

ALTERNATIVE REPORT

TO THE AFRICAN COMMITTEE OF EXPERTS ON THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD TO THE SECOND AND THIRD PERIODIC REPORT OF THE REPUBLIC OF RWANDA.

PREPARED AND SUBMITTED BY THE RWANDA CIVIL SOCIETY CHILD RIGHTS COALITION

"Umwana ku Isonga"

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EXECUTIVE SUMMARY

The Rwanda Civil Society Child Rights Coalition "Umwana ku Isonga", herein referred to as "the Coalition *Umwana ku Isonga*" was created on the 11th November 2010 for the purposes of networking and alliance building with a mandate to 'monitor 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 coordinating all activities carried out by individual member organisations within the parameters of implementing and reporting on international and regional treaties, especially the CRC and ACRWC, by both the State and Civil Society Organisations (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 Coalition *Umwana ku Isonga* is composed of both national and international organizations operating in the area of child rights.

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 second and third 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 participatory methodology translated the concentrated efforts of the Coalition *Umwana ku Isonga* members into the drafting of the present report. The drafting of the report was based on data from studies, research, stakeholders' consultations, particularly CSOs members of the Coalition Umwana ku Isonga and from national documents, with special attention given to responses obtained through the survey findings.

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 the next step to take when engaging with the Government of Rwanda.

1. CIVIL RIGHTS AND FREEDOMS

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

- 1. The Coalition *Umwana ku Isonga* commends the Government of Rwanda for enacting the Organic Law N^o 30/2008 OF 25 /07/2008 relating to Rwandan Nationality and the Law Nº 54/2011 of 14 December 2011 relating to the Rights and Protection of the Child which provides for the right to name and nationality.
- 2. The Coalition *Umwana ku Isonga* is concerned that only 63 per cent of the children were registered with civil authorities and less than 7 per cent had birth certificates in 2010 according to the latest Rwanda Demographic and Health Survey.¹
- 3. The Coalition *Umwana ku Isonga* is also concerned with the widespread issuing of birth certificates which do not mention the name of the newborn by public and private health centers. The Coalition *Umwana ku Isonga* is further concerned with the cultural practice whereby a child is only given a name after 8 days upon his or her birth.
- 4. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Strengthen its current efforts to ensure immediate birth registration, including the harmonized issuance of birth certificates for all children in all sectors,.²
 - Continue to sensitize all health facilities to issue birth certificates mentioning (containing) the names of the newborn.
 - Continue to sensitize the population on the need of giving a name of the child immediately after his or her birth as this will ensure the child's right to a name.

1.2. <u>Freedom of expression</u> (article 7 of the ACRWC)

- 5. The Coalition *Umwana ku Isonga* commends the Government for guaranteeing the freedom of expression under article 17 of the Law N°54/2011of 14/12/2011 relating to the rights and the protection of the child which provides that depending on the age and level of understanding of the child.
- 6. In addition, the Coalition *Umwana ku Isonga* commends the Government of Rwanda for institutionalizing the National Children's Summit, held once a year, whereby Children freely express their opinions as well as in supporting Child Forums held from village to the district level
- 7. The Coalition *Umwana ku Isonga* is concerned with the lack of a conducive environment for children to express freely their opinion as the culture does not promote freedom of

¹ 2010 Rwanda Demographic and Health Survey

- expression of children and moreover children views are not taken into consideration in the decision making process related to divorce which ultimately affect them..
- 8. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Continue its efforts in sensitizing the general population on the right of the child to freedom of expression.
 - Continue to ensure that children views are always taken into consideration in all matters which affect them.

1.3. Protection against abuse and torture (article 16 of the ACRWC)

- 9. The Coalition *Umwana ku Isonga* commends the Government of Rwanda for ratifying the Convention Againt Torture and Other Cruel, Inhuman or and Degrading Treatment Punishment and its Optional Protocol.
- 10. The Coalition *Umwana ku Isonga* commends the Government of Rwanda for enacting the Organic Law N° 01/2012 of 02/05/2012 instituting the penal code which criminalizes torture under article 176 and inflicting severe suffering on a child, harassing or imposing severe punishments on him under article 218. The Coaltion *Umwana ku Isonga* also commends the Government for adopting the Integrated Child Rights Policy that prohibits corporal punishment in all settings.
- 11. The Coalition *Umwana ku Isonga* is concerned with persistent corporal punishment within family and school settings.³
- 12. The Coalition Umwana ku Isonga is also concerned that the Organic Law N° 01/2012 of 02/05/2012 instituting the Penal Code only punishes "any person who inflicts severe suffering on a child, harassing or imposing severe or degrading punishments on him/her" (article 218) and includes a number of provisions relating to assault and battery (articles 148-152) but does not explicitly prohibit all corporal punishment, however light, and does not repeal the "right of correction" from the Civil Code.
- 13. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:

³ Concluding Observations of the (United Nations) Committee on the Rights of the Child on the Third and Fourth Periodic Reports of Rwanda at page 7. The Concluding Observations were adopted on 14 June 2013. Information available at <http://www2.ohchr.org/english/bodies/crc/crcs63.htm Accessed on 21st July 2013.

In addition, according to a baseline survey carried out by Save the Children , 50 % out of 127 children targeted during the survey, reported corporal punishment as the most common abuse they face. The findings were published in 2010. For more information, read also Save the Children "Baseline Study: Children's perceptions of child protection measures existing at community level in Rwanda" available at << http://resourcecentre.savethechildren.se/sites/default/files/documents/4081.pdf>> Accessed on 22 July 2013.

- Step up efforts in sensitizing the population in eradicating corporal punishment.
- Speed up the promulgation of ministerial order defining how to discipline a child without undermining his or her dignity as provided under the law on the rights of Child.
- Explicitly prohibit corporal punishment in all settings as stipulated by the Integrated Child Rights Policy.

1.4. Freedom from discrimination (article 3 of the ACRWC).

- 14. The Coalition *Umwana ku Isonga* commends the Government for prohibiting discrimination under article 11 of the Constitution of 2003, article 3 of the Law N° 01/2007 of 20/01/2007 relating to protection of persons with disabilities in general is also relevant since its article 3 provides for equal rights which entail freedom from discrimination for both adults and children and lastly article 4 the Law n°54/2011 of 14/12/2011 relating to the rights and the protection of the child which guarantees equal rights to all children without any discrimination.
- 15. The Coalition *Umwana ku Isonga* is concerned that the Law No. 01/2007 of 20 January 2007 relating to the protection of the rights of people with disabilities excludes specific provisions for children with disabilities. The Coalition *Umwana ku Isonga* is also concerned with the continued community discrimination faced by children belonging to the historically marginalized groups, and children with disabilities.⁴
- 16. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Amend the Law the No. 01/2007 of 20 January 2007 relating to the protection of the rights of people with disabilities in order to include specific provisions for children with disabilities;
 - Continue its efforts to sensitize the community members in order to prevent and eliminate discrimination in development, education, health and basic services against children belonging to the historically marginalized groups, children with HIV and children with disabilities.

⁴ Concluding Observations of the (United Nations) Committee on the Rights of the Child on the Third and Fourth Periodic Reports of Rwanda at page 5. The Concluding Observations were adopted on 14 June 2013. Information available at << http://www2.ohchr.org/english/bodies/crc/crcs63.htm>> Accessed on 21st July 2013.

2. HEALTH AND WELFARE OF THE CHILD

- 2.1. Right to health (article 14 of the ACRWC)
 - 17. The Coalition Umwana Ku Isonga commends the Government for providing for the right to health under its Constitution of 2003 (article 41). In addition, the Coalition Umwana Ku Isonga commends the Government of Rwanda for enacting a law that obliges the State to provide medical insurance to orphans and vulnerable children under article 41 of the Law N° 54 /2011 of 14/12/2011 relating to the rights and the protection of the child. The Coalition Umwana Ku Isonga also commends the Government for achieving children related health programmes nationwide.
 - 18. The Coalition Umwana ku Isonga furthermore commends the Government for increasing the percentage of basic vaccination for children aged between 12 and 23 months from 80 % to 90 % in a short period of 2 years as well as the decrease in child mortality from 73 /1,000 to 50/1,000. ⁵
 - 19. The Coalition Umwana ku Isonga is concerned with the high rate of children malnutrition, particularly children from the poorest households, children in the streets and children with disabilities.⁶
 - 20. The Coalition Umwana ku Isonga is also concerned with the fact that 142,523 children aged between 5 to 14 years are involved in working and 82% of the said children are involved in agriculture.
 - 21. The Coalition Umwana ku Isonga recommends the ACERWC to call upon the Government of Rwanda:
 - To increase efforts to eradicate child malnutrition in all children, including children from the poorest households, children in the streets and children with disabilities
 - To address root causes of child labour

⁵ National Institute of Statistics " 2010 Rwanda Demographic and Health Survey available at <<http://www.statistics.gov.rw/publications/demographic-and-health-survey-2010-fact-sheet>> Accessed on 12 July 2013

⁶ According to the Rwanda Demographic Health Survey 2010 Report, 44 % of children under age 5 are stunted, and 17 percent are severely stunted with 11 % of children under 5 being underweight (low weightfor-age), and 2 percent being severely underweight. Information available at << http://statistics.gov.rw/publications/demographic-and-health-survey-2010-final-report >> Accessed on 1 July 2014.

⁷ Report of the 2011 Findings of the Worst Form of Child Labor. The Report was commissioned by the United States Department of Labor "Available at << http://www.dol.gov/ilab/programs/ocft/2011TDA.pdf >> Accessed on 1 July 2014.

- 2.2. <u>Survival and development of the Child</u> (article 5 of the ACRWC)
- 22. The Coalition *Umwana ku Isonga* commends the Government for adopting the National Strategic Plan for Street Children and other policies as well.
- 23. The Coalition *Umwana Ku Isonga* is concerned with the lack of a defined timeframe for the implementation of the National Strategic Plan for Street Children (adopted in 2005).
- 24. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda:
 - To review its National Strategic Plan for Street Children with the clear goals, indicators and specific timeframe for its implementation.

3. FAMILY AND ALTERNATIVE CARE

- 3.1. Right to family protection (Article 18 of the ACRWC)
 - 25. The Coalition *Umwana ku Isonga* commends the Government for developing the National Family Policy and is subsequent Strategic Plan for the implementation of the said policy for the period of 2011- 2015.
 - 26. The Coalition *Umwana ku Isonga* also commends the Government for enacting the National Strategy for Child Care Reform in accordance with the Constitution of the Republic of Rwanda (article 27); the UN Convention on the Rights of the Child (article 20 and 21) as ratified by the Government of Rwanda; the African Charter on the Rights and Welfare of the child (article 25); and the Integrated Child Rights Policy and the recommendations of the 7th National Children Summit in which children expressed their concern that all children living in institutions should be reintegrated in their families and/or other alternative family based care. The Coalition *Umwana ku Isonga* also commends the Government for placing 1,352 children in foster families since the adoption of the National Strategy for Care Reform in 2012.
 - 27. The Coalition Umwana ku Isonga is concerned that children with disabilities living in institutions do not enjoy the same right to a family. The Coalition *Umwana ku Isonga* is also concerned that the Government has neither adopted laws nor established necessary structures and mechanisms to implement the Hague Convention. The Coalition Umwana ku Isonga is further concerned that there is no provision on post-adoption and follow-up services.
 - 28. The Coalition *Umwana ku Isonga* recommends the ACERWC to call upon the Government of Rwanda:
 - To speed up the adoption of the national guidelines on alternative care for children with disabilities living in institutions;

- For the prevention purposes, to identify the root causes of child abandonment and strengthen efforts to address such issues, including through direct and specialized services to the families;
- Intensify its efforts to adopt a comprehensive legislation and effective mechanisms to ensure compliance with the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption and set up an appropriate system for the selection and preparation of future adoptive parents as well as post adoptive services for children and their families in need.

3.2. Right to parental protection (article 19 (1) of the ACRWC)

- 29. The Coalition *Umwana ku Isonga* commends the Government for developing the National Family Policy and is subsequent Strategic Plan for the implementation of the said policy for the period of 2011- 2015.
- 30. The Coalition *Umwana ku Isonga* is concerned with the discriminatory provision of the Law on refugees. Indeed, article 23 of the Law n.29 /2006 of 20/07/2006 promulgated in the Official Gazette N° 15 of 1 August 2006 relating to refugees provides for conditional family reunion between a refugee and his or her children and spouse provided the reunion does constitute a threat to the national security.
- 31. The Coalition *Umwana ku Isonga* recommends the ACERWC to call upon the Government to review its refugee law with the aim of ensuring that children form refugee parents be reunited with their parents in Rwanda without any condition.

3.3. Parental responsibility (article 20 of the ACRWC)

- 32. The Coalition *Umwana ku Isonga* commends the Government of Rwanda for adopting policies and laws which provide for parental responsibility such as the National Policy on Family promotion (adopted in 2004) and the Law N°42/1988 of 27 October 1988 instituting the Preliminary Title and the First Book of the Civil Code.
- 33. The Coalition *Umwana ku Isonga* is concerned with article 347 of the 1988 Civil Code Book I which deals with persons and family broadly guarantees to the parents the "right to correct their children" this could be interpreted as the right to beat up their children.
- 34. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Speed up the adoption of the Family Policy and its strategic plan as well as the Family Law.
 - Repeal article 347 of the 1988 Civil Code Book I.

4. EDUCATION, LEISURE AND CULTURAL RIGHTS

- 4.1. Right to education (article 11 of the ACRWC)
 - 35. The Coalition *Umwana ku Isonga* commends the State for making primary education free and compulsory a constitutional right (article 40 of the Constitution of 2003) and also the adoption of various education policies. The Coalition *Umwana ku Isonga* also commends the Government of Rwanda for providing for free primary education under 47 article of the Law N° 54/2011 of 14/12/2011 relating to the rights and the protection of the child.
 - 36. The Coalition *Umwana ku Isonga* also commends the Government of Rwanda for guaranteeing that every child in Rwanda has the right to fee-free and compulsory education for the first 12 years of basic (primary and secondary) education. The Coalition *Umwana ku Isonga* further commends the Government for taking the necessary measures to ensure that all children complete the 12 years of basic education (12YBE).
 - 37. The Coalition Umwana ku Isonga furthermore commends the Government for putting in place the Technical and Vocational Education and Training (TVET) to meet the country's needs for qualified professional and technical staff through the transformation of some vocational training centres (short cycle) into technical vocational schools (long cycle).
 - 38. The Coalition Umwana ku Isonga is concerned with the inadequate quality of education due to high number of unqualified teachers in secondary schools whereby only 64.4% of 20,522 teachers are qualified with 67, 5% of qualified male teachers and 56, 2% of qualified female teachers.⁸
 - 39. The Coalition Umwana ku Isonga is further concerned with the unequal educational outcomes, including disparities between urban and rural areas, and limited access to education for children with disabilities and the historically marginalized children, especially at the upper secondary school;
 - 40. The Coalition *Umwana ku Isonga* recommends the ACERWC to call upon the Government of Rwanda to:
 - Increase the number of qualified teachers in secondary schools
 - Take further measures to eradicate disparities between urban and rural areas and closely monitor the implementation and outcomes of the ESSP and campaign for girls' education as well as school enrolment and retention for boys and children in vulnerable situations, particularly children with disabilities and the historically marginalized children;

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⁸ Information available at http://www.mineduc.gov.rw/new/IMG/pdf/2011_EDUCATION_STATISTICS_Jan_2012.pdf Accessed on

- 4.2. Right to Leisure, recreation and cultural activities (article 12 of the ACRWC)
 - 41. The Coalition *Umwana ku Isonga* commends the Government for enacting the Sports Development Policy in 2012 which clearly stipulates that by 2014 all children receive more time for sports in school timetable among its policy orientations. The Coalition *Umwana ku Isonga* also commends the Government for encouraging and supporting sports and cultural activities in school settings as well as at community level.
 - 42. The Coalition *Umwana ku Isonga* is concerned with the decrease of recreational facilities in some schools whereby playgrounds are transformed into gardens and plots for constructions of classrooms and other school infrastructure.
 - 43. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda:
 - To ensure enough space is provided for recreation and leisure for children in schools.

5. SPECIAL PROTECTION MEASURES

- 5.1. Children in conflict with the law (article 17 of the ACRWC)
 - 44. The Coalition *Umwana ku Isonga* commends the Government for enacting a new Criminal Code Procedure known as Law № 30/2013 of 24/05/2013 relating to the Code of Criminal Procedure which provides for special proceedings in the case of prosecution of a juvenile offender.
 - 45. The Coalition *Umwana ku Isonga* is concerned with the legal contradiction related to the minimum age for criminal liability whereby the Penal Code (article 100 of the Organic Law N° 01/2012 of 02/05/2012 instituting thePenal Code) sets the minimum age for criminal liability at the age of 14 years on one hand and the newly promulgated Criminal Code Procedure under its article 198 provides for exceptional reasons, a minor aged between twelve (12) and fourteen (14) years for whom there are serious grounds for believing that he/she committed an offence, may, for the purposes of investigation, be held in judicial police custody for a period not exceeding seventy two (72) hours but solely when the offense committed is punishable with imprisonment of at least five (5) years, on the other hand.
 - 46. The Coalition *Umwana ku Isonga* is concerned with the lack of specialized juvenile chambers at Primary Courts and High Court level whereas the law provides for specialized juvenile chambers at the Intermediate Court level. Lastly, the Coalition *Umwana ku Isonga* is concerned with the lack of psychological support before, during and after criminal proceedings and lack of holistic services for children in conflict with the law.
 - 47. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Repeal subsection 3 of article 198 of the Code of Criminal Procedure which allows the detention of children aged between 12 and 14 years old as this exception

- contravenes the minimum age of criminal liability for all offences as already provided under the Penal Code (14 years)
- Take all measures to establish separate children's courts at the High Court and the lower courts, and in the meantime extend specialized Juvenile Chambers at both the lower courts and the High Court levels;⁹
- Ensure psychological support for children in the conflict with the law in criminal proceedings.

5.2. <u>Refugees children</u> (article 23 of the ACRWC)

- 48. The Coalition *Umwana ku Isonga* commends the Government of Rwanda for working in partnership with relief organizations and United Nations Agencies in providing humanitarian assistance to refugee children.
- 49. The Coalition *Umwana ku Isonga* is concerned with reported cases of early pregnancies in refugee camps.
- 50. The Coalition *Umwana ku Isonga* recommends to the ACERWC to call upon the Government of Rwanda to:
 - Ensure mechanisms are put in place to prevent sexual exploitation in refugee camps.
 - Ensure that refugee children enjoy the same rights as nationals, in compliance with the international treaties/conventions and national laws.

6. GENERAL RECOMMENDATIONS

- 51. 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 2011.
 - Implement the recommendations made by children during the National Child Summits.

⁹ Concluding Observations of the (United Nations) Committee on the Rights of the Child on the Third and Fourth Periodic Reports of Rwanda at page 5. The Concluding Observations were adopted on 14 June 2013. Information available at <<ht>ty://www2.ohchr.org/english/bodies/crc/crcs63.htm>> Accessed on 1st July 2014

LIST OF REFERENCES

A. LAWS

- 1. The Constitution of the Republic of Rwanda (04/09/2003) as amended to date
- 2. The Organic Law N° 01/2012/ of 02/05/2012 instituting the penal code
- 3. Law No. 42/1988 of 27 October 1988 instituting the Preliminary Title and the First Book of the Civil Code (Official Gazette No.1 of 1January 1989)
- 4. Law N°54/2011 of 14/12/2011 relating to the rights and the protection of the child.
- 5. Law № 30/2013 of 24/05/2013 relating to the Code of Criminal Procedure
- 6. Law N° 01/2007 of 20/01/2007 relating to protection of disabled persons in general.
- 7. Organic Law N^o 30/2008 OF 25 /07/2008 relating to Rwandan Nationality.

B. POLICIES AND STRATEGIES

- 1. National Strategic Plan for Street Children (adopted in 2005)
- 2. Rwanda Sports Development Policy (adopted in 2012)
- 3. The Nine Year Basic Education Policy (developed by the Ministry of Education in 2008).
- 4. The National Policy on Family promotion (adopted in 2004)

C. REPORTS /FINDINGS

- 1. National Institute of Statistics of Rwanda , Demographic Health Survey (2010)
- 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 1st July 2014.
- 3. Save the Children "Baseline Study: Children's perceptions of child protection measures existing at community level in Rwanda" available at << http://resourcecentre.savethechildren.se/sites/default/files/documents/4081.pdf>> Accessed on 12 July 2014.
- 4. United States Department of Labor "Report of the 2011 Findings of the Worst Form of Child Labor.
- Ministry of Education "Education Statistics" Information available at http://www.mineduc.gov.rw/new/IMG/pdf/2011_EDUCATION_STATISTICS_Jan_2012.pdf Accessed on 03/07/2013



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