



# ALTERNATIVE REPORT

to the fourth and fifth periodic  
reports on the implementation of the  
african charter on the rights and  
welfare of the child

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**24 September 2018**

**Prepared and Submitted by**  
Coalition Umwana ku Isonga(CUI)

**ALTERNATIVE REPORT TO THE FOURTH AND FIFTH PERIODIC REPORTS  
ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON THE RIGHTS  
AND WELFARE OF THE CHILD**

**PREPARED AND SUBMITTED**

**BY**

**THE COALITION UMWANA KU ISONGA(CUI)**

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## EXECUTIVE SUMMARY

The Coalition “*Umwana ku Isonga/child in forefront*”(CUI) is a Rwandan Child rights Civil society organization governed by the Rwandan law. The Coalition Umwana ku Isonga (CUI) is registered under n° 219/RGB/NGO/LP/04/2018. It has been created with the purposes of networking and alliance building with a mandate to assess and report on the implementation of the United Nations Child Rights Convention (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) on the one hand, and to coordinate all activities carried out by individual member organizations within the parameters of advocacy, implementing and reporting on international and regional treaties, especially the CRC and ACRWC, by both the State and Civil Society Organizations (CSOs) on the other hand.

The Coalition *Umwana Ku Isonga* also aims at undertaking advocacy around the implementation of the aforementioned child rights instruments in order to improve the situation of the rights of a child in Rwanda. The major objective of this report is to provide the opinion of the Coalition *Umwana ku Isonga* on the implementation of the ACRWC in view of previous concluding observations and recommendations made by the African Committee of Experts on the Rights and Welfare of the Child (hereinafter the ACERWC) as well as the subsequent fourth and fifth periodic report by the Government of Rwanda. This report also lays the groundwork for the policies and actions of the government directed towards Children.

The drafting of this report was based on analysis of data collected from studies, national reports, national documents including; laws, policies and strategic plans. The report benefited from the participation of 61 children (37 girls and 24 boys) as they provided their inputs in consultative meeting held on 18 January 2018 in Kigali. These children represented different categories of children namely children living in rural and urban area, children with disabilities and different categories of age.

This report also benefited from the inputs of members of the Coalition in a series of consultative meetings in their thematic working groups. It has been validated by 19 organization members of the Coalition after fruitful deliberations and final inputs from members on 5 July 2018 in Kigali.

The process of collective involvement in the drafting of this report was marked by dialogue between members of the Coalition *Umwana Ku Isonga* through workshops and subsequent consultative meetings for discussion, refinement and final approval of the report.

This report is divided into five major parts in respect of the five thematic clusters of child rights, commends progress made by the Government of Rwanda in the implementation of the Charter and then raises concerns and lastly, where applicable, recommends the Committee of experts on the rights and welfare of the children the next step to take when engaging with the Government of Rwanda.

The present report is elaborated as one of the major advocacy mechanisms of the Coalition Umwana ku Isonga to reach the aspirations of members for the needed positive changes in the area of child rights and child protection in Rwanda. It constitutes the contribution of the Coalition members to the high level interaction towards the protection and welfare of children in Rwanda.

## 1. CIVIC RIGHTS AND FREEDOMS

### 1.1. Name and nationality (article 6 of the ACRWC)

The coalition welcomes the adoption of the Law No 32 /2016 governing persons and family which has expanded the period for birth registration from 15 to 30 days. The Coalition positively notes the expansion of birth registration to health facilities including health centers and hospitals as provided under article 101 of the Law No 32/2016 governing persons and family.

The coalition further takes note of sensitization campaigns conducted by the Government of Rwanda to increase birth registration.

However, the Coalition is concerned with long distance citizens have to walk to go to the sector to be issued the birth certificate.

The Coalition calls upon the Committee to recommend to the Government to:

- *Move the issuance of birth certificate closer to the population by issuing the birth certificate at the cell level.*

### 1.2. Identity

The Coalition commends the Government for prohibiting the registration names which touch upon the dignity of the child.<sup>11</sup>

The Coalition welcomes the adoption of the Law No. 41/2016 establishing the Rwanda Forensic Laboratory. Taking and analyzing DNA test is among the Forensic Laboratory's responsibilities which are very important in establishing paternity. Prior to the establishment of the forensic laboratory, DNA tests were sent overseas and getting the results used to take a lot of time. The Coalition takes note of provision DNA testing free of charge in criminal cases involving paternity claim resulting from child defilement.

The Coalition is concerned that DNA testing services remains expensive for ordinary citizen and thus prevent children from bringing paternity suit (claim).

The Coalition calls upon the Committee to recommend to the Government:

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<sup>1</sup> Article 39 of the Law No 32 /2016 governing persons and family

- *To extend DNA testing services free of charge for children in civil case of paternity claim before the courts.*

### 1.3. Best interest of the child (article 4) and respect for the views of the child

The Coalition welcomes article 296 of the Law No 32/2016 governing persons and family that makes mandatory the consent of the child aged above 12 years unless he or she is unable to express his or her will for adoption purpose.

The Coalition also welcomes the existing children forums as a mechanism in place to facilitate children expression of their views.

The Coalition commends the Ministerial Order No 001/MIGEPF/2017 of 16/01/2017 determining conditions to be considered in inter-country adoption and its guidelines providing a space for a child to express his/her views<sup>2</sup>.

The Coalition is concerned that neither article 225 nor article 243 (1) of the Law No 32/2016 governing persons and family provide for the hearing of the views of the child in custody during divorce proceedings or after judgment on divorce.

Children in a consultative meeting organized by the Coalition also raised the issue of little participation of children in decision making process which affects them.

The Coalition calls upon the Committee to recommend to the Government the following:

- *To amend the Law No 32/2016 of 28/08/2016 governing persons and family with the view of ensuring that any the child who is capable of forming his or her own views, has the right to express those views freely during divorce proceedings in terms of his or her custody and the judge must give the views of the child weight in accordance with the age and maturity of the child.*
- *To put more efforts in terms of capacity building, financial resources for children forums to be more operational.*

### 1.4. Freedom of association and peaceful assembly (article 8 of ACRWC)

The Coalition notes with satisfaction the right to freedom of association and peaceful assembly of children as guaranteed under article 19 of the Ministerial Instruction N° 001 of 10 May 2017 establishing guidelines for setting up general or TVET, Nursery, Primary or Secondary School's

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<sup>2</sup> Article 6 of the guidelines on inter country adoption, MIGEPF/August, 2018

internal rules and regulations. The Coalition is also commending that in the amendment of the law No 54/2011 of 14/12/2011 relating to the rights and protection of the child, the article 20 provided access to the information to the child has been maintained in the new law No 71/2018 of 31/08/2018 relating to the protection of the child in the article 8 .

The Coalition is concerned of lack of control to the information that children are receiving via the internet, Television shows, socio media and other different IT materials they have access to.

The Coalition calls upon the Committee to recommend to the Government the following:

- *To speed up development and adoption of a ministerial order determining the modalities of access to information which are appropriate and emphasize on the prohibited information to the child.*

#### 1.5. Protection against child abuse and torture (article 16 ACRWC)

The Coalition commends the Government for adopting the Law No 32/2016 governing persons and family does not provide for parents' right to correction as it was previously provided under article 347 of the 1988 Civil Code, which may lead to corporal punishment. This law has repealed the previous civil code which stipulated the parent's right to correction on their children.

The Coalition also notes positively the prohibition of corporal punishment or any kind of inhuman and degrading treatment, ill treatment ,abuse and humiliation in school settings as stipulated under article 26 of the Ministerial Instructions No 001 of 10 May 2017 establishing guidelines for setting up general or TVET, Nursery, Primary or Secondary School's internal rules and regulations<sup>iii</sup>.

The Coalition is concerned with the lack of provision of necessary educational measures and other forms of non violence disciplinary punishment, care and treatment for the child in the new child act No 71/2018 of 31August 2018 as it was provided in the amended law in its article 25 (3).

The Coalition calls upon the Committee to recommend to the Government of Rwanda to:

- *Amend without further delay the new child act No 71/2018 of 31August 2018 by providing the ministerial order on disciplining children without corporal punishment in all settings.*
- *Develop and implement a sustained public education, awareness-raising and social mobilization programs, involving children, families, communities and religious leaders, on the*

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<sup>3</sup> Article 26 of the Ministerial Instructions No 001 of 10 May 2017 establishing guidelines for setting up general or TVET, Nursery, Primary or Secondary School's internal rules and regulations



*harmful effects, both physical and psychological, of corporal punishment, with a view to changing the general attitude towards this practice, and promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment in the family, schools, alternative care and penal institutions.*

## **2. HEALTH AND WELFARE OF THE CHILD (Article 14 ACRWC)**

### **2.1. Right to health and health services**

The coalition notes positively the constitutional guarantee to the right to good health as provided under article 21 of the Constitution of 2003 as revised in 2015. The Coalition commends the Government in reducing child mortality.<sup>4</sup>

The Coalition is concerned with the decline of the ratio of the health budget to the national budget in recent years.<sup>5</sup> In spite of the decrease of child malnutrition and existing of various initiatives and policies, the rate of child malnutrition remains high.

The Coalition calls upon the committee to recommend to the Government to:

- *Increase health budget with a focus on child and maternal health*
- *Step up for continuous efforts on the eradication of child malnutrition.*

## **3. EDUCATION, LEISURE AND CULTURAL RIGHTS**

### **3.1. Right to education (article 11 ACRWC)**

The coalition notes positively the constitutional guarantee to the right to health as provided under article 20 of the Constitution of 2003 as revised in 2015. The Coalition positively notes the adoption of school feeding programme in public schools that aims to prevent school dropout.

The Coalition further welcomes the adoption by the Ministry of Gender and Family Promotion in 2016 of the minimum standards and norms for early childhood development services in Rwanda.

The Coalition notes the obligation imposed under Article 4 of the Ministerial Order N°007/2016 of 01/03/2016 determining modalities for special treatment of Persons with Disabilities in school on teachers to provide special care to children with disabilities and sensitize other pupils or students to respect the rights of children with disabilities and to assist them where necessary.

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<sup>4</sup>Ministry of Health Rwanda, PMNCH, WHO, World Bank, AHPSR and participants in the Rwanda multi-stakeholder policy review (2014). Success Factors for Women's and Children's Health: Rwanda. Available at <<[http://www.who.int/pmnch/knowledge/publications/rwanda\\_country\\_report.pdf](http://www.who.int/pmnch/knowledge/publications/rwanda_country_report.pdf)>> Accessed on 21 June 2018

<sup>5</sup>UNICEF *Health Budget Brief: Investing in children's health in Rwanda 2017/2018*. Available at <<[https://www.unicef.org/rwanda/RWA\\_resources\\_budgetbriefhealth.pdf](https://www.unicef.org/rwanda/RWA_resources_budgetbriefhealth.pdf)>>. Accessed on 21 June 2018.

The Coalition also notes that Article 4 (2) of the Ministerial Order N°007/2016 of 01/03/2016 determining modalities for special treatment of Persons with Disabilities in school requires teachers to provide specific didactic materials in case pupils or students with disabilities are unable to use material designed for others. The Headmaster shall facilitate the teachers in acquisition of the didactic materials.”

The Coalition welcomes the obligation imposed by Article 7 of the Ministerial Order N°007/2016 of 01/03/2016 determining modalities for special treatment of Persons with Disabilities in school on new public schools, Government subsidized or private schools infrastructures to be built in a way that facilitates persons with disabilities to access all venues in the infrastructures.

The Coalition is concerned with fact that the Ministerial Order is silent on the upgrading of existing schools to enable easy physical access to children with disabilities.

The coalition is also concerned with the lack of adapted textbooks for students with visual impairments, especially with descriptions of diagrams and pictures as revealed in a survey conducted between 2014 and 2015.<sup>6</sup> In addition, children in a consultative meeting organized by the Coalition noted that some teachers in ordinary schools did not have skills in sign languages for children with disabilities.

The Coalition is further concerned with article 26 (4) of the Ministerial Instruction N° 001 of 10 May 2017 establishing guidelines for setting up general or TVET, Nursery, Primary or Secondary School’s internal rules and regulations cites prostitution among the ground for expulsion from a school. This provision fails to appreciate that children are rather victims of prostitution and not perpetrators.

The Coalition is further concerned with lack of enough training for teachers in pedagogical methodology and teaching –learning materials especially in public schools based in rural areas, lack of awareness by many parents of the importance of Early Childhood Development.

The Coalition calls upon the Committee to recommend to the Government to:

- *Amend article 26 (4) of the Ministerial Instruction N° 001 of 10 May 2017 establishing guidelines for setting up general or TVET, Nursery, Primary or Secondary School’s internal*

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<sup>6</sup>UNICEF “A study on children with disabilities and their right to education: Republic of Rwanda” available at<<https://www.unicef.org/esaro/Rwanda-children-with-disabilities-UNICEF-EDT-2016.pdf>> Accessed on 20June2018.

*rules and regulations with the view of clearly describe the circumstances of prostitution among the grounds for expulsion of a child in the school.*

- *Train teachers on signs language and increase their teaching skills with focus on needs of children with disabilities.*
- *Step up efforts with the view of ensuring that all girls from poor families receive sanitary materials in schools. Sensitize parents on the importance of Early Child Development.*

#### **4. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

##### **4.1. Parental care and protection (article 19 ACRWC )**

The Coalition takes positively note of the consideration of the best interest of the child as guaranteed during divorce proceeding under article 225 of the Law No 32/2016 governing persons and family.

The coalition welcomes the issuance of the National Guidelines for national adoption by the National Commission for Children in 2017.

The Coalition is further concerned with the limited number of professional social workers whose mandate is to monitor the situation of children in foster families.

The Coalition calls upon to the Committee to recommend to the Government to:

- *Increase the number of professional social workers to ensure an effective monitoring of the situation of children placed in foster families.*

#### **5. SPECIAL PROTECTION MEASURES**

##### **5.1. Children in conflict with the law (article 17 ACRWC)**

The Coalition takes note of the inclusion of children represented by destitute persons and representatives of children who filed complaints for the payment of damages, in criminal cases related to child defilement among persons exempted from depositing court fees and paying court fees when losing a case as stipulated under article 270 of the Law N° 22/2018 of 29/04/2018 relating to the civil, commercial, labor and administrative procedure.

The Coalition welcomes initiatives taken by the Government in training judges on human rights. However, the Coalition is concerned with the lack of non-custodial sentences to children in conflict with the law as an alternative to imprisonment.

The Coalition is concerned that sending automatically children to jail when found guilty is contrary to the spirit of the African Charter on the Rights and Welfare of the Child, Article 37 (b) of the Convention on the Rights of the Child and the United Nations Rules for the Protection of Juvenile Deprived of their Liberty which provide that that imprisonment shall be of the last resort.

The coalition calls upon the Committee to recommend to the Government to:

- *Amend the Law N° 22/2018 of 29/04/2018 relating to the civil, commercial, labor and administrative procedure with the view to ensure that anyone who files a case on behalf of the child shall be exempted from paying court fees irrespective of the nature of the case or the economic status of the adult person acting on behalf of the child and also the child seeking reparations as a victim be assisted by the lawyer (counsel) free of charge..*
- *Ensure that judges in specialized chambers assigned to cases involving children receive regularly training on children rights.*
- *Ensure that lawyers assigned to represent children in conflict with the law receive regularly training on children rights.*

## 5.2. Children in situation of exploitation and abuse (article 15 ACERWC)

The Coalition takes positively note the adoption of the Ministerial Instructions N° 01/2017 of 17/11/17 on the prevention and fight against child labor which is being implemented to fight against the worst forms of child labor and hazardous work. The Ministerial Instructions take into consideration domestic child labor for children under 18 years among prohibited worst forms of child labor, and are very useful to fight child labor mostly in the informal economic sector. However, the coalition is concerned with the persisting child labor phenomenon.

The Coalition is concerned with the increase of pregnancies among children as revealed by the 2014/2015 Demographic Health Survey which showed that teenage pregnancy rates in Rwanda increased from 6.1 per cent in 2010 to 7.3 per cent in 2015.

The coalition calls upon the Committee to recommend to the Government to:

- *Conduct a country wide study to address root causes of the increase of teenage pregnancies.*
- *Step up efforts to eradicate child labor.*

## 5.3. Protection against sale, trafficking and abduction (article 29 ACRWC).

The Coalition notes the efforts taken by the Government in preventing human trafficking and rescuing victims of human trafficking. It also notes the introduction of harsh penalties for persons found guilty in human trafficking in the draft bill on Anti-Human trafficking.

However, the Coalition is concerned with the lack of a policy to fight human trafficking.

The Coalition calls upon the Committee to recommend to the Government to:

- *Expedite the publication of the Anti-Human Trafficking Bill in the Official Gazette.*
- *Sensitize the population on the Anti-Human Trafficking Bill once it becomes a law.*
- *Adopt and implement a policy and its strategic plan to fight human trafficking.*

## **6. GENERAL RECOMMENDATIONS**

1. The Coalition *Umwana ku Isonga* recommends the ACERWC to call upon the Government to :
  - Implement the Concluding Observations of the UN Committee on the Convention on the Rights of the Child. (Concluding Observations made in 2013)
  - Implement Concluding Observations made by the UN Committee on Economic , Social and Cultural Rights which aim at protecting children rights
  - Implement the recommendations related to the rights of the child made by the Human Rights Council Working Group on the Universal Periodic Report (UPR) in 2015.
  - Implement the recommendations made by children during the National Child Summits.

## **LIST OF REFERENCES**

### **A. LAWS**

1. The Constitution of the Republic of Rwanda (04/09/2003) as amended to date
2. Law No. 32/2016 of 28/08/2016 Law governing persons and family.
3. Law N°71/2018 of 31/08/2018 relating to the protection of the child.
4. Law N° 01/2007 of 20/01/2007 relating to protection of disabled persons in general.
5. Law No 54/2011 of 14/12/2011 relating to the rights and the protection of the child.
6. Law No 41/2016 of 15/10/2016 Law establishing Rwanda forensic Laboratory
7. Ministerial order No 001/MIGEPROF /2017 of 16January 2017 determining conditions
8. Ministerial instructions No 01/2017 if 17/11/2017 on the prevention and fighting against child labor.

## **B. REPORTS /FINDINGS**

1. UNICEF “A study on children with disabilities and their right to education: Republic of Rwanda” available at<<https://www.unicef.org/esaro/Rwanda-children-with-disabilities-UNICEF-EDT-2016.pdf>> Accessed on 20 June 2018
  2. Concluding Observations of the (United Nations) Committee on the Rights of the Child on the Third and Fourth Periodic Reports of Rwanda. The Concluding Observations were adopted on 14 June 2013. Information available at <<<http://www2.ohchr.org/english/bodies/crc/crcs63.htm>>> Accessed on 1<sup>st</sup> July 2014.
  3. Concluding Recommendations by the African Committee of Experts on the Rights and Welfare of child (ACERWC) on the second and third periodic report of the Republic of Rwanda on the status of implementation of the Republic of the African Charter on the Rights and Welfare of the Child.
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