



**COMBINED 14TH, 15TH, AND 16TH SHADOW REPORTS ON THE ARTICLE
20 [WIDOWS' RIGHTS] OF THE PROTOCOL TO THE AFRICAN
CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF
WOMEN IN AFRICA**

PREPARED AND SUBMITTED BY DUHOZANYE

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About DUHOZANYE

DUHOZANYE (let's console each other) is a Rwandan Non-Governmental Organization founded by genocide widows in November 1994 and which legally operates under the legal personality N° 131/11 of 2003. DUHOZANYE's mission is "to support the empowerment of women with a focus on widows of Genocide against the Tutsi and other vulnerable groups in the community". In virtue of its foundation, DUHOZANYE has been working as the leading genocide widows' rights defender.

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I. EXECUTIVE SUMMARY

- *Aim of the report*

This shadow report aims at providing key findings on the implementation status of the article 20 [Widows' rights] of the Maputo Protocol. The report highlights briefly some achievements towards the received recommendations and advices from the African Commission and creates grounds for policy reform in the future for an improved rights enjoyment in Rwanda.

- *Methodology*

This report is a result of consolidated methodology including secondary data collection [review of relevant reports, policies and laws analysis] and primary data [a survey conducted purposively].

- *Key findings*

The report lauds tremendous developments made by Rwanda in compliance with Maputo protocol namely the legislation and policy reviews envisaging women's rights mainstreaming and promotion to an extent that [this year 2022] Rwanda was ranked 6th among the best performing countries across the world and first in Africa regarding women's rights mainstreaming.

However, issues at implementation level and more specifically at the grassroots levels are noted: persisting widows degrading and humiliating and discriminatory attitudes... which go unpunished, while the art. 163 (2&3) of the penal code (2018) remains confusing and silent on punishment of such attitudes and behaviours.

- *Summary recommendations*

As this report has highlighted some concerns, it has also proposed some recommendations; among others, (1) to amend the article 163 of the 'Law n° 68/2018 of 30/08/2018' determining the offences and penalties in general and, clarify that article on the same level of understanding in all languages with the equal meaning words (paragraph and indent), and to establish penalties for offenders against the widows in compliance with the art. 20 (a) of the Maputo protocol; and (2) to report on the art. 20 of the protocol which was not reported on during the previous combined report submitted in 2017.

II. INTRODUCTION

This report has been prepared and submitted by DUHOZANYE to African Commission on Human and People's Rights with the intent of informing the Commission on the identified policy issues with regard to the implementation of the article 20 of the Maputo Protocol ratified on 25th June 2004 by Government of Rwanda. Duhozanye believes that the issues identified are likely to give the African Commission the opportunity to provide relevant recommendations and advice to the Government of Rwanda as the Commission's previous recommendations did not relate to widows' rights [art. 20]

III. METHODOLOGY USED

The policy issues/concerns contained in this report and the proposed recommendations are based on the qualitative results of a rapid survey conducted in June 2022 in 3 districts (Gisagara, Huye and Nyanza of the Southern Province of Rwanda) which allowed collecting the perceptions of rights holders (mainly widows), relevant stakeholders (civil society organizations) and officials (relevant ministries and government institutions). The methodology particularly incorporates the in-depth analysis of relevant laws and key policies guaranteeing the protection and realization of the rights of widows in Rwanda

IV. ABOUT THE ARTICLE 20 OF THE MAPUTO PROTOCOL [WIDOWS' RIGHTS]

The protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) was adopted by the African Union on 11th July 2003 in Maputo (Mozambique); Rwanda ratified it on 25th June 2004. The article 26 (1 & 2) of the protocol urges states parties to ensure its implementation at national level and submit every 2 years a periodic report indicating a progress vis-à-vis legislative and other measures undertaken [including budgetary resources allocations] for the full realization of the rights enclosed. The article 20 (a,b,c) of the protocol reads: "States parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions: (a) that widows are not subjected to inhuman, humiliating or degrading treatment; (b) that a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children; (c) that a widow shall have the right to remarry, and in that event, to marry the person of her choice".

ON THE WIDOWS' STATUS IN RWANDA

Rwanda is the lonely African country having known a genocide [perpetrated against the Tutsis in 1994] consecutive to two discriminatory regimes which preceded the current Rwanda Patriotic Front (RPF)-Inkotanyi regime in power since 4th July 1994. The genocide generated a large number of genocide widows, thereby increasing the number of widowed women in general and, therefore, a significant number of woman-headed households. Indeed, the World Widows Report of 2015 indicates that in 2002 widows in Rwanda counted 13.3% of females in the range age 12+, in 2012 widows counted 10.9% of females in the same range age¹ while, today, the female-headed households count 37.3 percent².

POSITIVE DEVELOPMENTS IN IMPLEMENTING THE WIDOWS' RIGHTS

DUHOZANYE applauds the political will, the legislative and institutional measures the Rwandan authority has taken to promote women' rights and its commendable compliance in reporting on the achievements so far, as discussed in the following sub-points.

- *Institutional measures taken*

Duhozanye appreciates the revised Constitution (revised 2015) prescribing equality between women and men and requiring that at least 30% of decision-making positions be reserved for women³.

Duhozanye is pleased that the Gender policy was put in place in 2010 and was recently revised (in 2021) envisaging, among other objectives, to strengthen the gender mainstreaming, and map and address the persistent cultural norms, gender stereotypes, and imbalances affecting the principles of gender equality between both sexes⁴.

Duhozanye appreciates the Rwanda for the amendments of (i) Law governing matrimonial regimes, donations and successions (2016)⁵ guaranteeing—*particularly under the community*

¹ The Loomba Foundation, (February 2016). World Widows Report (2015). At <https://www.theloombafoundation.org/sites/default/files/2019-06/WWR.pdf> accessed 15/07/2022. It does not exist yet official and cumulative up-to-date figures on effective number of widows across Rwanda reports.

² National Institute of Statistics of Rwanda (NISR), (March 2021). Rwanda Household Survey 2019/2020 [Enquête Intégrée sur les Conditions de Vie des Ménages (EICV 6)]. At [EICV 6---HHS 2019-2020 Final Report@!!!!!!](https://www.nisr.gov.rw/EICV_6---HHS_2019-2020_Final_Report@!!!!!!).pdf accessed 21 July 2022.

³ Rwanda Constitution of 2003 revised 2015, article 10 paragraph 4.

⁴ Ministry of Gender and Family Promotion (MIGEPROF)(February 2021). [Revised] National Gender Policy.

⁵ Law n° 27/2016 of 08/07/2016 Governing matrimonial regimes, donations and successions, OG n° 31/01/08/2016.

regime—equal ownership of the household’s property and assets, and when either partner dies the surviving one takes the total administration of the property/assets; (ii) the Penal Code (2018)⁶, art. 163, paragraph 1 (alinea 2 and 3) providing that ‘acts aimed at’ or ‘act instigating a person to denying a person or a group of people their rights granted under the Rwandan law or international conventions ratified by Rwanda on the basis such as family connection, sex...commits an offence; therefore, is punishable by the law; (iii) the Law governing persons and family (amended 2020)⁷, of which law the art. 16 removes the waiting period [300 completed days] for a widowed woman to remarry.

- ***The establishment of institutions guaranteeing the protection of women’s rights***

Duhozanye also commends Rwanda for the establishment of structures in charge of protection of people’s rights, the women’s rights in general and implicitly the widows’ rights. These are among others (i) the Ministry of Gender and Family Promotion (MIGEPROF); (ii) the Gender Monitoring Office (GMO), (iii) the National Women’s Council (NWC), (iv) the National Human Rights Commission (NHRC) of Rwanda⁸ in charge of promoting and protecting the human rights and especially, but not limited to, educate the population on matters relating to human rights, and collaborate with partners and stakeholders (international and local) in promoting and protecting the human rights; (v) the Genocide Survivors Support and Assistance Fund [Fond d’Assistance aux Rescapés du Génocide (FARG)] (created in 1998); besides cash transfer payments, it used to provide educational scholarships, to support in paying health insurance schemes, to get shelter, and to promote income generating projects for the right holders [around 21,039 people (figures of 2013)]. The government was committed to allocate 6% of its annual internal income⁹; today this fund has been removed by Law n° 068/2021 of 15/10/2021¹⁰. After its dissolution, functions of

⁶ The Law n° 68/2018 of 30/08/2018 determining offences and penalties in general, OG N° Special of 27/09/2018.

⁷ N° 001/2020 Of 02/02/2020 Amending Law N° 32/2016 Of 28/08/2016 Governing Persons and Family. OG n° 06 of 17/12/2020.

⁸ Created by the Law n° 04/99 of 12th March 1999 repeatedly amended for compliance purposes; presently, the Law N° 61/2018 of 24/08/2018 determining missions, organisation and functioning of the National Commission for Human Rights. This new law confers to the Commission powers and Special responsibilities as regards to the prevention of torture and other cruel, inhuman or degrading treatment or punishment. At <http://www.cndp.org.rw/index.php?id=23> accessed 22/07/2022.

⁹ <https://socialprotection.org/discover/programmes/genocide-survivors-support-and-assistance-fund-farg> accessed 21 July 2022.

¹⁰ Law n° 068/2021 of 15/10/2021 Law repealing Law n°81/2013 of 11/09/2013 establishing the Fund for support and assistance to the neediest survivors of the Genocide against the Tutsi committed between 01 October 1990

FARG have moved to MINUBUMWE (National Unity and Civic Engagement Ministry) newly created in July 2021¹¹.

- *Favorable working environment for the Civil Society*

Duhozanye positively notes particularly a conducive civil society working environment which allowed quick formation and expansion of women's rights organizations including widows' rights organizations; among them count HAGURUKA NGO (1991), PROFEMMES TWESE HAMWE [53 member organizations] (created 1992), ICYUZUZUO(1992) SEVOTA-Veuves (1994), DUHOZANYE (1994)¹²; AVEGA-AGAHOZO (founded 1995)¹³; RWANDA WOMEN'S NETWORK (1997), etc. These local CSOs (and like many others) have contributed greatly to realization of the women's rights and explicitly the widows' social and economic rights by enhancing their capacities, supporting them to build self-confidence, to overcome the misery indulged by widowhood, to recover their dignity.

V. AREAS OF CONCERN

Despite progress made towards widow's rights protection and fulfilment, Duhozanye is concerned of the following evidenced facts:

- Duhozanye is concerned by the fact that articles 20 and 21 of the Maputo protocol were not reported on by Rwanda in its initial periodic report to African Commission on Human and people's Rights (ACHPR).
- Limited citizens' awareness on 'widow's rights and related legal provisions.
- Grassroots leaders (*i.e., at Isibo, village, cell and eventually at sector level*) showcase capacity gaps for preventing the community members' attitudes of 'treating the widows by humiliating and degrading' manners calling them, [we quote], 'prostitutes', 'witches', 'bad luck'.

and 31 December 1994 and determining its mission, powers, organisation and functioning. OG No Special of 21/10/2021.

¹¹ <https://www.minubumwe.gov.rw/mandate/departments>

¹² Duhozanye counts 330 widow members.

¹³ In 1994, AVEGA was counting 25,000 widow members; today, they are 19,000 widows imparting to its social protection programs.

- While the Rwandan legislation prohibits the abovementioned attitudes, the Penal code art 163 (2&3) was found confusing [in substance and form]; moreover, it does not explicitly criminalize the acts or attitudes of humiliating or degrading widows as referred to in art. 20 (a) of Maputo protocol.
- Lack of (or unreliable) statistical information on widows' status and lack of the evidenced effect/impact of the *pro-widows* policies/laws and measures put in place.

VI. PRACTICAL RECOMMENDATIONS

Duhozanye calls upon the African Commission to recommend to the government of Rwanda to:

- Report to the articles 20 and 21 in compliance with the obligations under the art. 26 of the Maputo protocol that were missing in the initial report¹⁴.
- Continue strengthening the capacity and awareness of local grassroots leaders (at Isibo, Village, Cell and Sector level) and citizens on their rights and explicit on widows' rights.
- Amend the article 163 of the 'Law n° 68/2018 of 30/08/2018' determining the offences and penalties in general and, clarify the article on the same level of understanding in all languages with the equal meaning words (paragraph and indent), expand basis grounds [and integrate 'marital status'] and extend the ground of liability to the use of signs, films and language to establish penalties for offenders against the widows in compliance with the art. 20 (a) of the Maputo protocol.
- Generate up-to-date statistical information on widows and evidenced impact of enforced women-sensitive policies/laws on widows' livelihoods.

¹⁴ Combined 11th, 12th, 13th periodic reports covering the period 2009-2016.