



Institute of Policy Analysis
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RWANDAN PUBLIC POLICY OBSERVATORY REPORT

Legal and Policy Framework for Children's Rights in Rwanda

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Preface

The Rwanda Public Policy Observatory is designed to provide easily accessible guides to the laws and policies of Rwanda. Each guide will provide a brief and simple guide to the laws and policies in a given area of public policy. The guides will be invaluable as an introduction and easy source of reference for all those interested in any given area of public policy.

The intention is to produce a complete set of guides over the next two years. They will be available on the Rwanda Public Policy Observatory page of the IPAR-Rwanda web site www.ipar-rwanda.org.

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1. Introduction

This document provides a brief guide to the institutional, legal and policy framework for the promotion and protection of children's rights in Rwanda. Rwanda has demonstrated a strong commitment to children's rights, having ratified the *UN Convention on the Rights of the Child (CRC)* in 1990 (Appendix One).

Rwanda has made excellent progress in ensuring children's rights with a number of law and policies, the establishment of a National Commission for the Child, and in June 2012 passing a new law *Relating to the Rights and Protection of the Child*, which is meant to be, in effect, a "Bill of Rights" for Rwandan children. However, there is still a long way to go. The new law does not cover all aspects of children's rights, and other laws and policies will need to be amended in order to conform with it. In addition, the focus on the family within Rwandan policy-making often obscures that child rights can be different and separate from that of the family, and often in conflict. Therefore, although the rights and protection of children should be a cross-cutting issue, this is often hindered by the priority being given to family policy.

This report attempts to explore some of the confusion within the current myriad of laws and policies which make some mention of children's rights. We start by listing the international and regional conventions which Rwanda has ratified. This technically gives them the force of law (and in fact places them second only to the Constitution). The following section details the institutional framework within Rwanda as concerns the rights of children.

In Section 4 we then go through the domestic laws and policies which enshrine the rights of children, including a full summary of the recently passed law. We also attempt to show the sections of the *CRC* which are not explicitly covered in terms of children's rights. We then make some general conclusions and suggestions for areas which may need further policy and perhaps law amendments.

Rwanda has gone a long way to promote and protect the rights of children. However, there is long way to go before children are given fully the rights and protection which the Government obviously seeks to give them.

2. International and Regional Framework

Rwanda has made a strong commitment to the promotion of the rights of children and their protection by ratifying the international conventions and protocols on children's rights. Under the 2003 *Constitution*, once a ratified treaty is published in the *Official Gazette*, adopted international treaties and agreements became more binding than organic and ordinary laws (Clause 190). This means that domestic courts and other governmental bodies look to the treaty language itself as a source of law.

2.1. International Treaties

Rwanda has ratified the following international treaties and protocols:

- The *United Nations Convention on the Rights of the Child* ratified by Rwanda on September 19, 1991 by Presidential Order n°773/16 of September 19, 1991
- The *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornographic*, ratified by Rwanda on February 26, 2002 by Presidential Order n°32/1 of February 26, 2002
- The *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* ratified by Rwanda on February 26, 2002 by Presidential Order n° 32/01 of February 26, 2002
- The *Convention of the International Labour Organization Concerning the Prohibition of all Forms of Exploitation of Children Labour and the Immediate Action for their Elimination* ratified by Rwanda on May 25, 2000 by the Presidential Order n° 39 /01 of September 30, 1999
- The *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, ratified by Rwanda on December 31, 2002 by Presidential Order 159/01 of December 31, 2002
- The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime* ratified by Rwanda on December 31, 2002 by Presidential Order n° 163/01 of December 31, 2002
- The *United Nations Convention Related to the Status of Refugees* ratified by Rwanda on October 22, 1979 by Presidential Order n° 29/79 of October 22, 1979
- The *Convention 123 of the International Labour Committee Relating to the Minimum Age for Admission to Mining Underground Labour* ratified on October 28, 1968 by the Presidential Order n° 95/12 of October 28, 1968
- The *Convention 138 of the International Labour Organisation on Minimum Age of Employment* 1973 Ratified 15/4/1981
- The *Convention 182 of the International Labour Organisation on Worst Forms of Child Labour* ratified 12/10/2000
- The *Convention concerning Forced or Compulsory Labour* 23/05/2001
- *Hague Convention on Inter Country Adoption*

- The *Convention on the Rights of People with Disabilities* ratified 15/12/2008
- The *Convention against Discrimination in Education* 28/12/20002000
- The *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* 15 Dec 2008

2.2. Regional Treaties and Protocols

Rwanda has not only made a commitment to promoting and protecting the rights of children by ratifying international conventions and protocols, but also by signing regional treaties and protocols.

- The *African Charter on the Rights and Welfare of the Child*, ratified by Rwanda on May 30, 2001 by Presidential Order n^o 11/01 of May 30, 2001
- The *Convention of the Organisation of African Unity Governing the Specific Aspects to the Problems of the Refugees in Africa*, ratified by Rwanda on October 22, 1979 by the Order in Council n^o 30/79 of October 22, 1979

3. Institutional Framework

3.1. Ministry of Gender and Family Promotion (MIGEPROF)

The Ministry of Gender and Family Promotion is located in the Prime Minister's Office. It leads the national machinery to promote children's rights throughout the country and the Minister represents children and the family at Cabinet level. The Ministry is responsible for ensuring that the *Integrated Child Policy* (2011) is implemented, and that all policies concerning children follow the *UN Convention on the Rights of the Child*.

3.1.1. National Commission for Children

The National Commission for Children is an independent organ under MIGEPROF. Recently established, its responsibility is to promote and protect the rights of children in Rwanda.

3.2. Other Ministries

A variety of other ministries within the Government of Rwanda have a responsibility within their policies to consider the rights of children.

The Ministries of Health, Education, Local Government, Youth and ICT, Sport and Culture, and Justice are all responsible for implementing policies which promote and protect children's rights. The Ministries of Labour, the Interior, and Infrastructure are also responsible for implementing policies which impact the lives of children.

3.3. Child's Rights Observatory

The Child Rights Observatory, based within the National Commission for Human Rights, is responsible for monitoring and protecting the rights of children in Rwanda.

3.4. Other Institutions

There are a number of other institutions whose mandate impacts on Child Rights, but who do not have a specific responsibility for children. These include the National Aids Commission, the Rwanda Demobilisation and Reintegration Commission, the National Youth Council, and the National Gender Observatory.

4. Laws, Policies, and Programmes Promoting Child Rights

4.1. Introduction

In this section we set out in more detail the way in which laws and policies in Rwanda protect and promote children's rights. Children have a set of fundamental rights, as set out in the *UN Convention on the Rights of the Child (CRC)*, which Rwanda has ratified and therefore has the force of law.

4.2. The Constitution of Rwanda

Rwanda's Constitution has several articles which protect children's rights, either explicitly or as part of the general population as a whole:

- Article 1: The Constitution of Rwanda states a child to be any person under 18 unless a specific law specifies that majority is attained earlier.
- Article 10: The human person is sacred and inviolable. The State and all public administration organs have the absolute obligation to respect, protect and defend him or her.
- Article 12: Every person has a right to life.
- Article 14: the State shall take special measures for the welfare of...vulnerable groups.
- Article 15: every person has the right to physical and mental integrity. No person shall be subjected to torture, physical abuse or cruel or inhuman or degrading treatment . No one shall be subjected to experimentation without his/her informed consent. The modalities of such consent and experiment are determined by law.
- Article 27: The family, which is the natural foundation of Rwandan society, is protected by the State. Both parents have the right and duty to bring up their children. The State shall put in place appropriate legislation and institutions for the protection of the family and the mother and child in particular in order to ensure that the family flourishes.
- Article 33 - Freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law. Propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law.
- Article 34 - Freedom of the press and freedom of information are recognized and guaranteed by the State. Freedom of speech and freedom of information shall not prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. It is also guaranteed so long as it does not prejudice the protection of the youth and minors. The conditions for exercising such freedoms are determined by law.
- Article 35 - Freedom of association is guaranteed and shall not require prior authorization. Such freedom shall be exercised under conditions determined by law.
- Article 36 - 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.

- Article 40: 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 subsidized by the Government are determined by an organic law. The State has the duty to take special measures to facilitate the education of disabled people.
- Article 41: 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.
- Article 49: Every citizen is entitled to a healthy and satisfying environment. Every person has the duty to protect, safeguard and promote the environment. The State shall protect the environment. The law determines the modalities for protecting, safeguarding and promoting the environment.

4.3. N°54/2000 of 14/12/2011 Relating to the Rights and the Protection of the Child

This new Organic Law came into effect in June 2012 after being ratified by Parliament and published in the *Official Gazette* 25/06/2012. The law is meant to act as a "Bill of Rights" for Children in Rwanda, creating a unified law covering all aspects of the rights of children and complying with all ratified international treaties. As we shall see later, it does not completely fulfil this aim.

As in the *CRC*, the new law defines a child as anyone under the age of 18 years, which clearly defines the differences between "child" and "youth" within Rwandan law (the definition of which includes people up to the age of 35). Also included in Chapter 1 of the law are definitions of discrimination, violence and domestic mistreatments, child placement, public and social welfare institutions, worst forms of child labour, minimum age, and child protection.

The law is split into several sections aimed at covering all parts of Child Rights. It begins with the rights of the child and the duties of the child including right to life, right to freedom of expression, right to a name, nationality and family, right to privacy, right to education, and also includes a section which prohibits discrimination based on birth conditions (Chapters 2 and 3). The legislation within the first two sections of this law follows, either wholly or in part, the articles of the *CRC* (Articles 1, 2, 6, 7, 13, 14, 15, 16, 28 and 31).

Chapter 4 focuses on the family of the child and the duties between the parents or guardians and the child. It covers the basic rights to a family and the duties of that family, and then covers in detail legislation regarding the placement of a child outside their birth family, whether through fostering or adoption, and the legal responsibilities of both the placement family and the Government. Further legislation regarding children placed outside their birth family is also briefly covered in the next chapter regarding medical examinations, special care for orphans and vulnerable children and the placement of children in a medical care facility, including children with severe mental or physical disabilities. Again, the legislation regarding the rights of

children in regards to family, their domestic life, and the health care of children in placement follows either in part or wholly the articles of the *CRC* (Articles 3, 5, 6, 7, 9, 10, 12, 14, 18, 19, 20, 21, 23, 24, and 25).

The next chapter provides legislation concerning the health and welfare of the child. Articles within this chapter ensure the health of the child with access to preventative and curative care, including the duty of the relevant parents/guardians and Governmental bodies to ensure the child is covered by medical insurance. Further, the law legislates for the implementation of Governmental programmes to combat malnutrition, ensuring access to clean, safe water, and also implementing a national immunisation programme. Also contained within this section is the duty of the parents/guardians and other responsible adults to protect children through limiting access to alcohol and drugs and places they're sold and consumed. The final two articles within Chapter 5 concern the right to education, stating that Primary education is not only free within Public schools, but also compulsory; the law also states the right of parents/guardians to ensure that children attend school. *CRC* Articles covered wholly or in part by Chapter 5 (excluding those articles already explored) of this law include 6, 18, 24, 27, 28, and 33.

Chapter 6 covers children in emergency situations, exploitation of children, and also provides additional legislation concerning orphans and vulnerable children. This chapter provides brief legislation concerning child refugees, children affected by armed conflict and disaster, and the economical exploitation of children, including prostitution, trafficking, slavery, involvement within pornography and beggary. This chapter also states the minimum employment age in reference to the Rwandan Labour Law (No°13/2009), and makes a special case of children who work in underground mines, setting the minimum age of employment as 17 (see later for more exploration of this), as well as prohibiting formal military service for children. The final articles in this chapter concern social integration and protection of orphans, children with disabilities, children affected by HIV/AIDS, and children under 3 incarcerated with their mothers in prison. It also provides for the right of a child over 12 to consult a medical professional with no need for the permission of a parent/guardian. As far as it goes, Chapter 6 does address either wholly or in part several aspects of the *CRC* (Articles 19, 20, 22, 23, 32, 33, 34, 35, 36, 38 and 39).

Chapter 8 concerns the rights of children who are in conflict with the law. It sets the minimum age of criminal liability as 14 and sets out legislation which calls on the judge to consider the child's age and welfare in any judicial decisions. The chapter also sets limits of the time period for which a child can be remanded in prison pending trial (set at 15 days), as well as the severity of crime which warrants a child be remanded, such that the crime must be severe enough to warrant a term of imprisonment of more of five years if the child is found guilty. The law also encourages judges to try to avoid imprisonment for children wherever possible, and suggests deferred sentences, specialised centres, and re-education. It also sets out the principle that imprisoned children should, as a whole, be released on parole before the end of their full term of imprisonment wherever possible. The chapter also sets out the Government's responsibility to ensure the privacy of the child at all stages of criminal proceedings and the right to legal assistance. Chapter 8

continues a legal theme, and sets out clearly that any persons contravening any part of this new law will be prosecuted in accordance with the Penal Code. *CRC* articles covered wholly or in part in Chapter 8 include 3, 19, 37 and 40. It is worth noting that the Ministry of Justice has recently put out for tender a proposal for a *Justice for Children Policy* to address the concerns raised in surveys conducted by the Ministry of Justice (2006) and the Legal Aid Forum (2007), which will hopefully fulfil the requirements of the *CRC* in regards to children involved in criminal proceedings not currently addressed within Rwandan law.

Chapter 9 contains final provisions as concerned with child rights and protection. The National Commission for Children is clearly defined as the organisation with responsibility for ensuring the compliance of other organisations with the legislation contained within this law. Article 67 sets out this law's place within the legal framework of Rwanda, but also asserts that if laws of the same level are contrary to each other, it is the law which ensures the most protection to the child which should be given preference. Finally, the previous law concerning child rights and protection (No 27/2001) has been repealed, as well as any other legal provisions which are contrary to this new law.

4.4. The National Integrated Child Rights Policy

The *National Integrated Child Rights Policy* was designed in 2011 to be a comprehensive national policy to rationalise and coordinate the implementation of Child Rights throughout the Rwandan Government. It sought to address the lack of a comprehensive policy for *all* children in Rwanda and help create a basis for the multi-sectoral approach needed to implement the National Policy for Children and the National Strategic Plan for Children.

The guiding philosophy behind the document consists of seven main principles:

- Every child matters;
- Children are priority;
- Children deserve the best;
- Children can and should participate in decision making;
- Abuse, exploitation and violence against children are intolerable;
- Government and duty-bearers are accountable;
- All aspects of the Government will coordinate to implement this policy.

In addition, the policy maintains throughout that children have all human rights, and that they are free and equal in rights and dignity.

The policy is divided is based on seven key themes: identity and nationality; family and alternative care; survival, health and standards of living; education; protection; justice; and child participation. With the passing of the new law on Child Rights, many of the policies within this document are now legislated for in law. However, the policy document elaborates on many of the key points picked up in the law, and provides

mandates in some areas, including: social and community care; education for children on their rights, especially in the areas of forced underage marriage, abuse and pregnancy; access to pre- and post-natal care for pregnant children; social protection; reduction of child poverty; child participation in planning and decision-making; and, changes to the judicial system in regards to children (the policy for which is in progress as explained above).

However, as this is a Policy it does not have the effect of Law.

4.5. Other Laws, Policies, and Programmes Protecting Child Rights

Under the *CRC*, it is possible to identify four broad sets of Child Rights: (i) survival; (ii) development; (iii) protection; and, (iv) participation. These reflect the four main *CRC* principles, and it is under these categories, with the additional category of General Principles, that we shall explore other law, programmes and policies concerning Child Rights in Rwanda.

4.5.1. General Principles

- Article 144 of the *Penal Code* makes it a crime to discriminate based on ethnicity, religion, country of origin, skin colour, physical features, sex, language, or ideas aimed at depriving a person or group their rights as provided in Rwandan laws and by International Conventions ratified by Rwanda.
- Law No°30/2007 sets up the Observatory for Children's Rights as responsible for the independent monitoring of children's rights.
- Law No°24/2007 abolished the death penalty for all criminal offences. However, the Penal Code already provided for the for those aged 14-18 years to be given a 20 year sentence for capital offences and a pregnant women could not be subject to capital punishment before delivery.

4.5.2 Survival Rights

- Civil Code Law No. 42/1988 Of 27 October 1988, Article 347 states that the father and mother have a right to discipline a minor child.

4.5.3. Development Rights

- Law No° 20/2003 of August 3, 2003 established educational organization in the Republic of Rwanda.
- Law No°14/1985 of 29 June 1985, amended by Law No. 48/91 of 25 October 1991 concerns the organization of primary, integrated rural and vocational, and secondary education. Article 2 of that Law mandates that primary education shall be free of charge and compulsory for all children without any discrimination. Free education means free instruction and the teaching materials strictly necessary to carry out the educational programme. Article 40 specifies that the duration of primary education shall be six years.
- The Law on Disabled Persons (2006) (No°01/2007), Articles 4 and 5 recognize the right of a disabled person to live with his/her family, and provides for orphaned disabled persons to have a tutor or a family

to provide care or for care to be provided in a specialist centre where his/her health, safety and development needs can be met. Article 11 onwards recognizes the right to an appropriate education for children living with disabilities and obliges the state to provide for such education. The minister of education is obliged to determine how needy disabled persons can be assisted to access appropriate education. Article 14 onwards makes it the duty of government to provide health services (including prostheses) for needy disabled persons. Article 18 outlaws discrimination in employment and specifies that a disabled person shall have greater access to employment opportunities. The law also guarantees the access of disabled persons to sport and culture opportunities.

- Organic Law No°1/1985 On National Education In The Republic Of Rwanda, Article 2 indicates that the aim of education is to help to develop a moral sense and the intellectual and physical capabilities of children and to prepare them for their role as adults and as citizens. Article 11 states that Primary education must provide schoolchildren with civic, moral, intellectual and physical education and give them the basic knowledge they will need in practical life, for rural, vocational and integrated education and for secondary education.

4.5.4. Protection Rights

- Civil Code, Article 340 states that adoption requires the consent of the adopted person and the adopter. If, however, the child has not yet reached the age of discernment, his parents' can consent on his/her behalf. Article 171 stipulates that a man and a woman under 21 may not enter into marriage. However, the Minister of Justice or his representative may grant special permission to marry younger.
- Chapter IV, Section 1, of the Civil Code lays down the conditions for adoption, while Section 2 sets out the procedure. Article 332 proclaims the guiding principle for adoption: "Adoption is permitted when it is based on just grounds and if it is advantageous for the child".
- Law No°59/2008 Of 10/09/2008 On The Prevention And Punishment Of Gender Based Violence: The Law defines gender based violence (GBV) as *any act that results in bodily, psychological, sexual and economic harm to somebody just because they are male or female* (Article 1.1). Article 7 requires that parents and guardians protect children from GBV and makes it illegal to neglect a child because of his/her gender. Article 18 provides for a prison sentence of between six months and three years for neglecting a child because of its sex. Articles 8 and 9 provide protection for pregnant and nursing mothers by making it illegal to sack a woman because she is pregnant and making provision for three months maternity leave. Article 13 stipulates that in the case of domestic violence children will be able to testify. Articles 21 and 22 make cohabitation and polygamy illegal. Article 39 requires all those married illegally to marry according to the monogamous principle. Article 28 makes gender based human trafficking illegal and punishable by a term of imprisonment of between 15 and 20 years.
- Law On Matrimony, Gifts And Succession (No°29/99): Article 284 stipulates that the father and the mother retain the right to supervise the upbringing and education of their children, and are required to contribute to them to the extent of their ability. In the event of divorce the court places children (in their best interest) in the provisional care of one or other of the spouses or a third person (Article 249). In cases

of mutual consent, the parents have to notarize their agreement to the person in whose care the children are to be placed (Article 260). Great importance is attached to the best interests of the child concerning the effects of divorce (Articles 283 to 286). Article 283 stipulates that although the custody of children is usually given to the spouse who has been granted the divorce, the court may decide otherwise in the best interest of the children. Article 284 stipulates that the father and the mother retain the right to supervise the upbringing and education of their children, and are required to contribute. Article 286 provides that, in cases of divorce by mutual consent, half ownership of the assets of each spouse shall automatically be inherited by the children of their marriage. Under article 339, adopted children have the same rights. Article 359 stipulates that the court may, at the request of any interested person or the public attorney's office, temporarily or permanently deprive the father and mother of parental authority over the child, particularly when the father or mother abuse parental authority or ill-treat the child or when the father or mother proves unworthy of parental authority through notorious bad behaviour or serious incapacity.

- Law No°13/2009 Regulating Labour In Rwanda (2009):_Article 4 prohibits the employment of children under 16 years of age even as an apprentice. A child aged 16-18 years may be employed provided: the rest period between two working days is at least 12 consecutive hours (Article 5); the work is proportionate to his/her capacity, is not at night or involve labouring in insanitary or dangerous conditions dangerous to his/her health, education or morals (Article 6). Labour inspectors have the right to request that a child is examined by a medical practitioner in order to verify that the work is not beyond the child's strength or harmful to their health. The contract of employment is terminated immediately if the medical practitioner finds the work is beyond the child or harmful to health (Article7). Article 8 prohibits force work. Article 72 indicates that the worst forms of child labour include: slavery or similar practices; child trafficking; debt bondage; replacing an adult in the forced; use in conflict or on war; the recruitment, use, procuring or offering of a child for prostitution or for the production of pornography or for pornographic performances; and, the use, recruitment and procuring or offering of a child for illicit activities such as manufacture and marketing of drugs; the work which is likely to harm the health, safety or morals of a child. Article 73 says that an order of the Minister in charge of labour shall determine the list of worst forms of child labour, their nature, categories of institutions that are not allowed to use them and their prevention mechanisms.
- Other: Under Article 1 of the Decree-Law of 19 November 1973 concerning the moral preservation of youth, unmarried juveniles under the age of 18 are not allowed in drinking establishments or bars unless they are accompanied by their father, mother, guardian or other person entrusted with their care. Penalties for the manager or operator are in place, these penalties being doubled if the offence is repeated. Punishments are also set out for anyone who directly or indirectly causes, contributes to or helps to contribute to the presence of an unmarried juvenile under the age of 18 in drinking establishments or bars. Article 8 of the decree-law stipulates in addition that the manager or operator of the drinking establishment shall post at the entrance to the establishment, in full view, the text of the decree law and a notice bearing the words: "Access prohibited to unmarried juveniles under the age of 18", and lays down appropriate measures against a juvenile who disregards the prohibition.

4.5.5. Participation Rights

- Civil Code: Article 61 of the Code of Civil and Commercial Procedure: allows all witnesses to be heard without distinction of age.
- Law No°42/2000 On The Election Of Local Authorities, Article 45 stipulates that the representatives of young people are elected in the proportion of one-third of the number of councillors elected to represent sectors in district and urban advisory councils. This third of seats is reserved for young people's representatives at the level of executive committees of cells, sectors, districts and towns. Those elected represent young people from 15 to 34 years of age and also cover the category of children from 15 to 18, in accordance with the provisions of the Convention on the Rights of the Child.
- Law No°18/2002 Of The 15th Of March 2002 Governing The Press: Article 51 provides for press publications intended for children and teenagers. Article 52 specifies that articles intended for young people shall contain no stories, illustrations or opinion likely to defend crime, lies, laziness, hatred, delinquency or any other acts qualifying as crimes or offences or liable to demoralise youngsters or young people or to inspire or incite ethnic prejudices.
- Other: Presidential Order No°509/13 of 10 October 1985 sets out the General Regulations governing primary, integrated rural and vocational, and secondary education. Article 8 of the Order states that parents have the right to choose for their children the course in religion or morals that corresponds to their beliefs. It also states that the head of an educational establishment must ensure that no one feels aggrieved by the teaching and practice of religion or morals (art. 7).
- Other: Circular No°08.02/03/9860 of 8 August 1996 issued by the Ministry of Education placed special emphasis on respect for freedom of religion in all primary and secondary educational establishments in the country.

4.6. Penalties and Punishments Associated With Laws, Policies and Programmes For Children's Rights

With the 2001 children's protection law having been rescinded, no penalties or punishments are now enshrined within a specific Child Rights Law. Instead, they are scattered throughout the *Penal Code*. Some of these are specific to laws concerning children's rights, while others are more general.

- A prison sentence cannot be pronounced against individuals aged under eighteen (18) at the time of commission of the crime (Article 45).
- Article 70 establishes penal majority at 12. However, lesser penalties are laid down for offenders under 18. In case of death penalty, 15 to 20 years imprisonment, if imprisonment or fine, no more than half the normal sentence.
- Article 59 determines that a person deprived of civic rights cannot be deprived of the right to be a guardian to his own child.
- Article 152 makes it a war crime to force children under 18 to take part in hostilities or do work for military purposes; to willfully separate children from their parents or legal guardians.
- Article 162 makes it criminal act to willfully inflict blows or injure a child under 16.

- Article 188 defines as rape any sexual act performed on a child.
- Article 189 makes it criminal to know of a rape or indecent assault on a child and not report it. The sentence is increased when the victim is a child between 14 and 18. When the victim is a child under 14, the perpetrator is liable for life imprisonment.
- Article 190 makes it a crime punishable by up to 25 years to have sexual relations with a person of the same sex below 18 years.
- Article 191 makes the rape of a child causing the death of the child or the child becoming infected by an incurable disease punishable with life imprisonment.
- Article 192 specifies that if rape of a child is committed by a guardian, government official, religious leader, security officer, medical officer, an educational officer, a trainee or any person using his or her professional power over the child, the penalty is life imprisonment.
- Article 193 makes any dehumanizing crime committed against a child punishable and Article 194 specifies that living with a child of less than 18 years as man and wife will be treated as rape.
- Article 194 makes it a crime to force a child into marriage, and Article 195 increases the sentence if the perpetrator is the child's parents or guardian.
- Article 201 provides for the doubling of sentences of sexual crimes against children if the perpetrator is a relative of the victim, or has authority over him/her, are his/her teachers or if the crime has been committed by a public servant, religious representative, medical doctors, surgeons or others with authority or care duties towards the child.
- Any person who shares in income from a child in prostitution is committing a criminal act (Article 212), as is anyone using a child to advertise prostitution or pornography.
- It is a crime to incite a minor to prostitution (Article 206) punishable by much higher sentences than for a non-minor. The sentence doubles if the child is taken into prostitution aboard and funding a brothel is punished much more severely if it involves children.
- Article 220 mandates a sentence of 3 months to 4 years for the torture of a child increasing to from 10 to 25 years if the torture causes the child to be disabled and life imprisonment if the child dies.
- Article 221 makes it illegal to offer alcohol to a child under 18, as well as any stimulants, with the latter carrying a heavier sentence.
- Article 222 prescribes heavy sentences for offering drugs to a child or involving him/her in drugs or arms trade.
- Article 223 prescribes sentences for persons who involve children in conflict or dangerous sports for profit. The penalty increases if the armed conflict is abroad.
- Article 225 makes failure to pay alimony a criminal offence punishable by imprisonment.
- Article 226 makes it punishable to refuse to hand over a minor and Article 227 to take a minor away from his/her parents.
- Article 228 deals with illegal adoption and doubles the sentence if the child is from a child care institution.

- Article 229 states that it is a criminal offence to deprive a child of medical care, food or other required care.
- Article 230 concerns failure to perform parental duties, whether as a parent or an institution, defined as required care. A parent who interrupts a child's education on account of misconduct, specifically chronic drunkenness, is also liable.
- Articles 231 and 232 deals with child pornography making it an offence to use photos of children or recordings of their voices for pornographic purposes, or to distribute such material.
- Article 233 makes it an offence to abandon a child in an open place and Article 234 in a hidden place. The penalties for the latter is much heavier. Article 234 increases the penalty if the abandonment results in death or disability.
- Article 235 makes it an offence for a parent to abandon the family for longer than a month or for a husband to abandon his wife knowing she is pregnant.
- Article 237 makes it an offence to influence a parent to abandon his/her child.
- Articles 251 and 252 deals with kidnapping imposing heavy sentences for kidnapping, and higher for kidnapping and selling into slavery (up to 25 years).
- Articles 253 and 254 deals with enticing, kidnapping, encouraging, misleading or keeping a child for prostitution or supporting or facilitating child prostitution with penalties for the former of up to 15 years. Article 260 applies the maximum penalty for kidnapping if he kidnapped person is under 18 years (25 years).
- Article 274 lists the punishments for persons who have helped others to use drugs, whether for payment or not. If minors under the age of 18 have been caused to use or been supplied with these substances, the prison sentence may be increased to 10 years, the sentence in the case of adults being 3 to 5 years. In addition, the Decree-Law of 19 November 1973 on the moral protection of young people lays down prison sentences ranging from two to 18 months for an owner or operator of a bar or drinking establishment who permits a minor under the age of 18 to enter his establishment without his parents, guardian or carer. Article 461 increases the sentence if a child is induced to take stimulants from a maximum of 5 to 10 years.
- Article 516 provides for a penalty of up to two years if a child is used to beg.

4.7. The UN Convention on the Rights of the Child and Rwandan Law

As shown in Section 4.3, the new "Bill of Rights" for children does cover large parts of the *CRC*, but it does not do so entirely, and is certainly not a one-stop-shop for the rights of children in Rwanda. As shown by the later subsections, to fully appreciate Child Rights one has to look at several different laws and policies, and even then not all aspects of the *CRC* are covered in full. In addition, despite several abuses against children being technically illegal, there are no penalties or punishments associated with doing so.

The table below attempts to make sense of the complicated nature of Child Rights within the Rwandan legal system through how the articles of the *CRC* have been incorporated into Rwandan law. Where Articles of the *CRC* are not explicitly covered by the Child Rights law they may be covered generically by other law, but there is no guarantee that rights afforded to adults apply to children.

UN <i>CRC</i>	Law N°54/2000	Sections Missing from <i>CRC</i>
Article 1	Article 3, Definition 10°	
Article 2	Article 1, Article 5;	
Article 3	Article 6	Article 3.3 not explicitly stated.
Article 4		Not explicitly stated.
Article 5	Article 24	
Article 6	Article 8	
Article 7	Articles 12, 13, 14, 15, 16.	
Article 8	Articles 12, 13, 14, 15, 16, 24.	
Article 9	Articles 27, 30, 31, 33, 36.	
Article 10	Article 15	Article 10.2 not explicitly stated.
Article 11	Article 51	Child-trafficking illegal, but no measures explicitly referred to.
Article 12	Articles 6, 7, 17, 20	
Article 13	Articles 17, 18.	
Article 14	Articles 10, 17, 18, 20, 25.	
Article 15	Article 18	
Article 16	Article 19	

UN CRC	Law N°54/2000	Sections Missing from CRC
Article 17	Article 20	Child has access to information. A Prime Minister's Order will determine what is appropriate.
Article 18	Articles 15, 24, 25, 26.	Article 18.3 not explicitly stated.
Article 19		Child abuse is illegal, but preventative measures are not explicitly referred to.
Article 20	Articles 24, 35, 37.	
Article 21		Article 39: Adoption rules in the <i>Civil Code</i> .
Article 22	Article 49	Ministerial Order for Article 22.2
Article 23	Articles 42, 43, 54.	Articles 23.2, 23.3, 23.4 not explicitly stated.
Article 24	Articles 44, 45.	Articles 24.1 (d), (e), (f), 24.3 not explicitly stated.
Article 25	Articles 41, 43, 44.	
Article 26	Article 26	Very vague.
Article 27	Articles 10, 15, 26.	Article 27.4 not explicitly stated. Vague on the conditions of Article 27.3.
Article 28	Article 47.	Primary education explicitly stated. Others covered outside law.
Article 29		Not really explicitly stated in law.
Article 30	Article 4	Ambiguity over the status of HMPs
Article 31	Article 20	
Article 32	Articles 51, 52	Problems with definitions of "worst labour" in Labour Law. Issue with Law allowing children aged 17 to work in underground mines.
Article 33	Articles 44, 51.	
Article 34	Articles 44, 51.	

UN <i>CRC</i>	Law N°54/2000	Sections Missing from <i>CRC</i>
Article 35	Article 51.	
Article 36	Article 51.	
Article 37	Article 58.	Apart from minimum age of legal responsibility, most of Article 37 is not explicitly covered or completely fulfilled within the law.
Article 38	Article 50.	Articles 38.1 and 38.2 not covered explicitly as the law only refers to State armed forces, and not informal forces which children could be recruited to.
Article 39	Articles 35, 37, 41, 43, 50.	
Article 40	Articles 58, 59, 61, 62, 64.	Article 40 is only vaguely covered by the law and large parts are either unclear or not covered at all.
Article 41		
Article 42		Not clear that the <i>CRC</i> is made widely available to the Rwandan people.
Article 43	Article 66	
Article 44		Not explicitly stated in law (though one would not necessarily expect it be so).

5. Conclusions and Future Areas of Research

In general, Rwanda has made a very positive start in the area of Child Rights. Through its ratification of the *CRC* they have sent a clear message about Rwanda's views towards the rights and protection of children. This is further shown by the creation of the National Commission for Children and the creation of the *National Integrated Child Rights Policy*.

However, even with the adoption of the *Law Relating to the Rights and the Protection of the Child*, Rwanda has still not fully harmonised its domestic laws with the articles of the *CRC*. The *Penal Code* has no clear section for children, and instead relevant aspects are scattered throughout. Additionally, it will need updating to take account of new legislation within the new law, and there is still a need to review the judicial system as related to children. A further area where further definition is needed is in the area of child work, specifically as relates to the worst work where a contradiction can already be seen between the *CRC*, what we take to be the spirit of the Labour Law, and the article in the new law which specifies that children aged 17 may work in underground mines.

There is throughout the laws, policies and programmes on the rights of children in Rwanda a lack of precise definition, and legislation is often focused on formal aspects of society. For example, while it is illegal for a child to be recruited for military service, this does not preclude the recruitment of children by non-State armed groups. Additionally, many of the policies on the rights of children have only just been developed. Yet, they are still under-developed.

Further, there is a lack of the development of a community social work system and a formal review system for children in residential care, both of which are vital for ensuring the protection of children in Rwanda.

Perhaps more worryingly, there does not seem to be enough done to prevent abuse - physical, sexual, and emotional - perpetrated upon children of both genders. Legislation does not seem to indicate an age of consent,¹ and the definition of rape is not clear. The legislation also does not clearly take account of the research in many countries which has shown that most child abuse takes place within a domestic setting and is perpetrated by a family member, relative, or close family friend. This could be a useful area of future research and policy harmonisation within Rwanda.

¹ Though the *Penal Code* does assert that living with a child of less than 18 years as man and wife will be treated as rape.

References

Key Laws, Policies and Programmes:

The Constitution of Rwanda, 2003

UN Convention on the Rights of the Child , ratified in 1990

Rwandan Civil Code (Civil Code Law No. 42/1988 Of 27 October 1988)

National Integrated Child Rights Policy, 2011

N°54/2000 of 14/12/2011 Relating to the Rights and the Protection of the Child

Law No°13/2009 Regulating Labour In Rwanda

Law No°59/2008 Of 10/09/2008 On The Prevention And Punishment Of Gender Based Violence

Law No°01/2007 on Disabled Persons

Law No°24/2007

Law No°30/2007

Law No° 20/2003 of August 3, 2003

Law No°18/2002 Of The 15 March 2002 Governing The Press

Law No°42/2000 On The Election Of Local Authorities

Law No°29/99 On Matrimony, Gifts And Succession

Law No°1/1985 On National Education In The Republic Of Rwanda

Law No°14/1985 of 29 June 1985, amended by Law No. 48/91 of 25 October 1991

Law No°21/77 of 18 June 1977 Penal Code (modified)

Circular No°08.02/03/9860 of 8 August 1996

Presidential Order No°509/13 of 10 October 1985

Decree-Law of 19 November 1973

Appendix One: The UN Convention on the Rights of the Child.

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the

right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety,

public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as

well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and

which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

- (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.



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