the general welfare of the population, Rwanda expects to make improvements in education and health services for all without any discrimination in order to build a productive and efficient workforce. Currently, Rwanda boasts of universal free primary and *tronc commun* education – which is 9 years basic education free of charge. The government supports free education under the program of capitation grant.

158. Specific institutions have been created to improve the quality of education in Rwanda. They include the Human Initiative Development Agency (HIDA), Student Financing Agency (SFAR), the National Curriculum Development Centre, Rwanda Institute Administration & Management (RIAM), ILDP, National Examination Council, National Council for Higher Education, etc. Contrary to pre-1994, the current education policy of the government of Rwanda pursues an open policy where both private and public institutions of higher learning have been introduced. Newly created private universities include ULK, UNILAK, INITAK, ISAR, KIST, KIE, KHE, Umutara Poly-technique, among others. Equally, vocational training institutions and ICT centres are some of the human resource development achievements for Rwanda. Indeed as indicated, these facilities are open to all Rwandans without discrimination or segregation of any kind.

⁷⁴ Law No. 23/2003 of 07/08/2003, (n 66 above).

159. *Regional and international integration.* Rwanda considers regional economic integration as one of the crucial elements of achieving Vision 2020. To this end, Rwanda pursues an open, liberal trade regime, minimizing barriers to trade as well as implementing policies to encourage foreign direct investment. Some of the economic regional blocks to which Rwanda belongs include: EAC, COMESA and CEPGL.

160. *Gender equality.* For a period of time in Rwanda, girls were the minority in secondary schools, with limited access to the opportunities available to their male counterparts. They were poorly represented in decision making positions. Presently, Rwanda has committed to strengthening equality of men and women through adoption of laws.⁷⁵ Furthermore, Rwanda supports an education system for all, eradication of all forms of discrimination, the fight against poverty and practices an affirmative action that favours women.

Table 2

Girl child school enrolment

| <i>Year</i> | <i>Enrolment description</i> | <i>Girl percentage</i> |
|-------------|------------------------------|------------------------|
| 2007 | Primary net enrolment | 95.8% |
| 2008 | Completion rate | 52% |

Source: MINEDUC summary of achievements, 2007–2008.

161. The table 2 illustrates that in 2007, there was a high number of girl child enrolment in primary school. Undoubtedly, this was attributed to free primary education support under the capitation grant. However, the subsequent completion rate in 2008 demonstrates a great disparity between enrolment and completion rate. In addition, the drop in completion has been linked to budget constraints; shortfalls in financing the capitation grant; limited parents' financial resources to access other school materials; quality and retention issue of teachers; shortage of teaching and learning materials; and teacher deficit (the teacher/pupils ratio is still high). Besides the above shortcomings, gender has been integrated as a cross-cutting issue in all government development programs.⁷⁶

162. In addition, several initiatives have been taken while others were removed, enhanced or reviewed with the aim to eradicate discrimination. These largely focused on promotion of tolerance, unity and reconciliation among all Rwandans. It is important to note that former regimes dating from colonial time exploited the subtle social differences and institutionalized discrimination. These actions distorted the harmonious social structure, creating ethnic divisionism with disastrous consequences. The post-genocide government opted to outlaw ethnic divisionism and genocide ideology through civic education programs. Thus, the establishment of NURC, NCHR and the National Electoral Commission have been instrumental in civic education for promotion of unity and reconciliation among all Rwandans.

163. Until 1994, ethnically division-based practices were still at large. Vehicle number plates were allocated on the basis of the area of origin of the car owner. Currently, the registration system has been changed to a centralized system where national registration numbers are issued to respective owners without consideration of his/her status. The same applied to the national identity cards whereby ethnic group of the bearer was mentioned. Such distinctions were decisive in the 1994 genocide. Following negotiations under the

⁷⁵ Rwandan constitution (n 13 above) art. 9 (4).

⁷⁶ For more details of the 2020 Vision, See Republic of Rwanda, Ministry of Finance and Economic Planning, Rwanda Vision 2020, Kigali, July 2000.

Arusha Peace Agreement,⁷⁷ the new Transitional Government repealed ethnic inscription on national identity cards.

164. Abolition of quarterly system in education. Under this system, further education was authorised on the basis of religion, ethnic and region. In addition, admission to high school based mainly on schools' internal assessments which were characterized by subjectivity towards ethnicity, regionalism, nepotism, favouritism and total corruption. Currently, an examination policy based on fair and transparent principles has been introduced and is overseen and implemented by the Rwanda National Examinations Council.

165. The Public Service Policy was reviewed in order to abolish provisions that perpetuate social inequalities previously legalised in the public employment domain. This was implemented by the newly established commission for public service.

166. Several other specialised institutions were created to enhance equality and combat discrimination. These include, among others:

- The Public Service Commission as an independent public institution responsible for establishment of an appropriate system of recruitment of public servants which is objective, impartial, transparent and equitable for all
- The Office of the Ombudsman, an independent public institution mandated to preventing and fighting against injustice, corruption and other related offences in public and private administration
- The Rwanda National Commission for Human Rights, responsible for monitoring and follow-up human rights violations
- The Rwanda National Unity and Reconciliation Commission, responsible for preparing and coordinating the national programme for the promotion of national unity and reconciliation
- The Rwanda National Commission for the Fight against Genocide, responsible for organizing a permanent framework for the exchange of ideas on genocide, its consequences and strategies for its prevention and full eradication
- The Rwanda National Electoral Commission, mandated to organise elections based on democratic principles and to teach on civic education that promotes unity among all Rwandans
- The National Land Centre was created to implement land management policy; one of its guiding principles is fair distribution of land
- The Women and Youth Councils were established as forums through which women and youth issues can be debated and advocated for
- Gender observatory, responsible for monitoring gender equality and integration in government institutions

167. Generally, each of the above specialised institutions have contributed to the eradication of discriminatory practices through streamlining and creating easy access to services needed by the citizens. As a result, this has enhanced transparency and fairness in the system.

168. As earlier mentioned, land distribution and settlement policy reforms have also greatly contributed to the elimination of discrimination. Initially, land appropriation was not

⁷⁷ See article 16 of the August 1993 Arusha Peace Agreement made between the then Government of Rwanda and Rwandese Patriotic Front (RPF).

controlled especially those in power. Rwandans in exile (who were mainly from one social group) were in effect deprived of rights on their former land properties. After the 1994 genocide, when a large number of Rwandans in exile returned to their homeland, Rwandans successfully and peacefully started themselves an initiative to equally share land to allow settlement and reintegration. Thereafter, an organic law was adopted legalising private ownership of land and other related rights. The Constitution equally reiterates private ownership of land. Under such arrangement, equitable and fair land distribution among Rwandans has been possible.

Paragraph 1 (d): Measures taken to eliminate racial discrimination by any persons, group or organization

169. References made above with regard to paragraphs 1 (a), (b) and (c) of the Convention clearly illustrate attempts made by the government to eliminate discrimination whether incited by persons, groups or organizations. Generally, Rwanda has expressed its commitment to uphold fundamental principles of human rights, promote and enforce unity and reconciliation. To combat all forms of discrimination, the government has particularly committed to the following:

- Fighting the ideology of genocide and all its manifestations
- Eradication of ethnic, regional and other divisions
- Promotion of national unity and reconciliation
- Respect of human rights
- Equitable sharing of power
- Building a state governed by the rule of law, a pluralistic democratic government, equality of all Rwandans and respect of gender
- Building a State committed to promoting social welfare and establishing appropriate mechanisms for ensuring social justice
- Constant quest for home grown solutions through dialogue and consensus

Administrative measures

170. Like in other previous presentations in the above sections, various administrative measures have been undertaken. More particularly, ethnicism, regionalism, sectarianism, nepotism and favouritism have been discouraged in the administration circles. Social interventions for vulnerable groups such as the construction of village settlements have been undertaken without distinction or favour but rather on the basis of one's qualification to benefit from the interventions. Community sensitisation programs through meetings between local authorities and masses have facilitated dialogue, unity and reconciliation among citizens.

Paragraph 1 (e): Measures taken to eliminate racial discrimination by encouraging integrationist multiracial organisations and movements

171. While not considered as integrationist multiracial organisations or movements as such, some community initiatives/collective action institutions can be noted as far as concerns this paragraph. They include the following.

172. *Ingando*: This refers to halting normal activities to reflect on, and find solutions to national challenges. It was a well established traditional practice prior to colonialism. The NURC formally developed Ingando as a tool to build coexistence within communities. The first beneficiaries were ex-combatants from the DRC. The programme later expanded to

include school going youth and students at secondary and tertiary levels. By 2002, the training was extended to informal traders, and other social groups including survivors, prisoners, community leaders, women and youth. Today, Ingandos are carried out countrywide and most are co-facilitated with communities. The provincial and local administrations provide assistance with logistics. The NURC and its partners provide accommodation and meals and transportation is usually covered by the participants. Ingandos entail residential camps, bringing together many people per programme for a period between 3 weeks to 2 months depending on time available and focus of the sessions. Various categories of people such as released prisoners, repatriated ex-combatants, students, teachers, leaders undergo Ingando. Topics covered are mainly under five central themes: analysis of Rwanda's problems; history of Rwanda; political and socioeconomic issues in Rwanda and Africa, rights, obligations and duties and leadership.

173. *National Dialogue Council*: This is the flagship programme of the NURC. It is chaired by the President of the Republic and attended by a cross section of Rwandans and dignitaries from the national and international community. It has become a prominent and more or less permanent national event that draws considerable international focus on Rwanda. During these summits, issues relating to reconciliation and unity among all Rwandans are discussed and related policies are proposed to the concerned government institutions.

174. *Inter-Community Exchanges*: NURC coordinates regular exchange programmes between communities from different regions. The programmes entail exhaustive analysis and joint solving of problems, and popular activities including sports, cultural celebrations and competitions. They were designed to eradicate the mistrust created by the policies of regional favouritism entrenched by previous administrations.

175. *Reconciliation Clubs*: The idea of forming NURC Clubs in schools and institutions of higher learning was one of the outcomes of the Ingando. Initially, the NURC took the lead in creating them. Apparently however, students form reconciliation clubs on their own. The clubs provide a space where students from different backgrounds get together to promote reconciliation in places of learning. In this way, their teaching does not just end at the Ingando but is carried forward in their respective institutions.

176. *Reconciliation week*: Every year, the NURC organises a reconciliation week. During this period, issues with a view to combating prejudices and to promote understanding, tolerance and friendship among nations as well as among racial or ethnic groups are discussed; and policies thereto are proposed.⁷⁸

177. *Gacaca Courts*: The *Gacaca Court* is a system of community justice inspired by tradition and established in Rwanda in 2001.⁷⁹ Among its objectives are reconciliation of Rwandans and building their unity. The idea is to let the village courts resolve these issues and hopefully encourage reconciliation and needs/local based solutions. The trials are meant to promote reconciliation and justice. The defendant is accused and brought to trial. The trial is held in public, where survivors and the victims' families can confront the accused. The accused can confess to them their crimes and receive pardon.⁸⁰

⁷⁸ Ingando, Reconciliation summit, Inter-community exchange, Reconciliation clubs and Reconciliation week are all about the tools used by the NURC. For more details, see The National Reconciliation and Unit Commission of Rwanda.

⁷⁹ Organic Law No. 16/2004 of 19/06/2004 regulating the organization, competence and functioning of *Gacaca courts*.

⁸⁰ For more details, see the National Service of *Gacaca Courts*, available at: www.winkiko-gacaca.gov.rw.

178. *TIG (Travaux d'Interet General)*: This is a form of alternative sentence given to persons found guilty of genocide crime, whereby they are required to execute community work for general interest outside the prisons. In the process, they are exposed to and confronted by the public which helps their future reintegration and reconciliation amongst the population including their victims upon release from prison. Sometimes, these persons are required to reconstruct what was destroyed, which also contributes to support genocide victims and enhance unity and reconciliation.⁸¹

179. *Umuganda*: This is a monthly one-day get-together of all community members above 18 years in execution of compulsory community service. Umuganda contributes in the promotion of unity and reconciliation by bringing together Rwandans of different backgrounds and who share common goals. After umuganda, participants normally discuss all issues relating to the common community problems (including, among others, reconciliation and unity) and related policies are proposed.

180. *Ubudehe (Local Collective Program)*: Initially, the people of Rwanda especially in rural areas had a tradition of coming together to work in groups and teams. This builds social capital and strengthens relationships of trust and reciprocity. Later, a policy was adopted to extend this approach nationwide. Residents in a given territorial area engage in discussion to prioritise their local problems. Government officials take on the role of enablers and supporters of citizens' efforts to enable citizens to engage in local problem-solving as partners in a decentralised government.

181. *Labor intensive public works (Haute intensité de main d'œuvre (HIMO))*: Due to the urgent need to re-absorb the half million unemployed and under employed people in the rural areas, plus demobilised soldiers and detainees freed by *Gacaca* Courts, a vast program of infrastructure development and services for rural development was created. Labour intensive method was recommended as a method to employ the above categories. In the process, people from various backgrounds have been able work alongside one another and discover that their true challenge is poverty. This has helped to create a common ground among participants and to fight against discrimination.

182. *Itorero (Forum for cultural and civic education)*: This is a national policy which creates a forum for every Rwandan to participate in debates and training sessions (where necessary) with others on how they can solve their own communities' challenges.⁸² Understandably, this forum does not discriminate in participation as it permits Rwandans of all backgrounds to participate in the debates with the purpose of finding suitable solutions to Rwandans.

183. *Sports*: Sports are encouraged from grass root to national level where Rwandans of different backgrounds equally participate in the national, regional and international sports. They contribute to bring together all Rwandans and enhance peace, harmony and unity.

184. *Research oriented Centres such as Institut de Recherche de Dialogue pour la Paix (IRDP) and Centre for Conflict Management (CMC) of National University of Rwanda (NUR)*: Though not created on government's initiative but with its facilitation, these play a key role in establishing open dialogue to address critical issues. They have significantly contributed to open dialogue amongst Rwandans and encouraged public participation in promoting peace and harmony and in designing national policies. Following debates organized by these centres, numerous recommendations expressed by the population or the participants in the debates have subsequently been integrated in government programs.

⁸¹ For more details, see the National Service of Coordination of TIG.

⁸² For more details about Umuganda, Ubudehe, LIPW HIMO and Itorero programs, see the Ministry of Local Government, available at: www.minaloc.gov.rw.

185. *Human rights organisations:* Though the Government does not directly initiate creation of human rights or anti-discriminatory organizations, privately created human rights organisations (whether international or national) have largely benefited from the overall framework of Rwanda. Operation documents are processed within the shortest period of time possible upon fulfilment of the requirements. Notable operational human rights organisations include CLADHO, LDGL, IBUKA, Legal Aid Forum (LAF), Rwanda Genocide Survivors associations, PROFEMMES and other international organisations. These have not only complemented the government in its constant quest for human rights but also have become permanent partners in the struggle against human rights violations.

Paragraph 2: Measures taken in the social, economic, cultural and other fields to ensure the adequate development and protection of certain racial groups

186. While the previous regimes had not been keen to promote social, economic and cultural rights, the current government has shown unyielding commitment to protect such fundamental rights as the rock of dignity and meaningful life.

187. Article 14 of 2003 Rwanda's Constitution as amended to date provides that: "The State shall, within the limits of its capacity, take special measures for the welfare of the survivors who were rendered destitute by genocide against the Tutsi committed in Rwanda from October 1st, 1990 to December 31st, 1994, the disabled, the indigent and the elderly as well as other vulnerable groups." This provision, by and large, engages the positive obligation on the side of the government to intervene in realisation of socio-economic rights.

188. In addition, the GoR created a Public Genocide Survivors Fund (Fonds d'Assistance aux Rescapés de Genocide – FARG) in 1997. This fund supports genocide survivors by giving financial support mainly to school going children and construction of houses for the vulnerable people.

189. Furthermore, the following affirmative actions towards women have been undertaken:

(a) Equality. This concept is described in Rwanda's Constitution, particularly between women and men. As a result, women are granted at least 30% of posts in decision making organs (article 9 (4) of the constitution). Interestingly, the recent statistics from the parliamentary elections were far ahead the requested percentage. While in 2003 women occupied slightly above 48% of parliamentary seats, in 2008 they occupied 56% in recent concluded parliamentary elections. This has been welcomed both on the international and national scene as Rwanda was credited and acknowledged among the first countries in gender promotion;

(b) Article 187 of the constitution as amended to date provides for the establishment of the National Council of women. The council serves as permanent forum where women discuss their problems and participate in their resolution;

(c) Establishment of the Gender Monitoring Office which is an independent public institution with the responsibility to monitor and supervise on a permanent basis compliance with gender indicators of the programme for ensuring gender equality and complementarity in the context of the vision of sustainable development and to serve as a reference point on matters relating to gender equality and non-discrimination for equal opportunity and fairness.⁸³

⁸³ Rwandan constitution (n 13 above), art. 185.

190. Article 188 of the constitution as amended to date provides the establishment of a national youth council. It is noted that the past regimes lured the youth in massacres – the same youth that were adversely affected by the results. The youth are represented in the Parliament and organized in associations with a Council at the national level which serves as a forum for mainstreaming and orienting their future interventions.

191. *Special protection for disabled people.* Article 14 of the Rwanda Constitution as amended to date provides for special protection of disabled persons. In effect, they are represented in Parliament like the youth and women. The national policy on employment equally focuses on strategies to promote and create employment opportunities for the disabled. Above all though, a law on disabled persons was adopted and protects a wide assortment of rights ranging from the right to education, health, and employment to access to infrastructure.⁸⁴

192. *The support offered to historically marginalised people (HMP).* The GoR recognizes the challenges that such marginalised groups face. This category of people benefit from representation in the government institutions (like other people) and different programs (like other poor) such as universal education for all, one cow-one family and other programs as set out in Rwanda’s vision 2020, PRSP and EDPRS among others.

Article 3: Measures taken to prevent, prohibit and eradicate racial segregation and apartheid

193. The constitution of Rwanda as amended to date, which is the supreme law of the state, strongly prohibits any form of discrimination in its article 11. It follows from there that all forms of racial segregation and discrimination are condemned in Rwanda in the strongest manner possible. In the case of *Hesron Manirakiza v the Prosecution*, the Supreme Court confirmed the sentence rendered by the High Court based on the proven genocide ideology that was expressed by the applicant in his telephone call to City Radio where he remarked that “we shall exterminate them again”.⁸⁵

194. Further condemnation is expressed both under the Rwandan domestic laws and international instruments to which Rwanda is a party. They include: the Universal Declaration of Human Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the International Convention on the Elimination of All Forms of Racial Discrimination; the African Charter on Human and Peoples’ Rights and its two protocols.

195. Although bound by these international instruments, Rwanda experienced the genocide of Tutsis in 1994. As a demonstration to eradicate such discriminatory practices and genocide acts, Rwanda reaffirmed its commitment to the following fundamental principles in its constitution. Among other things the constitution enshrines the commitment to fight the ideology of genocide and all its manifestations; eradicate ethnic, regional and other divisions and promotion of national unity; equitable sharing of power; building a state governed by the rule of law, a pluralistic democratic government, equality of all Rwandans and between women and men reflected by ensuring that women are granted at least thirty per cent of posts in decision making organs; building a State committed to promoting social welfare and establishing appropriate mechanisms for

⁸⁴ Law No. 01/2007 of 20/01/2007 relating to protection of disabled persons in general, O.G. No. Special of 21/5/2007 and Ministerial Order No. 03/2009 of 27/07/2009.

⁸⁵ *Hesron Manirakiza v The Prosecution*, case No. RPA A 0061/08/CS of 13/02/2009.

ensuring social justice; and the constant quest for solutions through dialogue and consensus;⁸⁶

196. Furthermore, article 11 of the constitution as amended to date stipulates that “All Rwandans are born and remain free and equal in rights and duties. Discrimination of whatever kind based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law.”

197. Equally, Rwanda’s commitment to eradicate racial discrimination is also expressly stated in the two newly adopted laws, i.e. the law on prevention, suppression and punishment of the crime of genocide and the law on prevention, suppression and punishment of the crime of discrimination and sectarianism. The two laws categorically outlaw genocide and discrimination of any form as crimes and therefore punishable.⁸⁷

198. The same protection is guaranteed by the press law, the GBV law, the law that combats against genocide, the labour and public service code and a variety of international human rights signed and ratified by Rwanda. Note that almost all these legislations have been discussed in the above presentations.

199. Rwanda also accords special protection to non-nationals. Non-nationals can be categorised into two separate groups: immigrants and refugees. They benefit from different status.

200. Refugees are protected by both Rwandan domestic laws and international instruments. Every person whose refugee status is recognized in Rwanda has the rights and the liberties provided in the international legal instruments relating to the refugees and ratified by Rwanda. Particularly: the right to non discriminatory treatment; the freedom of religion recognized by the laws; the right to personal property; the right of associations with a non-political character; the right to act before justice and to be represented in justice; the right to employment; the right to accommodation (housing); the right to assistance and protection by the administration; and the right to free movement according to the law.⁸⁸

201. Rwanda regularly receives refugees from neighbouring countries and other regions. They equally benefit from the same protection under the facilitation of the National Council for Refugees (NCR) which is the responsible organ for handling all refugees’ issues.

202. Foreigners on Rwanda territory are guaranteed equal treatment alike to Rwandan citizens, save under some exceptions. Article 42 of the constitution as amended to date states that “every foreigner legally residing in the Republic of Rwanda shall enjoy all rights except those reserved for nationals as determined under this constitution and other laws”; impliedly, foreigners are only restricted from exercising some political rights such as voting or to be elected. The new labour code provides that apart from issues related to working permits for foreigners working in Rwanda that are determined by immigration and emigration laws, the contract of employment for foreigners working in Rwanda shall be governed by this law and shall be written.⁸⁹

⁸⁶ See Rwandan constitution (n 13 above), art. 9.

⁸⁷ See arts 5–14 of the law 47/2001 on prevention, suppression and punishment on the crime of discrimination and sectarianism.

⁸⁸ See the Law No. 34/2001 of 05/07/2001 on refugees, *O.G.* No. 24 ter of 15 December 2001.

⁸⁹ Law No. 13/2009 of 27/05/2009 regulating labor code in Rwanda. Reference is made to art. 18 of the law.

203. By and large, the GoR has expressed its strong condemnation on artificial barriers based on racial grounds anywhere in Rwanda, or anywhere else in the world. This is reflected by its hard-line approach with countries that practise racial segregation.

204. In his speech, H.E Paul Kagame, president of the Republic of Rwanda at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance convened in Durban, South Africa, 31 August 2001, strongly rejected this practice over the world and called on the Africa leaders and African people to eradicate racial segregation and apartheid by examining and recognising our weaknesses and taking the necessary measures to eliminate discrimination both on the African continent and elsewhere over the world.

205. Apart from national interventions that combat discrimination and genocide, Rwanda is involved in activities that encourage peace support operation in various African countries. Such operations are notable in Darfur (Sudan), Southern Sudan, Liberia and Somalia among others.

**Article 4:
Measures taken to eliminate all propaganda and organizations which
are based on theories of racial discrimination**

Paragraph 4 (a): Measures taken to punish by law all dissemination of ideas based on racial superiority

206. Article 34 (1) of the Constitution as amended to date provides for freedom of expression. However, under international human rights law and Rwanda's domestic law, no right or freedom is absolute or ranks over other rights or freedoms. Again, under article 34 (2) of the Constitution and articles 10–11 of the law governing the press,⁹⁰ the rights and freedoms of press can be limited by laws of general application to the extent that the limitation is justifiable by reasons of respect of human dignity, equality and freedom. Indeed these provisions denounce dissemination of information/ideas that are deemed discriminatory.

207. The Law on prevention, suppression and punishment of the crime of discrimination and sectarianism spells punishment for any person guilty of the crime of discrimination and sectarianism. The law expounds that the crime of discrimination occurs when the author makes use of any speech, written statement or action based on ethnicity, region or country of origin, colour of the skin, physical features, sex, language, religion or ideas with the aim of denying one or a group of persons their human rights provided by the law. The crime of sectarianism occurs when the author makes use of any speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people.⁹¹

208. Based on the above laws, courts have decided various cases against individual persons accused of the crime of discrimination against fellow citizens either verbally or in acts.⁹² Particularly, the accusations have a commonality and implication of genocide ideology that seeks to perpetuate the 1994 genocide against the Tutsi.

⁹⁰ Law No. 18/2002 of 11/05/2002 governing the press in Rwanda.

⁹¹ See arts 1 of the law 47/2001 on prevention, suppression and punishment on the crime of discrimination and sectarianism.

⁹² See cases of *Munyarwerere v. Prosecution*; *Nkizamacumu A. v Prosecution*; *Uwizeye E. v Prosecution*; *Havugimana M. v Prosecution*; *Bamporiki I v Prosecution*.

209. Article 393 (a) of the Criminal Code also makes dissemination of ideas based on discrimination an offence. It provides that: “Any person who, by defamation or public insult, manifests aversion or hatred towards a group of persons or a given race or religion, or commits an act likely to provoke such aversion or hatred, shall be liable to imprisonment for a term of one month to one year and to a fine not exceeding 5,000 francs, or to one of these penalties.”

Administrative measures

210. From administrative point of view, the parliament conducted an investigation on genocide ideology in schools in 2005. The findings noted the threat of genocide ideology in schools and were condemned. In addition, it was recommended that a number of measures be taken, among others put in place (in their codes of conduct) mechanisms that prohibit and fight against genocide ideology among teachers and students as well as enforce strict and necessary legal measures.

Paragraph 4 (b): Measures taken to declare illegal organisations participating in propaganda inciting racial discrimination

211. The Law cited above on the fight against discrimination and sectarianism in its article 6 represses any association, political party, or non-profit making organisation found guilty of offences of discrimination with a suspension of between six months and one year and a fine of between 5,000,000 and 10,000,000 Rwandan Francs. Depending on the seriousness of the consequences of that act of discrimination on the population, the court may double the penalty, or decide to dissolve the concerned association, political party or non-profit making organisation, according to the law governing the dissolution of associations, political parties and non-profit making organisations.

Paragraph 4 (c): Measures taken to not permit public authorities to incite racial discrimination

212. The Law on the fight against discrimination and sectarianism punishes any person guilty of the crime of discrimination or sectarianism mentioned in article 3 of this law by sentence of between three months and two years of imprisonment and fined between fifty thousand (50,000) to three hundred thousand (300,000) Rwandan Francs or only one of these sanctions. When the offender of the crime of discrimination or sectarianism is a government official, a former government official, a political party official, an official in the private sector, or an official in a non-governmental organisation, he/she is sentenced to between one year and five years of imprisonment and fined between five hundred thousand (500,000) to two million (2,000,000) Rwandan Francs or one of those two sanctions. In addition, article 5 provides that political parties are prohibited from basing themselves on ethnic group, race, tribe, clan, kinship, region, sex, religion or any other factor which may give rise to discrimination and divisionism.⁹³ Undoubtedly, these limitations warn institutions against irresponsibility and improper commissions that are likely to tantamount to discrimination.

⁹³ Organic Law No. 19/2007 of 04/05/2007 modifying and complementing Organic Law No. 16/2003 of 27/06/2003 governing political organisations and politicians, O.G No 11/01/06/2007.

Article 5: Measures taken to promote equality in enjoyment of rights and freedoms

Subparagraph (a): Measures taken to ensure equal treatment before justice organs

213. The basic text that guarantees the right to equality is naturally article 16 of the Constitution which establishes that “all human beings are equal before the law. They enjoy, without any discrimination, equal protection of the law”. This is reinforced by the Code of ethics for Judiciary which binds the judge to serve the cause of justice with fidelity, integrity, objectivity and impartiality without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion, or social status.⁹⁴

214. In practice, before beginning their career, all law enforcement officials and judicial officers are first subjected to specialised training in respect to their duties. Police members are trained in basic human rights, democratic values, serving people and safeguarding their fundamental rights guaranteed by the law. Prosecution and judiciary members receive their training in academic institutions (Law Schools). The Government also organizes regular on-the-job trainings for capacity building of its public servants, including members of the justice sector. Beside, the judicial personnel are subjected to supervision and control measures ranging from allowing any victim of racial discrimination to any member of justice to launch a complaint for redress. Police officers as well as prosecution and judiciary members can be pursued/ reprimanded either through disciplinary measures or before ordinary courts. Examples of expulsion are many especially where it is established that particular individuals are breaching the code of conduct. The National police particularly expels its personnel found guilty of human rights violations including discrimination.

Subparagraph (b): Measures taken to ensure protection against State violence

215. The Constitution is the principal guarantor of protection from any form of violation and compliance with numerous legislations both national and international. In clear terms, the constitution of 2003, as amended to date, provides that the human person is sacred and inviolable.⁹⁵ The same provision guarantees that the state and all public administration organs have the absolute obligation to respect protect and defend human beings from violations.⁹⁶ The constitution further guarantees the right to life, physical and mental integrity, and equality of all human beings before the law.⁹⁷

216. It should also be noted that Rwanda submits to international human instruments/law as a state party to the following instruments which were duly signed and ratified. They include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ICCPR, ICESCR, UDHR, ACHPR, CEDAW, etc. This commitment not only obliges Rwanda make these instruments part of domestic law but also seeks their enforcement to give effect to their provisions.

217. The Criminal Code of Rwanda, in its articles 310–352, also punishes offences involving assaults, battery and intentional acts that cause unlawful harm. Cases of racially motivated nature still largely relate to genocide and genocide ideology – the later issuing

⁹⁴ Law No. 09/2004 of 27/04/2004 establishing the code of ethics for judiciary, O.G. No. 11 of 1 June 2004, art. 12.

⁹⁵ Rwandan constitution (n 13 above), art. 10.

⁹⁶ As above, para. 2.

⁹⁷ As above, arts 12, 15 & 16 respectively.

after the 1994 genocide. Under this particular scenario, survivors particularly suffer from torture and killings by suspects of genocide. It is in most cases intended to silence victims or diminish evidence.⁹⁸

Subparagraph (c): Measures taken to ensure political rights

218. The Constitution of Rwanda, as amended to date, protects civil and political rights. Article 8 provides that: “All Rwandan citizens of both sexes who fulfil the requirements provided for by the law have the right to vote and to be elected”. The elections are managed by an independent body, the National Electoral Commission which is established under the constitution.⁹⁹

219. Article 45 of the constitution further reiterates that: “All citizens have the right to participate in the government of the country, whether directly or through freely chosen representatives in accordance with the law. All citizens have the right of equal access to public service in accordance with their competence and abilities.” The Public Service maintains integrity and accountability in performing its duties at all times and loyally executes policies while delivering services to everyone. Public servants are expected to serve the public impartially and are not allowed to discriminate against any member of the public. A Code of Conduct setting ethical standards for public servants was launched in June 2001. Contravention of the Code is dealt with as misconduct.

220. In addition, article 53 of the constitution notes that: “Rwandans are free to join political organizations of their choice or not to join them. No Rwandan shall be subjected to discrimination by reason of membership of a given political organization or on account of not belonging to any political organization.” Article 54 stipulates that: “Political organizations are prohibited from basing themselves on race, ethnic group, tribe, clan, region, sex, religion or any other division which may give rise to discrimination.” By and large, these provisions outlaw political parties that discriminate in membership or seek to influence on the basis of divisionism.

221. The law governing political organisation and politicians as modified to date further observes that political organizations are prohibited from basing themselves on ethnic group, race, tribe, clan, kinship, region, sex, religion or any other factor which may give rise to discrimination and divisionism.¹⁰⁰ Impliedly, apart from restrictions clearly cut in the laws, political parties are at liberty to operate and disseminate their political agenda.

Subparagraph (d): Measures taken to ensure civil rights

222. This paragraph reiterates the need for states parties to protect civil rights. The Constitution of Rwanda as amended to date guarantees the rights listed in the section above. Below is a presentation on each right and how it is protected either under the Rwandan supreme law of the state or other national legislations:

(a) The right to freedom of movement and residence within the state is protected under article 23 (1) of the Constitution. It stipulates that: “Every Rwandan has the right to move and to circulate freely and to settle anywhere in Rwanda”;

(b) The right to leave any country, including one’s own, and to return to one’s country, is protected under article 23 (2) of the Constitution. It provides that: “Every Rwandan has the right to leave and to return to the country”. This largely differs to what

⁹⁸ See (n 76 above) of *Munyarwerere v. Prosecution; Nkizamacumu A. v Prosecution; Uwizeye E. v Prosecution; Havugimana M. v Prosecution; Bamporiki I v Prosecution*.

⁹⁹ Rwandan constitution (n 13 above), art.180.

¹⁰⁰ Organic Law No. 19/2007 of 04/05/2007 (n 93 above), art.2.

was previously practised by the past regimes which forced some Rwandans into exile on the basis of their ethnic origin. However, according to the article 23 (3) of the Constitution such rights may be restricted only by the law for reasons of public order or state security, in order to deal with a public menace or to protect persons in danger;

(c) The right to nationality is protected under article 7 of the Constitution. It states that: “Every person has a right to nationality. Dual nationality is permitted. No person may be deprived of Rwandan nationality of origin. No person shall be arbitrarily deprived of his or her nationality or of the right to change nationality. Rwandans or their descendants who were deprived of their nationality between 1st November 1959 and 31 December 1994 by reason of acquisition of foreign nationalities automatically reacquire Rwandan nationality if they return to settle in Rwanda. All persons originating from Rwanda and their descendants shall, upon their request, be entitled to Rwandan nationality”. In addition, the new code on Rwandan nationality enshrines in its article 5 that parental descent is effective in matters of granting nationality only where it has been provided for by laws in force in Rwanda.¹⁰¹ The law further details the mode of Rwandan nationality acquisition under chapters 1, 2 and 3 of title 2 of the same law;

(d) The right to marriage and choice of spouse is protected under article 26 of the constitution which regulates marriage. The law prohibits restricted marriage on the basis of ethnicity where the Hutu were curtailed to marry people from another group apart from theirs. The traditional practice of forced marriage where the spouse was not allowed to make free choice of his/her partner under the family arrangement has also been abolished;

(e) The right to own property alone, as well as in association with others, is protected by article 29 and 30 of the constitution. Article 29 provides that: “Every person has a right to private property, whether personal or owned in association with others. Private property, whether individually or collectively owned, is inviolable. The right to property may not be interfered with except in public interest, in circumstances and procedures determined by law and subject to fair and prior compensation.” Arguably, only the Government has power to expropriate people. This can only take place once the government has compensated people affected by expropriation. Apparently, cases of expropriation are many and procedures of compensation are respected. Often, affected parties are either paid money or built houses for resettlement. Notable however, are cases of irregularities in determination of compensation rates and violation of procedures by responsible personnel;

(f) The right to inherit is conferred by the newly adopted law on succession. The law on succession ensures equality between men and women by according women the right of inheritance the same as their male counterparts. Article 50 of the law of matrimonial regimes, liberalities and successions enshrine that all legitimate children of the *de cujus*, in accordance with civil laws, inherit in equal parts without any discrimination between male and female children. This is contrary to the previous history where such inequalities were institutionalised and condoned by the law;

(g) Article 33 guarantees freedom of thought, conscience and freedom to practice any religion and to manifest such practice. In its paragraph 2 however, it prohibits propaganda of ethnic, regional, racial discrimination or any other form of divisionism;

(h) To this end, various newspapers (such as Rugari, Rushyashya, Umuseo, Izuba among others have been established). Furthermore, radio companies both international (BBC & VOA) and national (City radio, Radio 10, Contact FM, Radio Salus,

¹⁰¹ Organic law No. 29/2004 of 03/12/2004 Rwandan Nationality Code.

Radio Maria etc) have been authorised to operate in the Rwanda media fraternity. The same is observed in religion where different faith based organisations have grown in Rwanda;

(i) The right to freedom of peaceful assembly and association is protected under article 35. The provision states that freedom of association is guaranteed and shall not require prior authorization. Such freedom shall be exercised under conditions determined by law. Article 36 further notes that freedom of peaceful assembly without arms is guaranteed if it is not inconsistent with the law. Prior authorization shall only be necessary if the law so requires and solely in the case of assembly in the open air, in a public place or on a public road, to the extent that such is necessary in the interests of public safety, public health or public order;

Subparagraph (e): Measures taken to ensure economic, social and cultural rights

223. The subparagraph calls on states parties to protect economic, social and cultural rights. The Constitution of Rwanda, as amended to date, recognises socio-economic rights as part of the indivisible group of rights that guarantee human dignity and meaningful life. Below is a systematic presentation of each right and its provision in the Rwandan legal framework.

Labour

224. The right to work, to free choice of employment, to just and favourable conditions of work, protection against unemployment, to equal pay for equal work and to just and favourable remuneration are all guaranteed under the Constitution. Article 38 states that every person has the right to free choice of employment. Persons with the same competence and ability have the right to equal pay for equal work without discrimination.¹⁰² Violations against these rights are handled by inspectors of labour (who is a public officer working under the Ministry of Public Service and Labour) at the preliminary phase from where they are addressed to the courts of law. The right to work and freedom of choice of employment is further provided under the labour and public service code. Rwanda is also a party to the International Labour Organization (ILO) and adheres to its terms and conditions. Understandably, the labor code in its article 12 forbids direct or indirect discrimination aiming at denying the worker the right to equal opportunity or to the salary especially when the discrimination is based upon race, color, or origin, sex, marital status or family responsibilities; religion, beliefs or political opinions; social or economic conditions; country of origin; disability; previous, current or future pregnancy or any other type of discrimination.¹⁰³

225. In order to empower its population with employable skills and entrepreneurship capacity, the GoR has created an institutional framework to respond to skills' challenges – the Workforce Development Authority (WDA). Its mission is to guide the development and upgrading of skills and competencies of the national workforce in order to enhance competitiveness and employability. Among its pillars, it seeks to implement Labour Market Information System (LMIS) in order to connect employers and job seekers. The WDA harmonizes vocational and training programs.

226. Another public agency in charge of spearheading capacity building of human resources in the country is the Human Resources and Institutional Capacity Development Agency (HIDA). It has been fully operational since April, 2005. The agency provides mechanisms to develop skills and capacity of Rwandan workforce in the public, private

¹⁰² Law No. 13/2009 of 27/05/2009 regulating labor code in Rwanda, art. 12.

¹⁰³ As above.

sector and civil society organizations. Also, RIAM complements HIDA through capacity building to staff from various public and private institutions. Besides, a National Labour Council (NLC) was established in 2006 and offers advice in matters of labour.

Trade unions

227. The right to form and join trade unions is protected under article 101 which enshrines that the right to form trade unions for the defence and the promotion of legitimate professional interests is recognized. Any worker may defend his or her rights through trade union action under conditions determined by law. Every employer has the right to join an employers' organization. Trade unions and employers' associations have the right to enter into general or specific agreements regulating their working relations. The modalities for making these agreements are determined by law. Furthermore, article 151 provides that the right of workers to strike is permitted and shall be exercised within the limits provided for by the law, but the exercising of this right should not interfere with the freedom to work which is guaranteed for every individual. Trade Unions (TU) have also been put in place to support ordinary courts and inspectors of labour to strengthen prohibition of discrimination.

Housing

228. The right to housing, although it is not directly provided by the Constitution, it is nonetheless indirectly implied under article 41 in the right to health. The article provides that all citizens have the right and duties relating to health. The state has the duty of mobilizing the population for activities aimed at promoting good health and to assist in the implementation of these activities. It is argued that the right to health implies the right to housing since the former cannot be complete without the latter. In addition, articles 29–30 protect against the deprivation of property, which includes housing. For article 14 of the constitution, the state engages and commits to take special measures within its limits, to assist survivors, disabled and the historically marginalised people. From this brief analysis, it is observed that Rwanda respects and promotes the right to housing.

229. In addition, the national housing settlement policy was introduced. Vulnerable groups have benefited from free houses built particularly as recognition of their plight and right to housing. Indeed, this is a priority need to vulnerable groups. In general, the standard of family housing is commensurate with its financial means. Special measures have been taken on behalf of the HMP, who until recently lived in cramped and rudimentary huts. As part of general aid for the poor, the GoR is providing them with subsidies to improve their living environment, notably through supplies of corrugated iron sheeting. In addition, an assistance fund for the neediest genocide survivors was set up in 1998. This fund is designed to help the neediest survivors of the Tutsi genocide of 1994 in key areas such as education, health care and housing.

230. A housing bank has also been established. The bank for housing helps Rwandans to build modern homes through provision of credits and finished houses in decent estates. This has benefited a variety of people especially those with minimum income. Moreover, the private sector has been instrumental in real estate development as well. The initiatives of both national and international non-governmental organisations such as CARE International Rwanda, World Vision, AVEGA, FARG, IBUKA among others in collaboration with the government has resulted in constructing houses for the most vulnerable Rwandans especially survivors of genocide. Currently, there is an on-going “one dollar campaign” as an initiative to fundraise money for building houses of orphans of 1994 Tutsi genocide.

Health

231. The rights to public health, medical care, social security and social services are also guaranteed under article 41 which states that all citizens have the right and duties relating to

health. The same article further reiterates the duty of the state to mobilize the population for activities aimed at promoting good health and to assist in the implementation of these activities.

232. In the field of health and medical care, the GoR, notwithstanding its limited resources, has made considerable efforts to achieve health standards for all Rwandans by the year 2020. Accordingly, it is endeavouring to make health care available to the entire population, by ensuring provision of affordable medical services and state hospitals. That noted, the following has been undertaken to facilitate health care provision. They include the following:

(a) A medical insurance scheme for workers (RAMA) and mutual scheme extended to all the population especially in rural (*Mutuelle de santé*) areas have been established;

(b) The Military Medical Insurance (MMI) with the same features as the public insurance coverage – RAMA for the State’s agents was introduced. The military health insurance provides medical insurance to personnel in the armed forces and their eligible family members. It does also apply to employers from the private sector who request it along with employees. MMI funds come from its members’ contributions, interests from investments and others as stated in article 34 of the law. Medical coverage of the MMI scheme is also prescribed under art. 23 of the law;

(c) In addition to social insurance schemes (such as RAMA and private insurance systems) that target population groups in the formal sector of economy, the *mutuelle de santé* scheme targets rural communities and the informal sector. The new law on *mutuelles de santé* was passed in 2008.¹⁰⁴ It aims at providing health insurance for the whole population. Its article 33 obliges every person residing in Rwanda to hold a health insurance. This coverage has tremendously helped vulnerable families and those who would have not otherwise accessed health insurances;

(i) The basic premium per year is 2,000 FRW. The government subsidizes half of the price, leaving the individual to make an annual contribution of 1,000 FRW per year. The subscription is individual though coverage is for the whole household/family;

(ii) The government has also particular programs that assist the indigents who could not otherwise access medical care by providing them with *mutuelles de santé* cards. Several NGO provide support to orphans, people living with HIV/Aids and vulnerable communities by subscribing to mutual health insurance.

(iii) Currently, the number of adherents to the *mutuelles de santé* has grown from 7% of the population in 2003 to 85% in 2008.¹⁰⁵ This scheme has ensured financial access to medical care to the people of Rwanda;

(d) The GoR through Ministry of Health (MoH) offers ARVs/VCTs free of charge to HIV/AIDS patients. Also, there has been intensified treatment and campaign against epidemic diseases such as malaria;

(e) Construction of health centres throughout the country which combines remedial and preventive care in addition to health education;

¹⁰⁴ Law No. 62/2007 establishing and determining the organization, functioning and management of the mutual health insurance scheme, O.G. No. special, 20/3/2008.

¹⁰⁵ Source : Ministry of Health: Mini DHS 2007/08.

- (f) Encouraging of private business persons to invest in the health care sector so as to supplement the government' efforts;
- (g) Training the personnel for delivery of better health care services;
- (h) Improved social security against occupational risks, sickness and old age. This is organised and coordinated by Social Security Fund (SSF). A proposal plan is also underway to extend social security to sickness insurance covering the entire population.

Education

233. The right to education and training is protected under article 40 of the Constitution which states that every person has the right to education. Freedom of learning and teaching shall be guaranteed in accordance with conditions determined by law. Primary education is compulsory. It is free in public schools. The conditions for free primary education in schools subsidised by the Government are determined by an organic law. The state has the duty to take special measures to facilitate the education of vulnerable people. An organic law determines the organization of education in Rwanda.

234. To fully realise the right to education, the GoR has waived the reservation on art.13 of the International Covenant on Economic, Social and Cultural rights.¹⁰⁶ Entrenched in the 1978 constitution, the reservation made reference to the constitution for implied purposes of limitation and discrimination.

235. Rwanda introduced the education policy and its sector strategic plan. It highlights universal primary education (UPE) by 2010 and opportunities for all Rwandans to achieve nine years of basic education and education for all by 2015. Special attention for development of children with special needs, focus on teaching of science, technology and ICT knowledge and adoption of technical and vocational education training have been attained. More importantly, there has been increased access to secondary school by encouraging local communities to build district colleges. The girl's education policy has intensified through campaigns, sensitisation and promotion of girls' education.

236. New autonomous bodies for a greater management of the education system have been created. They include the Student financing Agency (SFAR) and the National Curriculum Development Centre.

237. Presently, all past institutionalized discriminatory practices have been removed in education sector to allow Rwandans participate in education, training and cultural activities on an equal footing. Beside the above presentation which was general in nature, the section below on article 7 looks at particular interventions at each level of education.

Cultural activities

238. The right to equal participation in cultural activities is guaranteed under article 50 of the Rwandan Constitution and allows every citizen to take part in the activities that further culture life promotion. Furthermore, article 51 of the constitution provides that the State has the responsibilities to safeguard and to promote positive values based on cultural traditions and practices so long as they do not conflict with human rights, public order and good morals. The same provision goes further to equally provide that the state shall have the responsibility to preserve national cultural heritage as well as memorials and sites of genocide against the Tutsi.

¹⁰⁶ Reservation withdrawn by Presidential Decree No. 50/01 of 05/09/2008 (O.G. No. 19 of 01/10/2008 p. 68). The reservation read as follows: "The Rwandese Republic [is] bound, however, in respect of education, only by the provisions of its Constitution."

239. The GoR took a step forward to inscribe some of its cultural and natural sites to the UNESCO world heritage list. These sites include the Volcano national park and the Nyungwe national forest and the genocide memorial sites (Gisozi, Murambi and Nyamata sites). Some of the national heritage cultural infrastructures for culture promotion are the: national museum institute and Cultural centres such as “Itorero” created at the district level. So far, three (3) centres are functional. Formerly, these centres were traditional schools where national values like patriotism, democracy, and good manners were taught. The mission of itorero will be to lay down community based forums that remedy their problems based on the Rwandan positive values and traditions.

240. Specific measures aiming at the promotion of cultural identity have been developed. The establishment of associations such as “Inteko Izirikana” has brought elderly wise people together. Such human heritages are bearers of traditional values and the intangible cultural heritage. The “Umuco” which aims at collecting and spreading traditional values through dances, oral traditions and expressions alongside continuous performances of various ballets and dance groups and the academy of language and culture have enormously contributed to the culture of togetherness and co-habitation.

241. Article 5 (f) calls on States parties to protect the right to access any place of service intended for use by the general public. Right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes and places of entertainment, is subsumed in the right to freedom of movement enshrined in article 23 of the Constitution and the principle of equality enshrined in article 11 thereof. Indeed, the principle of non-discrimination in the use of public services is enshrined and well captured under the instruments establishing those services.

Article 6: Measures taken to ensure effective protection and remedies by the competent national tribunals and adequate reparation

242. With regard to effective remedies in the courts and other competent State bodies, article 19, paragraph 2, of the Constitution of 2003 enshrines the absolute right to appear before a competent judge to hear his or her case. For the purpose of implementing this provision, the regulations on judicial procedures make two types of remedy available to the accused, namely, administrative and judicial remedies.

243. *Administrative remedies:* These comprise application to the same administrative authority to reconsider its decision (*recours gracieux*), appeal to a higher administrative authority (*recours hiérarchique*). The first option consists of an application to the same administrative authority to reconsider or amend the original decision. If the matter cannot be settled at that level, it is referred to an administrative court, and as a last resort.

244. *Judicial remedies:* These comprise of ordinary and special remedies. Ordinary remedies include applications to set aside a judgement and appeals. Under an application to set aside a judgement (opposition), a person who has been sentenced by default is entitled to apply for the judgement or decision against him to be set aside.¹⁰⁷ If the application is upheld, the judgement by default is deemed null and void and the court must retry the case. In the case of an appeal, a plaintiff who is not satisfied with a judgement at first instance may lodge an appeal in a higher court with a view to reversing the said judgement. The judgement may not be enforced until the period for appeal has expired, unless an order

¹⁰⁷ Law No. 13/2004 of 17/5/2004 relating to the Code of criminal procedure as modified to date.

annulling the suspensive effect of an appeal has been granted either by the judgement itself or by the appellate court prior to its determination on the merits of the case.¹⁰⁸

245. *Special remedies applications to reopen proceedings on grounds of error or fact (recours en révision)*. The remedy is available only in criminal law (the equivalent remedy in private law is retrial pursuant to the reopening of civil proceedings). Appeals for review on points of law may be lodged against decisions and judgements handed down at last instance or in the appropriate jurisdiction which are liable to reversal on account of errors of law.

246. Following the 1994 genocide of the Tutsi, special chambers in every court of first instance and *Gacaca* courts have been created to try perpetrators/suspects of genocide and their accomplices.

247. Furthermore, there has been court hearing and judgements following the adoption of the law on the fight against discrimination and sectarianism. Particularly, cases related to the genocide ideology have been recurrent and appropriate legal measures have been passed by courts of laws.¹⁰⁹

248. The legal assistance and representation before justice is guaranteed by article 18 (3) of the Constitution which provides that the right to be informed of the nature and cause of charges and the right to defence are absolute at all levels and degrees of proceedings before administrative, judicial and all other decision making organs. In a more emphatic way, legal aid is provided under articles 60–63 of the Bar Law in Rwanda.¹¹⁰

249. *Gacaca* Courts offer a greater advantage to parties and the bench by allowing the public to testify either for or against the defendant. The right to Reparation is guaranteed under the constitutional principle already cited which provides that everyone has an equal right to seek justice. In addition, article 258 of Civil Code Book III provides reparation for damages caused to others.

250. In general, every person involved in administering justice is subjected to supervision and control measures including a possibility for any victim of racial discrimination from any member of justice to launch a complaint. For example, Police officers as well as Prosecution and Judiciary members can be pursued before ordinary courts. In summary, all the above mentioned remedies of general application can also benefit or be used by the victims of discrimination. The Constitution clearly stipulates that in all circumstances, every citizen, whether civilian or military, has the duty to respect the Constitution, other laws and regulations of the country.¹¹¹ Moreover, the constitution guarantees citizens the right to defy orders received from his or her superior authority if the orders constitute a serious and manifest violation of human rights and public freedoms.¹¹² Impliedly, this provision insinuates that justice personnel powers are neither absolute nor above the law.

Article 7: Measures to ensure teaching, education, culture and information

251. Article 7 of CERD calls on State parties to ensure effective measures, particularly in the field of teaching, education, culture and information, with a view to combating

¹⁰⁸ As above.

¹⁰⁹ Reference is made to cases mentioned in note above 93.

¹¹⁰ Law No. 03/97 of 19/3/1997 Establishing a Bar in Rwanda, O.G. No.8 of 15/04/1997.

¹¹¹ Rwandan constitution (n 13 above) art. 48.

¹¹² As above.

prejudices and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups. The presentation below indicates how Rwanda has responded to the provision.

Education and teaching

252. Education and teaching are regulated by the National law on education in the Republic of Rwanda. The law permits establishment of both public and private institutions. Public establishments naturally admit candidates without any discrimination whatsoever in accordance to the principle of equality and merit. Normally, the criteria for student admission in learning institutions (both lower and higher learning institutions) is based on attaining the admission mark set for public institutions from which selection of candidates by these institutions is done. The same criterion is applied in private establishments where upon setting of admissions marks and other requisite conditions admission proceeds without any discriminatory preferences.

253. Equally, Rwanda introduced the education policy and its sector strategic plan. It highlights universal primary education (UPE) by 2010 and opportunities for all Rwandans to achieve nine years of basic education and education for all by 2015. Special attention for development of children with special needs, focus on teaching of science, technology and ICT knowledge and adoption of technical and vocational education training have been attained. More importantly, there has been increased access to secondary school by encouraging local communities to build district colleges. The girl's education policy has intensified through campaigns, sensitisation and promotion of girls' education.

254. The national laws on education in the Republic of Rwanda lay down general objectives and specific goals for every category of teaching. The general purpose of national education is to contribute to the development of the moral sense, physical and intellectual capacities of the person being educated and to ensure preparation for the role of an adult citizen. New autonomous bodies for a greater management of the education system have been created. They include the SFAR, National Curriculum Development Centre (NCDC), Inspectorate General of Education (IGE), Rwanda National Examination Council (RNEC) and the Teacher Service Commission (TSC). Presently, all past institutionalized discriminatory practices have been removed from the education sector to allow Rwandans to participate in education, training and cultural activities on an equal footing. Distinction is made between formal and informal education. Formal education comprises pre-school education, special education, primary education, secondary education and higher education while informal education includes continuing education and popular education.

255. Pre-school education is offered in nursery schools. Civic, moral, intellectual and physical education is provided in primary schools, which aim to impart basic knowledge. Primary education is free of charge for children from the age of seven and lasts six years.

256. Special education is intended for disabled and mentally handicapped children who are unable to attend normal classes. Currently, sight-impaired children are currently being integrated into the normal school system after special training. This experiment is being tried only in a few secondary schools. In general though, special education has made good progress for children with disabilities. In 2003, there were 600 pupils with disabilities in primary school. This number increased to 2000 in 2008. Double-shifting vacation was introduced and helped to increase the number of school aged children to access education.

Primary education

257. The basic education (6 years primary and 3 years junior secondary education) was started as of school year 2004. School fees for pupils were abolished in 2003 and replaced with the capitation grant – an amount payable by the government to various institutions.

Note for instance that in 2006,¹¹³ 1,359,760 students benefitted from the capitation grant, against 630,316 who could not have afforded self sponsorship. In addition, school aged children who could otherwise not afford to attend schools are supported either through district education funds or through other NGOs initiatives. Moreover, the program of nine years basic education was introduced and implemented effective from January 2009 countrywide in 765 schools.

258. Apparently, there has been emphasis on adoption of English as a medium language of instruction since primary school, in effect since 2009. Full integration is envisioned in 2011 in all public and private schools. The one laptop per child program was launched in 2008. All pupils in public primary schools have increasingly benefited from the one-laptop program. More important, teachers have been encouraged to specialize in teaching one subject which they best understand to give best input.

Summary of achievements at primary level

Table 3

Achievements at primary level

| | <i>Girls</i> | <i>Boys</i> |
|--|--------------|-------------|
| % of primary net enrolment (2007): overall 95,8% | 96.8 | 94.7 |
| % of completion rate (2008): overall 52% | 48.8 | 49.3 |
| % Drop-out rate (primary and junior secondary education) | 14.3 | |
| % Repetition rate (2006) | 18.1 | |
| Ratio teacher/pupils | 1:74 | |

Source: MINEDUC summary of statistical data 2007/2008 Data.

Secondary education

259. Currently, the first half of the 3 years of secondary school is free (popularly called in French as *tronc-commun* or junior secondary education). It is notable that secondary school is not generally accessible to all, since an average of 20% of students enrolled for the year 2008.¹¹⁴ ICT programs have increased. The new policy has merged professional and vocational training into one integrated program called Technical and Vocational Education Training (TVET). Two integrated Polytechnic regional centres are currently running while three more are underway. The older version of vocational and professional education was averagely accessible, considering 35.7% of students' enrolment in 2007. Fees to access it vary from 5,000 RWF to 20,000 RWF for each student per semester. Some of the fees have been paid or are paid by the government from its districts' funds or other donors such as local or international NGOs.

Table 4

Summary of achievements at the secondary level

| | <i>Girls</i> | <i>Boys</i> |
|---|--------------|-------------|
| % Gross enrolment rate (overall 20.5) in 2007 | 19 | 22 |
| % Net enrolment rate (overall 13.1) in 2007 | | |

¹¹³ NISR 2008, Quarterly Economic Review, January–March 2008, p. 10.

¹¹⁴ MINEDUC statistical data:2008.

| | <i>Girls</i> | <i>Boys</i> |
|---|---------------|----------------|
| % Performance & % of diploma recipients at secondary 6 level (2008) | 71 | |
| % Performance at secondary 3 level (2008) | 57.02 | 48.98 |
| % Total students in public and subsidized school (2007) | 12 | |
| % Total students in private school (2007) | 8.5 | |
| Number of technical and vocational schools (2007) | 39 | |
| Repetition rate (2006) | 7.7 | |
| | <i>Public</i> | <i>Private</i> |
| Teachers/student ratio (2007) | 1/22.2 | 1/21.7 |

Source: MINEDUC summary of statistical data 2008.

Higher education

260. New legislative measures to improve education in Rwanda have been put in place.¹¹⁵ The national council for higher education was created in 2007. Inclusive education has been promoted, especially with more disabled students accessing higher education.¹¹⁶ A student financial agency – SFAR has helped students cope with tuition fees and provided students with loans. Grants are also available to students who qualify. Also, to cope with high numbers of student enrolment, various institutions are offering evening courses for a much greater access to those working during the day and masters degree programs. E-learning was launched in 2007 with NEPAD’s assistance.

261. In general, there has been tremendous improvement in education for all Rwandans. Schools have been built and continue on a yearly basis. In 2007 for instance, 1646 classes at both primary and secondary levels, 39 specialized technical schools and 60 catch-up centres were built. While in 2006, 1646 classes and 38 catch-up centres had been built. Bursaries have been awarded to students with exceptional performances as provided in the presidential order determining the criteria for obtaining a bursary. Other bursary and grant awards are offered both by the government and its many partners in the education sector – such as SFAR, Imbutu Foundation or FAWE.

262. Despite the impressive performance and progress made, challenges remain. They include limited infrastructures (laboratories and other infrastructures) and gender equity which is still at 41.6% according to 2007 statistics. Furthermore, there is still heavy dependency on expatriate professors and lack of qualified professors in technology and other science related fields.

263. Continuing education is designed for persons in employment who wish to keep up with technological change and the requirements of their work at every stage of economic, social and cultural development. In this connection, the Rwanda Institute of Administration and Management for Vocational Training and Proficiency has been established, one of

¹¹⁵ Law No. 20/2005 of 20/10/2005 establishing the organization and functioning of higher education; law No. 50/2006 establishing and determining the responsibilities, organization and functioning of Student Financing Agency (SFAR) in charge of managing and administrating scholarships and student loans; presidential order determining the criteria for obtaining bursary and obligations of the bursary recipient during and after studies; the ministerial order determining the criteria for providing loans for higher education, repayment and cost sharing mechanism between the Government on one hand and the beneficiary of the loan on another.

¹¹⁶ Eight blind students were admitted to NUR and five other disabled students at Kigali Health Institute (KHI).

whose functions is to coordinate training and proficiency schemes that provide to the public servants a training to the needs of the Public service.

264. Popular education is aimed at adults and young people who have never been to school or who have dropped out of school. The objective is to enable them to participate in the process of economic, social and cultural development. Popular education is generally provided by commune-based development and continuing education centre. The Government has set up youth training centre to provide young people outside the school system with basic education and even vocational training.

265. Apparently, the National University of Rwanda has added civic and peace education on its curriculum. The component was hailed to help students better understand the gruesome effects of the 1994 genocide¹¹⁷ – a phenomenon that has earned a lip service from various sections of people of all backgrounds. Peace and civic education are based on the philosophy of non-violence, love, compassion, trust, fairness, cooperation and reverence for human life and all life on our planet. The program enables students to build a sense on nationhood, recognise the importance of sharing a common vision and subsequently, identify with their country and its problems as one people.

266. In general, following the past experienced difficult situations, Rwanda has decided to include lessons in its national education curriculum intended to all different categories of trainings mentioned above, with an aim to promote peace and harmony as well as respect of human rights, besides the programs set for intellectual and scientific development of people.¹¹⁸

Culture

267. Everyone may exercise the right to participate in cultural life through the freedoms guaranteed under the Constitution. Under Rwandan law, establishment of cultural associations and groups is guaranteed under the freedom of association.¹¹⁹ The Government plays an active role in the cultural sphere by fostering and encouraging a whole variety of cultural events initiated by individuals. This function is performed by the Ministry responsible for promoting cultural affairs. Because they bring together all members of Rwandan society, cultural activities contribute in the promotion of harmony and unity among the people of Rwanda. The Ministry of Culture and Sports has been inspired by the old setting which is believed to have worked well for our ancestors.

268. In implementation of the above strategy, several institutional and policy actions have been taken. Specific measures aiming at the promotion of cultural identity include:

- Establishment of associations. One such set-up is “Inteko Izirikana”, an association that brings together elderly wise people. These human heritages are bearers of traditional values and the intangible cultural heritage
- Other associations, such as “Umuco” which aims at collecting and spreading traditional values through dances, oral traditions and expressions
- The academy of language and culture has been set up and is currently running
- Through the continuous performances of various ballets and dance groups

¹¹⁷ The new Times, Wednesday, November 26, 2008, p. 2.

¹¹⁸ For more details, see the National Curriculums in the Ministry of Education of the Republic of Rwanda.

¹¹⁹ Rwanda constitution (n 13 above) art. 35.

269. Rwanda has currently embarked on a vigorous campaign and program to preserve and present mankind's heritage for the benefit of all Rwandans. The initiative has given an opportunity to many Rwandans to participate in their cultural life. The exercise has been ongoing and good results have apparently been registered. Some of the achievements in this endeavour include the following:

- The rehabilitation of museums to preserve Rwandan heritage culture has been ongoing. The national museum institute coordinates provincial and regional museums
- There has been an inventory of cultural heritage all over the country. The outcome has been instrumental in planning future interventions
- Creation of various museums such as the museum of agriculture, museum of technology, museum of arts, museum of environment, museum of ancient history, museum of war, museum of the Great Lakes
- A new dictionary Kinyarwanda-French in 2007 was celebrated as the first of its kind. By and large, it is hoped that such modality would increase the use of Kinyarwanda and do away with mysteries of certain words not found in French but not in Kinyarwanda;
- Cultural festivals (FESPAD-Festival Panafricain de danses). This is a cultural exchange occurrence that takes place every two years and engages various countries from Africa
- Rwanda has established an archaeological research centre that investigates pre-colonial technologies in Rwanda
- Various associations and UNESCO clubs exist such as the club for unity and reconciliation, the club for the African and Rwandan identity, to name a few
- The Rwandan legislation on intellectual property is very useful for the protection of right to enjoy the benefits of scientific progress and the protection of the interest of authors¹²⁰

Information

270. The Government has launched, in collaboration with the Rwanda Civil Society (Human Rights Organizations), information campaigns on human rights themes. Human rights are being incorporated into the school curriculum. The public is also kept informed of its rights via television, press media, radio broadcasts – especially on the judicial system in general and human rights in particular. One of the functions of the post-genocide established institutions like the Human Rights Commission, Unity and Reconciliation Commission and the National Commission for the fight against Genocide is to raise awareness and provide human rights training among the Rwandan population. The civic education given to ex-FAR (former genocidal government forces) particularly has also been instrumental in combating the legacy of discrimination.

271. Through information dissemination, *modus operandi* to combat racial discrimination have mainly used institutions given their accessibility and community proxy in execution of their mandate. Indeed, the role of these institutions has been instrumental in the campaign against discrimination. Key institutions have included the CCM, IRDP, NUR, NURC, NHRC etc. Among other activities, the following have been undertaken to combat discrimination:

¹²⁰ Law No. 27/1983 on the rights of the author, *O.G.* of 15 November 1983, 1984, P. 8.

Educating the public to combat prejudices which lead to racial discrimination

272. The National Commission for Human Rights (NHRC) and the National Unity and Reconciliation Commission (NURC) undertake a wide variety of programmes which include educating the public regarding their rights and the rights of others, combating prejudices and racial discrimination and raising awareness of the Commissions' role in investigating and ruling on alleged violations of fundamental rights.

273. As a reinforcement strategy, other sensitisation forums such as the human rights commission at parliament which questions the government's human rights violations, the Ombudsman office and the National commission for the fight against genocide, among others, have been instrumental in the struggle against discrimination.

274. Furthermore, the contribution of other commissions such as NURC, the programs of Rwanda demobilization and reintegration commission which reintegrates and rehabilitates FDLR and ex-FAR into the community through civic education, radio and television sensitization programs are vital in the campaign against racial discrimination.

Promoting understanding, tolerance and friendship among nations and racial and ethnic groups

275. This role is largely defined under the mission of NURC. The NURC has played a major role in bringing and encouraging tolerance among Rwandans. As earlier mentioned, different tools have been used including national television, radio programmes, community meetings, newspapers, conference and seminars, establishment of specialised institutions with specific mandate to promote human rights (such as NCHR, NCFG), human rights clubs among others with the purpose of combating racial discrimination. More importantly, Rwanda recognises that peace and friendship atmosphere with its neighbours is cardinal and indispensable for a free discrimination society. To this regard, pacification campaigns in form of conference on great lakes region, bilateral engagements such as the recently concluded *Umoja Wetu* between Rwanda and DRC, regional structural regulation on conflict resolution and dialogue are key tools that Rwanda embraces. Indeed these have worked and yielded considerable degree of peace and security in the region.

V. Conclusion

276. Rwanda suffered the most heinous form of discrimination. Its climax was the 1994 genocide. The present report recognises tremendous improvement that has been made in protection and promotion of human rights. In particular, efforts made by the current government to create systems that seek to eliminate all forms of discrimination are essential in any democratic and inclusive society that respects the rule of law, human dignity, equality and freedom. Indeed, the recognition on the part of the government that rights enshrined in ICERD represent the rock of human dignity and hope sets the system apart from the previous autocratic regimes. More importantly, it gives meaning to life. It nevertheless remains observed that total elimination of discrimination tendencies is yet to be attained. Much more noted though, is the political will and commitment of the present leadership to deliver Rwandans from a society prone to discrimination. Endeavours to domesticate, enact legislations and establish relevant institutions/systems aimed at combating discrimination are among the positive signs towards honouring and implementing ICERD.