

INNOCENTI INSIGHTS



The Promotion and Protection of
CHILDREN'S RIGHTS IN
POST-GENOCIDE RWANDA
July 1994 - December 1996

starting from ZERO

NIGEL CANTWELL

unicef 
United Nations Children's Fund

International Child Development Centre
Florence - Italy

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As is invariably the case in 'loud emergency' situations, post-genocide Rwanda has been subjected to intensive visits from the outside world, including journalists, representatives of donor bodies ... and consultants carrying out studies on a wide range of topics.

My special gratitude goes, therefore, to all the Rwandan officials and civil servants, Rwandan associations, international NGOs and UNICEF Rwanda (in particular, but by no means only, the Representative and the CEDC staff and consultants) for their forbearance and willingness to set aside often considerable time to talk to yet another consultant about their activities and about the problems, the aims and the overall context in which they were working.

The insights they provided were of course invaluable. Inevitably, however, none of these interlocutors will agree with all the comments, analyses and conclusions in this study. Some may well disagree quite strongly with certain critical observations. Many may deem it unreasonable that their views seem not to be reflected in the text, or that the work of their organization receives little or no mention. This is a regrettable though well-known feature of studies of this kind. In reiterating my thanks for their contributions, I therefore also express the hope that they will find herein at least some ideas worthy of consideration as we try to continue improving our responses to children in post-disaster situations.

Nigel Cantwell

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ABBREVIATIONS

AVSI	<i>Associazione Volontari per il Servizio Internazionale</i>
CEDC	<i>Children in Especially Difficult Circumstances</i>
CRC	<i>Convention on the Rights of the Child</i>
CUAMM	<i>Collegio Universitario Aspirante e Medici Misionari (International College for Health Cooperation in Developing Countries)</i>
EDC	<i>Especially Difficult Circumstances</i>
FAO	<i>Food and Agriculture Organization of the United Nations</i>
FAR	<i>Rwandan Armed Forces (of former government)</i>
ICRC	<i>International Committee of the Red Cross</i>
ILO	<i>International Labour Organisation</i>
ISS	<i>International Social Service</i>
JDLs	<i>UN Rules for the Protection of Juveniles Deprived of their Liberty</i>
MdM	<i>Médecins du Monde (Doctors of the World)</i>
MICOMART	<i>Ministry of Trade</i>
MIFAPROFE	<i>Ministry of the Family and Promotion of Women</i>
MIJEUMA	<i>Ministry of Youth, Sports and Vocational Training</i>
MINADEF	<i>Ministry of Defence</i>
MINEPRISEC	<i>Ministry of Primary and Secondary Education</i>
MINESUPRES	<i>Ministry of Higher Education and Scientific Research</i>
MINIJUST	<i>Ministry of Justice</i>
MININTER	<i>Ministry of the Interior</i>
MINIPLAN	<i>Ministry of Planning</i>
MINIREISO	<i>Ministry of Rehabilitation and Social Integration</i>
MINISANTE	<i>Ministry of Health</i>
MINITRASO	<i>Ministry of Labour and Social Affairs</i>
NGO	<i>Non-governmental organization (non-Rwandan only in this report)</i>
NRA	<i>National Resistance Army (Uganda)</i>
RPA	<i>Rwandan People's Army</i>
RPF	<i>Rwandan Patriotic Front (present Government)</i>
SCF-UK	<i>Save the Children Fund-UK</i>
SCF-USA	<i>Save the Children Federation-USA</i>
TEP	<i>Teachers' Emergency Package</i>
UAC	<i>Unaccompanied Children</i>
UNDP	<i>United Nations Development Programme</i>
UNESCO	<i>United Nations Educational, Scientific and Cultural Organization</i>
UNHCR	<i>Office of the United Nations High Commissioner for Refugees</i>
UNHRFOR	<i>United Nations Human Rights Field Operation in Rwanda</i>
WFP	<i>World Food Programme</i>
WHO	<i>World Health Organization</i>

GLOSSARY

Beijing Rules	<i>UN Standard Minimum Rules for the Administration of Juvenile Justice</i>
Interahamwe	<i>Ex-governmental civil militia</i>
Préfecture	<i>Primary administrative division of the country</i>

EXECUTIVE SUMMARY

In July 1994, Rwanda was faced with rebuilding itself as a nation and as a society: 'starting from zero'. The genocide and war, in addition to causing the death of over half a million persons, had forced more than 2 million to flee across borders, destroyed the country's infrastructure and public services, and left the great majority of survivors – children and adults – psychologically traumatized. In those conditions and with neither experience nor resources, the new Government stated its intentions to bring about stability and justice and promised to instil basic changes in Rwandan society – even at the cost of starting from zero. Likewise, the numerous organizations and agencies providing assistance to Rwanda were also searching for a starting-point: the combined gravity, scope and scale of the problems they had to confront were unprecedented for virtually all, frequently creating major dilemmas for their staff. And respect for human rights, including for the letter and the spirit of the 1989 United Nations Convention on the Rights of the Child (CRC), had to start from zero, too.

This Innocenti Insight is a critical review – but in no way a formal evaluation – of some of the main facets of the international cooperation undertaken on behalf of children in Rwanda from July 1994 to December 1996, with special reference to its consonance with, and promotion of, the spirit and the letter of the CRC. Taking as its main base the experience of UNICEF, the study also considers other actors, particularly the foreign non-governmental community, in attempting to determine the Convention's real impact on approach and programming. The whole is set against the background of the realities faced by the population and the policies pursued by the Rwandan authorities. While the focus of the study is on the events that took place in post-genocide Rwanda, there are inevitably ramifications for, and links with, other post-conflict situations.

The basic premise of the study is that respect for the CRC involves a full understanding not only of its content but also of the human rights context that surrounds it, the intentions of the drafters and the approach to implementation that it embodies. Its limitations as an international treaty also have to be recognized: the CRC cannot be turned into a kind of programme of action, even if it provides a common reference point for tackling children's issues and guidelines for action in favour of their rights.

The study examines the efforts to respond both to general problems affecting children and to situations faced by specific groups in post-genocide Rwanda. The descriptive analyses bring to light gaps in applying the CRC approach, whether in the fields of juvenile justice and demobilization of children from the armed forces, for example, or in those of education, disability and provision of substitute care, among others. The tendency in fact has been for UNICEF and others to have recourse to the CRC more particularly in regard to assistance to children in specific situations of extreme difficulty. But the CRC should also be used as a basis for realizing the right of all children to access to basic services.

The tens of thousands of unaccompanied children in Rwanda, the centres or so-called 'orphanages' that have sprung up to accommodate them, and the practices of family reunification and foster care provide a graphic example of how correctly applying the rights contained in the Convention can rarely be a clear-cut exercise. Reuniting children with their immediate or extended families – or at least providing family-based care – is generally the ultimate objective in such cases, avoiding institutional care wherever possible. However, in a context as extreme as that of Rwanda, where killings took place within extended families, for example, and where the chances of ending up in dire poverty are very great, placing a child with his or her family at all costs can result in a serious rights violation. Likewise, although most 'informal foster care' arrangements are undoubtedly offered in the spirit of solidarity, there is nevertheless a very high risk that some of the children concerned are being subjected to exploitation or destitution.

International organizations, including foreign NGOs and intergovernmental agencies, have had a massive presence and influence in post-genocide Rwanda. While many examples of positive – sometimes clearly vital – actions exist, the overall effort has too often been characterized by a lack of coordination and cooperation. This has seriously undermined the sustainability of certain of the measures taken and strained relations with the authorities (who often work with far fewer resources than an international NGO or UN agency). Tensions between the Rwandan authorities and NGOs were vividly illustrated by the Government's expulsion of 38 organizations in late 1995. The whole situation has been complicated by the role of donors, who sometimes insist on financing activities that do not relate to government policy or priorities – or to the expressed needs of recipients.

The study demonstrates that the CRC clearly urges States Parties to seek and assent to international cooperation when necessary to ensure that the rights in the Convention are respected. It shows as being equally significant – and this applies directly to the experiences in Rwanda – the fact that international cooperation as explicitly and implicitly envisaged by the CRC must be 'competent' in nature and should in principle be primarily directed at helping States Parties in their efforts to implement the treaty's provisions. In other words, there are cooperative obligations set out in the CRC that need to be complied with, by all concerned, in order for it to be fully realized. UNICEF, as an intergovernmental organization and lead UN agency for promoting the CRC, anyway has an obligation to cooperate with governments. The study contends that, to maximize the impact of the CRC, UNICEF should therefore be seeking above all to ensure that being at the service of a government and of the children within the latter's jurisdiction are not incompatible mandates.

Throughout the study, many specific concerns about the impact of the CRC are expressed; in addition, the last section provides an overall review of implications for CRC-based strategic choices in terms of the Rwandan experience and of the pitfalls and gaps that it has brought to light. It strongly reiterates the fundamental 'cooperation requirement', but also highlights:

- the negative direct and indirect ramifications of donors' decisions to channel most funds through intergovernmental agencies and foreign NGOs, rather than provide the concerned national authorities with resources directly and monitor their use;
- the way that 'technical assistance' in response to specific requests has too often become confused with efforts to secure decisive influence on outcomes;
- the urgency of regulating the involvement of organizations and their personnel in emergency and post-emergency situations;
- the basic fallacy of the debate over whether scarce resources should be devoted to micro-problems – now often seen as equivalent to 'children in especially difficult circumstances' – as opposed to macro-issues such as basic health and education.

The study ends by suggesting the key importance of genuine consistency, based on the CRC, on the part of organizations involved with child-focused programmes. Unless they embrace the full implications of the treaty, they cannot expect the rights of the child to become a fundamental ethic for the recovery and reconstruction of devastated societies such as that of Rwanda.



FOREWORD

Why should we be concerned about the 'rights of the child' in a situation such as that of Rwanda in the aftermath of the tragic genocide? Everything has to be, and is being, rebuilt: services, infrastructure, the economy, political institutions, the social fabric – in a word, those factors that contribute to the sense of returning to a normal, everyday life.

Looking at the huge challenges that lie ahead and the resources required to meet them, and at the complexity and difficulty of the problems involved, one might be tempted to believe that all efforts should focus on some 'concrete' initiatives able to generate quick and visible results, and that issues like the 'rights of the child' – although important – would be better addressed in the future.

This study is grounded in the opposite conviction.

In Rwanda there is apparently now the will to rebuild society upon a new foundation that would prevent ethnic polarization and the exploitation of ethnicity. Recovery and unity, however, require more than statements of good intentions and moral declarations. They require first and foremost the establishment of the Rule of the Law, as well as the identification and implementation of effective ways to ensure all citizens access to all rights.

The fundamental challenge facing the country, interwoven with those of economic recovery and material reconstruction, thus appears to be the implementation of a process that would enable all Rwandans, without distinction, to have access to full citizenship.

Hence the great relevance that the Convention of the Rights of the Child can hold for Rwanda, where children represent approximately half of the population. It is vital to create the conditions under which all children are ensured access to full citizenship, and this should constitute, in our view, one of the first and central elements on the political agenda for the rebuilding of the country.

The intention has been to view the CRC as a living instrument that can underpin change in a society willing to 'start from zero'. Our hope is that this Innocenti Insight will contribute to the thoughts and actions of all those in society, in the Government and in the international community who are committed to adopting similar approaches to implementing the Convention.

Mario Ferrari
Senior Operations Officer
UNICEF International Child Development Centre

RWANDA, PRÉFECTURE MAP



This is a schematic map and should not be used for geographical analysis. The boundaries and names shown on this map do not imply official endorsement or acceptance by the United Nations Children's Fund. Information for this map was supplied by the International Organization for Migration in September 1997. The boundaries for the newly created Umutura préfecture have been estimated because there is no official map from the Government of Rwanda.

PREFACE

This study reviews work undertaken on behalf of the children of Rwanda during the post-genocide period in the light of the existence, content, spirit and possible uses of the Convention on the Rights of the Child (CRC). It is not, however, by any means an evaluation as such – first and foremost because it could not hope to be sufficiently comprehensive, and secondly because it does not use the kind of methodology that this would require.¹

The study focuses largely on issues that would appear to be of special – though not exclusive – importance to UNICEF. It relies considerably on the agency's own experience while also referring frequently to that of its main partners – government and NGOs – and to its relationship with them.

As the study progressed, it became clear that some of the most pertinent aspects needing in-depth consideration were by no means the most obvious. These have been given special prominence, with the result that the treatment of subjects may seem uneven from a purely objective standpoint. The issues are wide-ranging: from realistic expectations of the CRC to the role of NGOs; from the experience of dealing with demobilization of children attached to the military to the lack of concern for adolescents in general; from policies on centres for unaccompanied children to the funding of government programmes. But these foci will hopefully correspond in broad measure to at least some of the most significant elements that are to be considered when seeking to maximize the impact of the human rights of children in the social and physical reconstruction process.

The sources of information in this report vary from official documents and other publications to structured interviews and impromptu conversations. Wherever possible and appropriate, they are referenced; when this is not the case, for whatever reason, the information is given in good faith but under the sole responsibility of the author.

1 - The field research for this study ended in mid-November, 1996. Given in particular the 'returnee' phenomenon and implications of the succeeding weeks, it was decided to include certain elements of information received until the end of 1996. Information and data received thereafter have not been included in the main body of the text; a brief 'Postface', however, has been included after the final chapter.



1. GENESIS, PURPOSE AND CONTEXT OF THE STUDY

■ 1.1. RWANDA: AN EXTREME SITUATION

Little more than two years after a genocide in which the great majority of the Rwandese population were eye-witnesses to killings of the most extreme brutality, and many survivors lost virtually their entire family, it is not surprising that the events of April-July 1994 and their aftermath still dominate the country's consciousness. This is even less surprising in that, despite the tens of thousands of suspects crowded into the country's prisons and the known whereabouts abroad of many of the instigators and organizers of the slaughter, until the very end of 1996 not a single individual had yet been brought to trial and convicted of genocide, either within the country or through the International Tribunal. The long healing process that only perceived justice can bring about has yet to start.

Yet first impressions on arrival in Kigali would lead most non-Rwandans to believe that this last statement is a considerable over-dramatization. Kigali bustles, having gone in just 30 months from being home to 300,000 to a veritable ghost-town by the end of the genocide and then, today, back to an estimated population of more than half a million. The markets are full, the inhabitants meet, greet and joke, there is no sign of animosity or untoward reticence, and even the army's presence appears in no way aggressive. Surely the healing is, after all, well under way.

Within the extraordinary complexity of the history, recent experiences and present reality of Rwanda, there is nonetheless one certainty: Rwandans are still waiting. Waiting for the moment when they can start to rebuild their lives rather than their existences, when the future will seem to be more than a hopeless mirror reflection of the past, and therefore when the perpetrators of that past have answered to their crimes and the foundations for a new society have been put in place.

It is often held that the events of April-July 1994 in Rwanda are the first to warrant use of the term 'genocide' – widely looked upon as the 'crime of crimes' – since it was invented following the Second World War.² It may be legitimate to regard the situation of Rwanda as unique to date in the second half of this century, the period that has seen the systematic development of international human rights and humanitarian law as well as of full-fledged international aid and emergency relief structures. In terms of planning preventive and reactive strategies, however, there may be equal reason to view it as simply an extreme example of the consequences of internal conflict. Many would argue that only somewhat academic considerations – if any – distinguish what happened in Rwanda from the massacres and 'ethnic cleansing' in the former Yugoslavia. The targeted exactions of the Khmer Rouge in Cambodia produced many horrors similar to those to which the Rwandese people were subjected. Indigenous groups of Guatemala and the Dinka tribe of Sudan are among those who have also suffered conditions or attacks deliberately organized and perpetrated on the basis of their ethnic origin. It would also be hard to neglect the current situation in Burundi in this regard.

In view of this, there is on the one hand no doubt that special attention must be paid to supporting appropriately and effectively the Rwandese people's efforts in the aftermath of the genocide, and that is certainly a major focus of this study. On the other hand, coldly, and

2 - The 1948 Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as 'any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group'.

however great the hope that the genocide that Rwanda experienced will remain unique, it is clear that an examination of responses to it has potentially wider implications for action in post-conflict situations. This constitutes the other main purpose of this exercise.

■ 1.2. OBJECTIVES OF THIS STUDY

The fundamental aim of this study is to contribute to the development of a coherent long-term policy on child-related issues as an integral part of the reconstruction, recovery and reconciliation process under way in Rwanda, using to the full the Convention on the Rights of the Child as both a guide for action and a tool for stimulating and facilitating that action.

In pursuit of this aim, the study seeks to (1) highlight the problems that have had to be faced, (2) elucidate the strategies that have governed responses, (3) determine which issues have to be tackled as a priority from now on, (4) identify the positive and negative factors likely to influence the success of efforts to confront those issues, and (5) suggest directions that these efforts should in principle take.

Child welfare and development, the fostering of whose multiple facets is the whole aim of the CRC, cannot of course take place either in a vacuum or on the basis of haphazard, *ad hoc* initiatives. The most cursory glance, if such were needed, at the text of the Convention confirms that the implications and roles of the family, society (nationally and in its local community ramifications) and government are vital. So are systematic and concerted policy development and planning (both proactive and reactive) as well as a minimum level of resources to carry through the activities decided.

If this is the case, it is towards the re-establishment of the family, national society, community and government in their normal functions, and through planning with them and providing the initial wherewithal for them to exercise these functions, that any necessary assistance from outside has to be directed. This is basically what is meant by the now somewhat tired injunction to aid agencies that they adopt a long-term development approach even when providing emergency and immediate post-emergency assistance.

There is a phase just prior to 'starting from zero', a countdown period when the *de facto* absence of effective government, for whatever reason, means that foreign and international agencies are for all intents and purposes their own masters. In such situations they may come to

feel like a government: they plan and make decisions, they take initiatives and organize, they commit and distribute resources, on all of which the immediate future of the concerned population inevitably depends to some degree. There are two major dangers here. Firstly, agencies may not operate according to the standards and principles that would be required of any government in the light of its international obligations and – to the extent that it conforms to, or is more favourable than, those obligations – national legislation. Secondly, they may become so used to this 'substitute government' role that they find it difficult to revert to being an outside agency working in a sovereign territory once the authorities are – or are prepared and wanting to be – effectively in place. Experience in the countdown period can weigh heavily on the success of efforts to 'start from zero' and on the rapidity and efficiency with which those efforts bear fruit.

In seeking to determine how the letter and spirit of the CRC might be best upheld and promoted in the context of post-genocide Rwanda, this study looks at the roles, activities and attitudes of the principal broad categories of actors – government, community, family and outside agencies – against the background of the realities, or factors, that positively and negatively influence their impact.

Given the instability, violence and human suffering that currently characterize the Great Lakes region of Africa, it may appear a futile luxury to undertake such an exercise. Hopefully, the result will demonstrate – albeit sometimes only implicitly – the contrary: that one component in any realistic attempt to regain stability, to diminish recourse to violence and to replace suffering by confidence in the future is necessarily founded on securing a common commitment to human rights, including those of children, in the context of a State where the rule of law prevails.

■ 1.3. WHY UNICEF INITIATED THE STUDY

1.3.1. Concern with protection of children in emergencies

UNICEF has always been involved in post-conflict relief – and indeed was set up precisely to respond to children's needs in such circumstances. However, particularly in the 1980s, the agency attempted with some success to move away from so-called 'loud' emergencies and to concentrate on 'silent' emergencies through resolutely develop-

ment-oriented programmes.³ Events in recent years have nonetheless forced UNICEF to temper this move: once again, it is having to devote an increasing proportion of its overall resources to 'loud' emergencies, notably those caused by armed conflict, while trying to retain a development perspective in its interventions. In 1996, the year this study was commissioned, two decisions gave a new basis for UNICEF's work in emergency situations.

The first was the adoption of a 'Mission Statement' by the UNICEF Executive Board in January, which firmly sets the overall human rights of children at the heart of its concerns. Three sentences of the Statement are of special relevance in this regard:

UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children ... UNICEF is committed to ensuring special protection for the most disadvantaged children – victims of war, disasters, extreme poverty, all forms of violence and exploitation and those with disabilities ... UNICEF responds in emergencies to protect the rights of children.

The ramifications of these stated aims for the agency's approach and potential range of activities should be considerable. In particular, they mean that henceforth the organization officially and unequivocally:

- recognizes that its responsibilities cover in principle all spheres dealt with in the Convention as opposed to the selected areas (essentially those that became qualified as 'basic needs') to which it traditionally limited its action;
- decides not to act solely on the criterion of reaching the largest number of children whose 'basic needs' are to be met, but also on that of catering for particularly disadvantaged groups, however small;
- takes on a protective role in relation to all rights and no longer purely one of service delivery;
- approaches service delivery itself from the standpoint of responding to children's rights concerns.

In practice, the work of the agency had gradually been moving in this direction over the past 10 years, but the official recognition of this new approach marks a clear institutional shift, mainstreaming activities that were previously considered 'add-ons' or marginal aspects of its overall programme.

The second decision, again by the UNICEF Executive Board (in June 1996), builds strongly on the

first by endorsing 'the perspective, policies and strategies ... regarding measures to protect children in circumstances of, or at risk of, gross exploitation, abuse, abandonment and other forms of special disadvantage, emphasizing that the protection measures should be implemented within the framework of the rights of children' and requesting that 'a higher profile [be given] within UNICEF programmes to the protection of children exposed to extreme hazards and risks'. One of the documents considered by the Board when formulating the above recommendations lists the following broad categories of 'especially difficult circumstances' to which children may fall victim and on which UNICEF should be prepared to act:

- disabling child labour;
- warfare and other forms of organized or large-scale violence;
- sexual abuse or exploitation;
- disability;
- temporary or permanent loss of family and/or primary caregivers;
- deficient laws and/or abusive legal and judicial processes.⁴

The *Review* goes on to stress both that 'the formulation of a policy relating to the fulfilment of children's rights to protection will assist UNICEF in developing a child rights approach to overall programming and advocacy' and that '[w]ithin each main sectoral area – health, nutrition, education, water and sanitation, as well as urban basic services and emergency operations – it will be necessary to consider whether the existing structures and methods of programme delivery also reach children in especially difficult circumstances.' It proposes action in terms of prevention, reduction of risk (secondary prevention), compensatory support and rehabilitation.

In summary, these two documents – the Mission Statement and the Review – thus clearly set the scene for rights-based activities throughout UNICEF's programme, more emphasis on protection work, and more attention to ensuring that children at special disadvantage have access to basic services. They can reasonably be expected to herald a new era, with special implications for work in an emergency and post-emergency context such as that of Rwanda, all the more so in that UNICEF's

3 - The former refer to one-off and usually high-profile man-made and natural disasters; the latter are ongoing situations of acute suffering, such as malnutrition or high infant mortality rates, that fail to remain in the headlines.

4 - 'Review of UNICEF policies and strategies on child protection'.

special concern for child victims of armed conflict was highlighted in its 1996 *State of the World's Children Report*, which also contains an 'Anti-war Agenda' founded on the Convention on the Rights of the Child.

Also in 1996, another very pertinent exercise in which UNICEF had played an active and prominent role was completed: the 'Study on the Impact of Armed Conflict on Children', commonly known as the 'Machel Study', requested by the United Nations General Assembly at the initiative of the Committee on the Rights of the Child. This Study, presented to the General Assembly on 11 November 1996, naturally contains research and recommendations on many of the children's rights issues that have been, and are being, faced in Rwanda – and indeed the country was one of those selected for a field visit during the research phase. The first of the Study's various recommendations directed particularly to UNICEF underscores once again the justification for reviewing approaches and activities in conflict and post-conflict situations:

UNICEF needs to accelerate development of policy and programme guidelines specifically designed for the protection of children in situations of armed conflict, with special attention given to measures for the recovery and development of those children who are displaced or separated from their families, who are living with disabilities, who have been sexually exploited, or unlawfully imprisoned or conscripted to armed groups.⁵

Several of the Study's other findings and conclusions are referred to in this report.

1.3.2. UNICEF Rwanda

The programme of UNICEF Rwanda is still classified as an emergency operation. However, all other things being equal, the office is due to embark on a three-year 'bridging programme' as of 1998, whereafter it will be set to carry out a normal country programme. This will involve *inter alia* much-reduced financial and human resources and a need both to focus energies and to set about long-term planning more systematically.

In preparation for this transformation towards a more consistently 'sustainable development' outlook, the Kigali office is seeking to finalize its determination of priority action areas and appropriate approaches for its future work. Having been obliged to undertake a predominantly

'reactive' programme to date in the post-genocide period – given the size, scope and urgency of the problems faced – UNICEF Rwanda feels that its present activities are being carried out without the desired level of coherence and intersectoral planning. Concern is also expressed over the degree to which full advantage was taken of the fertile ground that existed for promoting children's issues and rights, as well as over the ability to seize the strategic choices that offered themselves. The present study is designed in part to contribute to that process, but it is clearly only one element therein. Thus, for example, a separate and thorough review of UNICEF's Children in Especially Difficult Circumstances (CEDC) programme in Rwanda, undertaken both to document its evolution and to draw lessons from the experience, was completed while the present study was under way.⁶

■ 1.4. FIELDWORK

The fieldwork for this report took place from 9 September to 7 October and from 28 October to 12 November 1996. When the fieldwork began, Rwanda had been forgotten. Burundi, if anywhere in the region, was the focus of attention. The planes to Kigali were no longer full, even though flights to neighbouring Burundi had been suspended because of the embargo. Rwanda was no longer news. UNICEF Rwanda was preparing – albeit with an eye on outside developments – a massive downsizing in staff and operations that would begin in 1997 and hit fully in 1998.

The second part of the fieldwork took place at the very moment that the 'Tutsi uprising' on Rwanda's border with eastern Zaire⁷ exploded: end October/early November 1996. The 'rebels' gradually overran more and more of the area from Uvira, Bukavu and Goma, northwards and westwards, resulting in the abandonment of the refugee camps, the removal of the direct threat to Rwanda posed by the exiled troops of the armed forces of the former government (FAR) and *interahamwe* members in that region, and the eventual possibility for the great majority of refugees to return to Rwanda. This put into the sharpest possible perspective factors that initially had merely been elements to take into account in making the assessment. It also created a new and rapidly evolving sit-

5 - UN Doc. A/51/30b, Para. 292.

6 - 'Recovering Childhood', UNICEF Rwanda.

7 - Because the events in this report took place before May 1997, the Democratic Republic of Congo is referred to by its former name of Zaire.

uation. Gisenyi, whose overcrowded and insalubrious prison was visited in calm conditions during the first mission in September, had been shelled, was declared out of bounds by UN Security on 31 October and had been evacuated by Office of the United Nations High Commissioner for Refugees (UNHCR). Two days later, UNICEF Rwanda staff were back there in order to set up an office and assess the potential needs.

As the fieldwork for this study was coming to an end, Rwanda was therefore very much back in the headlines – on the 2 November flight from Europe into Kigali, journalists alone are said to have numbered 100. Agency staff were on full alert; UNICEF's downsizing and bridging programmes had to be – mentally at least – temporarily shelved. Anything could happen – and a great deal did.

■ 1.5. CONSTRAINTS

In addition to the overall complexities of the Rwandan situation, there were three major constraints in carrying out the fieldwork for this study:

1. Reliable, basic data are lacking – including statistics for the situation prior to 1994. Many figures are avowedly 'guesstimates' or partial, and many phenomena are the subject of conflicting data. This is not surprising in the circumstances, but needs to be recorded.
2. During the second mission to Rwanda in particular, government and agency staff were fully mobilized with planning their response with the possible ramifications of the events in eastern Zaire, and few were therefore available for the discussions that had been foreseen in the context of the preparation of this study.
3. The situation evolved with awesome rapidity, even before the influx of returnees in mid-November, and in the midst of the uncertainties it often proved difficult to adjust fact-finding and analysis to the constantly changing realities.

■ 1.6. 'STARTING FROM ZERO'

No brief title can adequately capture the complex realities of Rwanda and the challenges facing the authorities and the population – including the children – in the

immediate aftermath of and the longer-term perspectives following the 1994 genocide. And, to the extent that Rwanda obviously has a history that must be taken into account, 'starting from zero' may not even seem entirely accurate.

The choice of this title is a deliberate attempt to reflect both a certain outlook and a particular message that is to be conveyed on several fronts. 'Starting from zero' sets the tone of this study and, in so doing, seeks to translate a number of essentials:

- In July 1994, the people of Rwanda were suffering, collectively and individually, the effects of massive trauma and grief, amid the destruction of the fundamental structures that underpin social life: family and community.
- The country's infrastructure was also virtually destroyed: schools and health centres wrecked and looted, communications out of commission, administrative offices ransacked, the judicial system utterly unable to function, roads mined, no banks, precious little water and electricity.
- The new Government had nothing – no financial resources, no equipment or supplies, and almost no manpower – but it rapidly made clear that it was intent on effecting any necessary changes in Rwandan society, even if this involved, precisely, 'starting from zero'.
- International assistance was faced with problems that it had never before had to tackle, either as such, or at least on anything like the scale found in Rwanda. These included children accused of genocide and mass trauma among adults and children alike. In many cases, therefore, the agencies furnishing this assistance – including UNICEF, whose former Kigali office had, in addition, been ransacked and mined – were also having to 'start from zero'.
- The former Government had ratified the Convention on the Rights of the Child in 1990 and had then, as it is now clear, proceeded actively and knowingly to violate both the letter and the spirit of the treaty in innumerable ways over the ensuing four years. In this sphere, there can be absolutely no doubt: Rwanda really was 'starting from zero'.

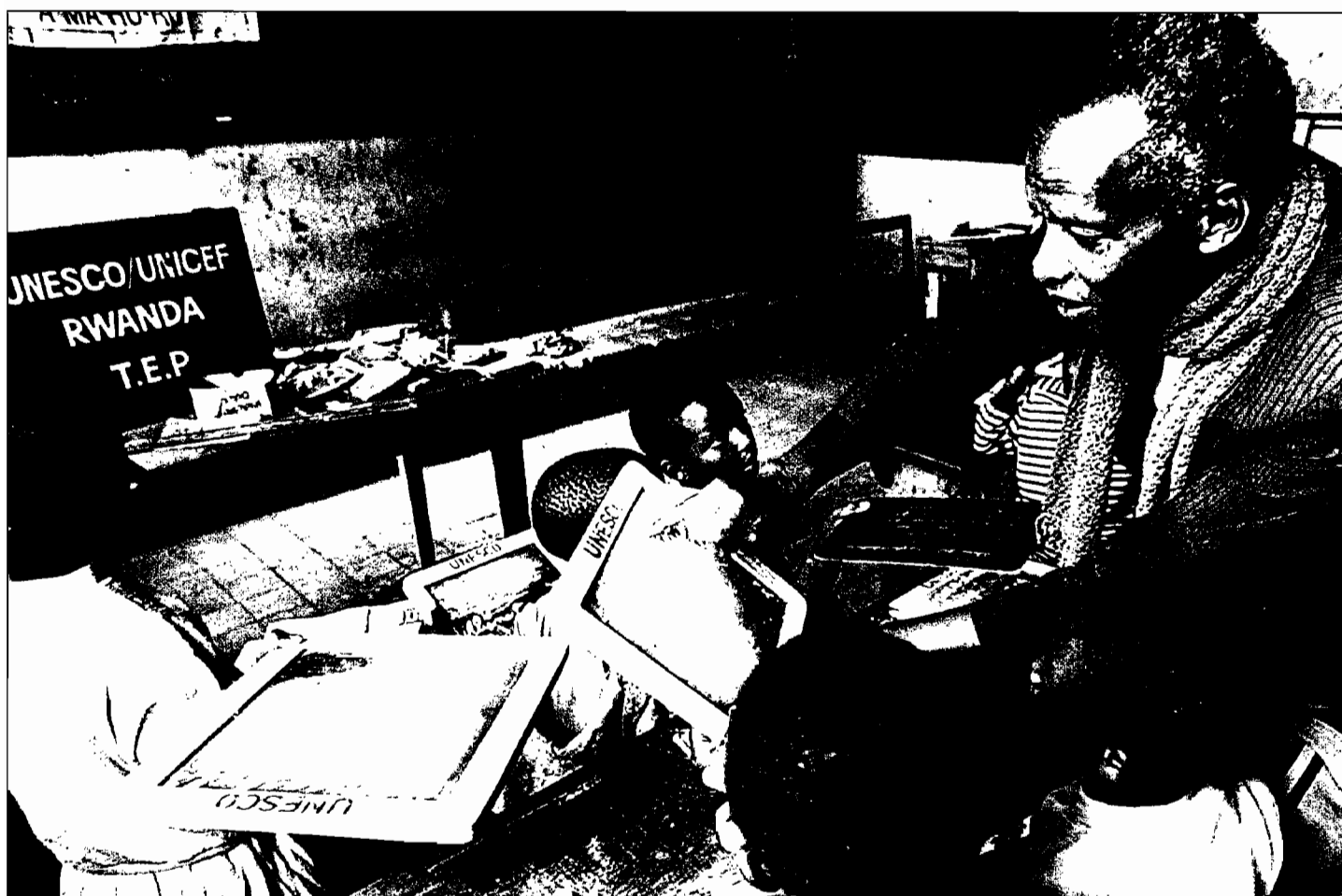
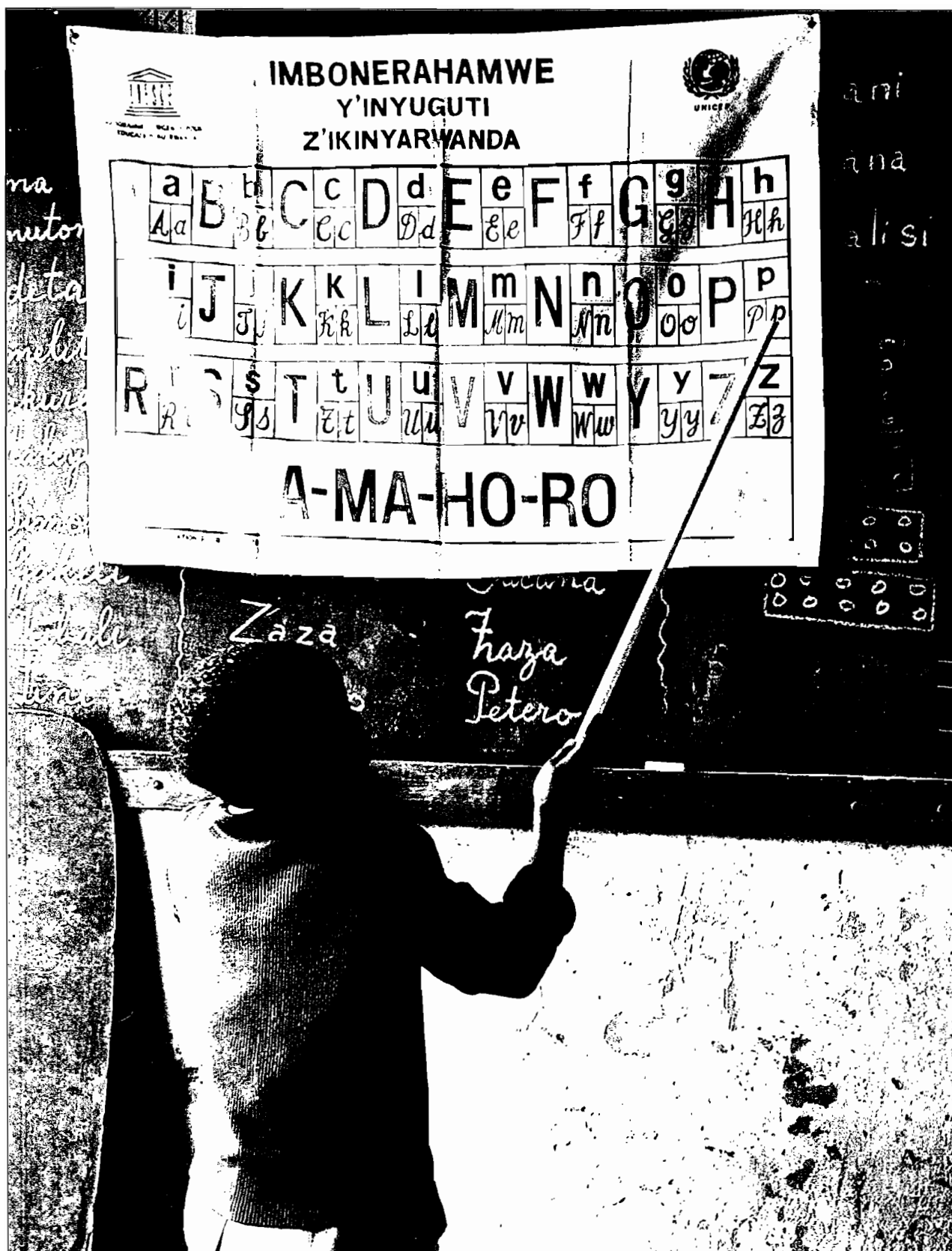


Photo by UNICEF/B. Press

A teacher in a primary school north of Kigali holds class using supplies from a 'School in a Box' (cf. 4.2.1.). Schooling in post-conflict situations helps to restore an element of structure, routine and normalcy to children's otherwise disrupted lives. Despite that, it is rarely considered a priority in relief programmes, although Rwanda appears to be an exception. With the backing of the Government, UNICEF and UNESCO provided 9,000 Teacher Emergency Packages in late 1994, with materials and supplies for more than 700,000 primary school pupils. The programme also provided for rudimentary teacher training, which, among other things, covered ways to identify psychosocial trauma.



Rebuilding the school system in Rwanda, as well as enrolling the estimated 25 per cent of the primary school age population presently not in school, are formidable tasks for the country (cf. 4.2.1.). Schools were destroyed or ransacked and most teachers either fled or were killed. From a CRC perspective, reaching the 300,000 children who are out of school is the major priority in the field of education, not only in view of the requirement to extend all rights to all children, but also because of the key 'normalizing' role of school.



'Education for peace' has a special role in efforts to bring about justice and promote reconciliation. The Ministry of Youth, Sports and Vocational Training has organized Youth Solidarity Camps for 14- to 18-year-olds since 1996, with the aim of promoting cooperation, self-esteem and self-awareness (cf. 4.2.1.3.). The camps bring together about 1,000 young people of both sexes and main ethnic groups. They also incorporate special community projects that contribute to national reconstruction, with activities including crop-planting, house construction and, as shown here, brick-making.

2. BASIC CONSIDERATIONS REGARDING THE APPROACH

■ 2.1. IMPORTANT FEATURES OF THE CONVENTION

The CRC is a minimum internationally agreed standard, the obligations stemming from which have been formally accepted by ratifying States – the States Parties. It is a treaty, and its legitimacy and perceived importance derive essentially from the fact that it is an international legal instrument. This legitimacy enables the CRC to be of use for purposes other than being a checklist of government obligations towards children. But there are dangers:

- the fundamental importance of the legal character of the CRC should not thereby be diminished or disregarded;
- the additional purposes for which it may be useful should be carefully thought out.

One important consequence of the CRC's legal nature lies in the choice of language in which the obligations – or rights – are set out. That language is invariably deliberate, and is often the result of lengthy negotiation. Paying due attention to the terms used is an exercise in rigour that, when using human rights treaties, is not the sole responsibility of jurists. It is vital to understand the exact nature of the right that can be promoted or claimed, and of the obligation that is to be respected. Failure to take such a rigorous attitude results in so many possible 'interpretations' of the Convention that its very foundations – a common acceptance of the meaning of those rights and obligations – may cease to exist for all practical purposes.

The CRC's principal contribution in addition to its binding nature on governments is, precisely, that it provides a common reference point for approaches to children and to action in their favour. This feature can be used to effect attitude change at all levels, as a corner-

stone of training and as an instigation to cooperation and coordination. But a treaty is not conceived, for instance, as a programme of action or a basis for programming as such. Attempts to turn it artificially into tools of this kind are misplaced and can lead to a completely unnecessary, and often counter-productive, complication of the issue.

The CRC sets the minimum standards that we should be seeking and helping to get upheld, as well as respecting and fighting to foster when necessary. The CRC sets the goals and indicates the approach. It should not be asked or manipulated to do more.

Making good use of the CRC as a framework and/or springboard for programme response naturally implies thorough knowledge of both its *content* and its *intent*. The following considerations highlight some of the major characteristics of the treaty that have programming ramifications.

2.1.1. The CRC does not determine priority groups or concerns

For good reasons, the CRC does not explicitly set out priorities as to which groups of children should receive the most immediate attention or which kind of problems are to be tackled first. Probably the nearest it comes to doing so is in the eleventh paragraph of the Preamble,⁸ where it notes that 'such children [in especially difficult circumstances] need special consideration'. It might also be said that the non-discrimination provisions in article 2 implicitly demand that children who are found to be victims of discrimination on any grounds, including sex and disability, are entitled to particular concern through com-

8 - The Preamble, while not of a binding nature, is an important element in the interpretative framework for obligations contained in the operative provisions.

pensatory measures or 'positive discrimination', but whether or not this involves priority action remains very much a moot point. Equally, the child's 'inherent right to life' contained in article 6 may be viewed as so basic as to constitute a *de facto* priority. Such a standpoint, however, must be tempered by the considerations below.

2.1.2. All rights in the CRC are of equal importance

One of the first general pronouncements of the UN Committee on the Rights of the Child concerning its approach to the provisions of the CRC was the following: 'all the rights are indivisible and interrelated, each and all of them being inherent to the human dignity of the child. The implementation of each right set forth in the Convention ... should therefore take into account the implementation of, and respect for, all the other rights of the child.'⁹ This corresponds closely to the intention of the drafters. In other words, there is no *inherent* hierarchy according to which, in any given situation, primary or exclusive attention should always be paid to ensuring respect for one or more identified rights. This does not mean, of course, that priorities for action may not be set according to the situation encountered and resources available, but simply that those priorities should be determined on a case-by-case basis and should consistently take account of all other rights.

2.1.3. No rights in the CRC can be understood in a vacuum

It follows that no single right can be taken alone, as in a void. To understand the meaning and intention of a given right implies seeing it in the light of the whole. Paragraph 1 of article 15 in the CRC, for example, stipulates that the child has the right to freedom of association (the principle of which had already in fact been enshrined for all human beings, regardless of age, in the 1966 International Covenant of Civil and Political Rights); this causes consternation in many circles as giving *carte blanche* to children of any age to join any kind of group. Such concerns are misplaced. The second paragraph of the same article sets limits to this right, article 5 gives parents the responsibility for providing 'appropriate direction and guidance in the exercise by the child of the rights recognized' in the CRC, article 18 states that, when fulfilling their responsibilities, parents shall have the best interests

of the child (see 2.1.6. below) as their basic concern, and the core purpose of article 15 is anyway to prevent *arbitrary* prohibition – particularly by the State, in fact – of gatherings and of the founding of groups or bodies by young people.

Comprehending the CRC – and therefore being in a position to use it correctly and effectively – depends in large part on grasping its overall philosophy. Exercises such as the above are necessary to bring this about.

2.1.4. All rights are always applicable

There is no derogation clause in the CRC. Whatever the circumstances, therefore, all rights in the treaty are applicable at all times, not just in periods of relative stability. Indeed, it can be argued that in disaster and post-disaster situations such as that of Rwanda, the heightened risks of non-fulfilment and violation of rights in the CRC make it all the more necessary to maintain vigilance as to their promotion and protection, and to build the bases for their fulfilment in the future. While the characteristics of such situations naturally make consistent monitoring a formidable challenge, the principle of 'all rights at all times' is fundamental to any effort to foster the treaty's impact.

2.1.5. The CRC contains certain basic guidelines for approach

Essentially, the CRC sets standards. In several instances, however, it goes beyond this to indicate precise objectives that these standards are designed to meet, or even paths to follow in order to attain these ends. Invariably these guidelines deal with spheres that are of fundamental importance for efforts to promote implementation of the CRC in Rwanda.

Basic to the philosophy of the CRC, for example, is the principle of enabling the child to remain in, or return to, the care of his or her family whenever possible. This can require providing active support to the family so that it can fulfil its responsibilities in this regard.

At the same time, it sets out alternative forms of care that can be offered to children who, for whatever reason, cannot live with their families. In this context, the CRC implies that family-based solutions – such as foster care or adoption – are generally to be preferred to institutional

9 - Committee on the Rights of the Child, UN Doc. A/49/41, p.3.

placement. In no way, however, does it say that, of themselves, such placements are automatically harmful to the child. Indeed, it stipulates certain conditions (e.g. in art. 3.3) that must obtain in institutions. Equally, and in the same vein, while recognizing in the Preamble that 'for the full and harmonious development of his or her personality', the child 'should grow up in a family environment', it does not thereby accord some kind of absolute *right* to a family, contrary to what has mistakenly been claimed in some quarters. It simply states an agreed general approach, but one that – for understandable practical reasons – carries no formal and absolute obligations.

The above is very pertinent when considering the 'subsidiarity principle' that the CRC applies to inter-country adoption – a principle that, moreover, becomes a 'subsidiarity rule' by virtue of the 1993 Hague Convention on this question. Thus, while there may be general agreement that long-term institutional care is to be avoided wherever possible, there is an equivalent enjoiner in regard to intercountry adoption, which 'may be considered' only if a child 'cannot in any suitable manner be cared for in the child's country of origin'. The issue of the extent to which institutional placement fulfils the suitability criterion has to be determined on a case-by-case basis, taking into account the characteristics of the institution together with the needs of the child. While this question is apparently not a subject for debate at the present time in Rwanda, given the Government's firm stance against intercountry adoption, it may well have to be tackled in the future once the post-emergency period is deemed to be well and truly over.

Another particularly significant sphere for Rwanda that is covered by the CRC in conjunction with other, more detailed international instruments (the 1985 Beijing Rules for the Administration of Juvenile Justice and the 1990 Rules for the Protection of Juveniles Deprived of their Liberty, both adopted by the UN General Assembly) is that of the aims of the juvenile justice system and of custodial sentences. The principle clearly upheld is that – regardless of the offence – due process shall be guaranteed, sentencing shall avoid deprivation of liberty whenever possible, and any sentence – including deprivation of liberty – shall be directed to promoting 'the child's reintegration and the child's assuming a constructive role in society'.

Following such guidelines when they exist – one could cite several others, including those relating to 'aims of education', for example – is necessary when determining the appropriate approach to a given problem.

2.1.6. The implications of the 'best interests' principle

The three most important aspects to be noted about the implementation of the principle of the 'best interests of the child' – not a new term but one that has sparked much discussion since its prominent inclusion in the CRC – are the following:

1. The best interests of the child are not defined in the CRC because they cannot be: the solution they dictate or suggest will depend on the issues involved, the context in which they appear, and the child or children concerned.
2. The best interests of the child must be taken into account in decisions, but, contrary to what is frequently written, there is no requirement in the CRC that they hold sway over all other considerations. The only exception to this is in regard to adoption, where the child's best interests alone are *the* – rather than just *a* – primary consideration.
3. Most importantly, perhaps, a decision on the best interests of the child cannot be taken without reference to his or her rights, nor can those rights be implemented without reference to the child's best interests.

The implementation of certain rights is explicitly restricted, in the treaty itself, if the child's 'best interests' would thereby be threatened: contact with both parents (art. 9.3) for example can be abrogated if the child is deemed to be at risk in the company of one or the other parent.

But arguably the main use of the 'best interests' principle lies in determining *how*, rather than *whether*, to implement the rights of a child or group of children. In the case of Rwanda, an excellent example is that of children accused of acts of genocide who were under-14 – and thus under the age of criminal responsibility according to national law – when those acts were allegedly perpetrated. The decision to transfer them from ordinary prisons to a special centre, rather than simply returning them directly to their families or communities, was based on the conviction that both they and their families or communities will need to be fully prepared for their return, otherwise their lives may be in danger. It was therefore deemed to be in their best interests that their right not to be held criminally responsible be given effect in this manner. This solution also coincided with the perceived interests of the community.

Attempts to abuse the application of the 'best interests' principle are frequent but usually easy to identify.

They normally involve claims that one or more rights must be *disregarded* in order to enable other rights to be realized. This is the case, for example, when it is suggested that – ‘in their best interests’ – children evacuated to Europe be made available for adoption there because of the better physical security and material comfort, but in conflict with rights relating to, *inter alia*, identity (including family relations) and safeguards in the adoption process.

■ 2.2. PUTTING THE CONVENTION TO PRACTICAL USE: A REVIEW OF CONCEPTS AND TERMINOLOGY

The concepts and terminology used as the basis for analysis, strategic choices and programming are of fundamental importance. This is not a question of semantics or a luxury exercise in academic conjecture. Concepts and terminology, once decided upon and engrained, determine to a surprising extent the subsequent approach to the issues concerned. There follows a discussion of some of the main premises on which UNICEF as a whole has founded its activities in recent years and that may impact on the Rwanda programme.

2.2.1. ‘Survival, development, protection and participation’

It is submitted that one of the more regrettable concepts that UNICEF has come to take on board – regrettable, in particular, because of its subsequent ramifications for the agency’s workscheme – is that of the ‘survival, development, protection and participation’ breakdown of the content of the Convention. Acceptance of this grouping is all the more unfortunate in that it is now widely used throughout the agency as a basis for programming and organization.

It is important to understand both why this happened and why its erroneous nature now leaves the wrong perspective underpinning UNICEF programmes, with clear implications for that of Rwanda as elsewhere.

In the mid-1980s, those involved in the drafting of the future CRC, and in trying to explain its likely significance (notably NGOs), were seeking a succinct way of describing to a lay public the overall content of the treaty. They agreed on the ‘3Ps’: Provision (of goods and services), Protection (from arbitrary and harmful acts) and Participation (in decision-making and in society as a whole).

This summary description met with considerable success as a means of giving a broad idea of the future Convention’s provisions – indeed, it is still quite frequently used for that purpose – and initially UNICEF went along with it uncomplainingly. In the final stages of drafting, however, and once UNICEF had successfully ensured the inclusion of article 6, which makes explicit reference to the UNICEF terminology of ‘survival and development’, it decided that the first ‘P’ – Provision – should be replaced by those concepts. It must be remembered that at that time – the late 1980s – the main thrust of UNICEF’s nascent Convention-related activity was directed towards global advocacy, which had to be consistent with what were effectively termed the ‘survival and development’ priorities of its work.

The immediate result of this move was that ‘survival and development’, which most would consider to be – by any other name, at least – the two basic *goals* of the CRC, replaced one of the *means* of reaching those goals (Provision) and were set alongside the two remaining means (Protection and Participation). The illogical nature of this amalgam is exacerbated by the fact that, whereas the 3Ps could demonstrate the need for a three-pronged approach to any children’s issue, ‘SDPP’ might lead one to believe that, for example, protection is not necessary for ‘survival’, and participation is not a feature of optimal development. This becomes of major practical importance when the grouping is used for organizing and structuring institutional responses rather than for explaining the content of the CRC as initially foreseen.

Thus, when – as is often the case – programme response is conceived on the basis of determining whether a situation involves, on the one hand, ‘survival and development’ or, on the other, ‘protection and (if one is lucky) participation’, the result is an implicit division, not of tasks, but of children, whose much-vaunted ‘holistic’ needs and rights are thereby unceremoniously dissected. ‘Protection’, marginalized from the traditional thrust of UNICEF action, becomes the domain of CEDC and the specific groups of children it was set up to cater for (but see below). ‘Participation’ is left in a vague limbo, a responsibility of all, but the task of no one.

Any categorization – including both the 3Ps and ‘SDPP’ – albeit conceived with positive and logical intentions and for specific purposes, is fraught with dangers. It can become a too-rigid reference base that is used more out of habit and for convenience than because of its genuine applicability to a given issue. This said, and even though the 3Ps were themselves not intended to be the basis of a strategic plan, if used in this way they nonethe-

less clearly reflect the necessary input from all three sectors in order to reach the 'survival and development' goal. If there is to be categorization, a return to this concept would undoubtedly correct a long-standing mistake and constitute a more useful baseline from which to launch a readjusted, CRC-inspired programme response.

2.2.2. 'Children in Especially Difficult Circumstances', Protection and the CRC

Despite the *Review of UNICEF Policies and Strategies on Child Protection* and a wide range of other reports and documents detailing the results of reflection – within UNICEF as a whole as well as in UNICEF Rwanda – on CEDC, protection, and the implementation of the CRC, there remains much confusion over the meanings and interrelations of these three concepts and therefore over their practical implications. This clearly affects the way in which UNICEF programmes are conceived and carried out with governmental and non-governmental partners.

In the above-mentioned *Review*, UNICEF established a non-exhaustive list of circumstances in which children may require special protection measures (see under 1.3.1.). This is accompanied by a welcome move to take as the starting-point for programming the determination of *circumstances* that are to be qualified as 'especially difficult' rather than the categorization of the *children* who are the victims of those circumstances: in other words to shift from a CEDC to an 'EDC' approach. The main programmatic implication of this move is viewed as being that, alongside targeted protective action, basic services (health, education, etc.) should henceforth be planning to incorporate delivery in 'especially difficult circumstances' into their analyses and strategies as opposed to designing a completely separate delivery system. This too is a positive notion.

The experience of UNICEF in Rwanda nonetheless tends to indicate that this thinking has to be taken further in order to produce the most effective response. To a considerable extent, the issue revolves around the concept of 'protection' – which is not defined in the *Review* – as the possible link between (C)EDC and the CRC.

In the context of children's rights, 'protection' can be looked upon in several ways that are not necessarily mutually exclusive:

a) it can denote action taken to prevent harm from being inflicted; it would thus correspond to promoting and defending the 'rights to protection' contained in the CRC;

b) it can be seen in terms of the 'protection of rights': either (1) all rights for all children, or (2) all rights for children in defined especially difficult circumstances;

c) it can constitute one facet that must be taken into account in all action in response to the situation of a child or group of children (as one of the 3Ps – see 2.2.1. above).

The protection of all rights for all children (b.1) is clearly one of UNICEF's overall responsibilities (cf. Mission Statement), and determining the protective facets required in any action for children (c) is equally necessary throughout the UNICEF programme. The essential question posed therefore concerns the link between (C)EDC activities and protection: they are not necessarily one and the same, as is often assumed.

The choice involved is simple but fundamental. Either (C)EDC activities involve taking responsibility for fostering or ensuring fulfilment of 'rights to protection' (a), or they are designed to ensure that an appropriate overall response is given to children whose situation is defined as being 'especially difficult' (b.2).

It should be noted at this point that there exists a sizeable school of thought within the international community in Rwanda according to which, to all intents and purposes, *all* children in the country are CEDC – in effect, that present-day Rwanda itself constitutes an 'especially difficult circumstance'.¹⁰ While this may seem superficially an attractive approach, backed up notably by the fact that nearly all children in Rwanda have undergone a traumatic experience in recent years and most are living in conditions of economic insecurity, the above considerations show that its translation into programming terms would not be helpful. 'Especially difficult circumstances' should not be seen simply as equivalent to general vulnerability – which is exposure to risk – but as specific situations requiring measures over and above those to be applied on a general level in any given country situation in order for rights to be respected. In other words, 'EDC' must be looked on in good part as a relative concept.

Equally, the virtually exclusive association of (C)EDC with UNICEF's promotion of, and advocacy on the basis of, the CRC has to be quashed. It is a natural outcome of the fact that UNICEF has so far made use of the instrument more especially when taking up issues that it had not tackled previously – largely those falling

10 - It is worth noting that, at a CEDC Regional Network meeting in Nairobi, 14-16 November 1996, a similar view was expressed by several UNICEF staff from elsewhere in the East and Southern Africa region in relation to their own country situations.

under the (C)EDC heading – and for which it sought justification and guidance in the CRC. However, there is of course no objective logic to this historical linkage being maintained – on the contrary, there is every logic in ensuring that the CRC is removed from the sole sphere of (C)EDC or ‘protection’. This is important not only from an ‘internal’ point of view, but also in terms of the message sent to governmental and non-governmental partners and, hence, the approach taken to all children’s issues.

In the case of UNICEF Rwanda – for the above naturally has wider implications – this debate has particular importance in defining long-term responsibilities in relation to children found to be in especially difficult circumstances. Two examples can be used to illustrate the problem:

1. Children under the age of criminal responsibility and accused of genocide, who were being held in adult prisons, clearly required a ‘CEDC intervention’ with a view to ensuring their transfer to a setting that would

correspond to CRC standards. This transfer has to be accompanied by steps to ensure cooperation – both among sectors within UNICEF and from governmental partners – in the spheres of health, education, sanitation, etc. These children will then in principle no longer be in special difficulty: their situation should be henceforth in conformity with their rights. Responsibility should therefore be handed on from CEDC. This has not been the case.

2. Children in, or attached to, the armed forces are also undeniably in ‘especially difficult circumstances’. The ‘CEDC intervention’ is to be directed to ensuring that they are demobilized and that the social reintegration process foreseen is in conformity with their rights – including those of protection and participation. Once demobilization is decided, appropriate conditions for its implementation should be created, and responsibility should then be handed on from CEDC. Again, this was not the case.

3. BACKGROUND AND COUNTRY SITUATION, JULY 1994

■ 3.1. BACKGROUND

This study is not an appropriate context in which to consider at length the complex background to the genocide. Nonetheless, a number of facts and issues have to be mentioned if discussion of the post-genocide problems and responses in Rwanda is to be minimally comprehensible.

In the 16th century, Tutsi clans settled as stock-breeders in Hutu statelets that are now within Rwandan territory. When Belgium was entrusted with the mandate to administer Rwanda by the League of Nations in 1926, it first used support to the Tutsi clans and monarchical structure to maintain order. In 1933, the Belgian administration set up a system of identity cards showing the bearer's ethnic group, which crystallized the supposed distinction. In 1945, the UN placed Rwanda under the trusteeship of Belgium with a view to the country's moving towards self-administration and independence. As part of this process, free elections were finally held in 1956, at which point the strength of the Hutu electorate became clear. Belgium subsequently deserted the Tutsis and allied itself with a Hutu uprising in 1959 – which led to a massive exodus of Tutsis to neighbouring countries – actually denouncing the Tutsis as the veritable original colonialists.

Independence was achieved in 1962, but there followed 30 years of recurring instances of severe violence and killings, resulting in a growing Tutsi population in exile. Those refugees in Uganda founded the Rwandan Patriotic Front (RPF) in 1988, which invaded Rwanda two years later but was repelled. Thereafter, despite ceasefires and international 'mediation', attacks, massacres and internal displacement intensified, as did ethnic-political propaganda attacking Tutsis within the country. By early 1994, the *interahamwe* (Hutu civil mili-

tia) had been armed and trained in preparation for the genocide, according to a plan drawn up by a group of government officials ostensibly headed by President Habyarimana.

The President was killed in the 6 April plane crash apparently engineered by his own partisans, and this was the signal for the genocide to start, directed at both Tutsis and at the so-called 'moderate' Hutus who had resisted the anti-Tutsi propaganda. Within two days, the RPF invaded from Uganda. On 28 April, 250,000 Hutus fled to Ngara (Tanzania) in the space of 24 hours. The RPF quickly swept southwards to Kigali, finally taking the capital on 4 July. By that time, the UN Security Council had authorized France to launch *Opération Turquoise*, and as the RPF continued to advance south-westwards, the flow of displaced persons into the French 'safe zone' (in the south-west) intensified. Finally, just four days before the RPF took the last government stronghold and declared an end to the war, an estimated 850,000 Hutus, including 40,000 ex-government troops and probably a similar number of members of the *interahamwe*, fled the 'safe zone' in the space of just four days (14-18 July) and sought refuge in Goma, Zaire, their fear of the RPF advance fanned by continuing propaganda. The new Government of National Unity was installed on 19 July, and many Tutsi exiles subsequently returned to the country after as many as 30 or more years' absence.

It took weeks for the media to begin to comprehend the basics of what was happening in Rwanda; if difficulty of access was the partial cause, there was also the feeling that the 'events' were simply a continuation of the sporadic killings and massacres that had been taking place in recent years without undue attention being paid to them. And it took several more weeks before their realization was translated into a general understanding that, in particular:

- the downing of the President's plane was apparently deliberate, a signal to launch the carnage, not an accident that sparked off the fighting;
- the RPF advance was a last-ditch riposte, not an arbitrary invasion;
- this was genocide, not a particularly brutal civil war;
- the 'ethnic division' had been deliberately cultivated rather than being the result of spontaneous growth;
- the effect of *Opération Turquoise* in practice had been to create a safe haven for the perpetrators, not the victims, of the genocide;
- the proclamation of the creation of the RPF Government was more than 'just another *coup d'état*' in Africa – it was a last-chance effort to put an end to destructive injustice that had been wrought for decades.

This much simplified account serves to explain a number of present-day realities in Rwanda, including:

- the polemics over the fundamental causes of ethnic divisions and, thus, of the genocide, especially the role of the colonial power;
- governmental attitudes towards the international community, which is deemed to have known enough in the early 1990s to enable the genocide to have been avoided and is seen, through its approval of *Opération Turquoise*, to have facilitated the escape of those responsible;
- mistrust not only between Tutsis and Hutus, but also among Hutus themselves;
- the mistrust with which Hutus who are still outside the country, ostensibly as refugees, are regarded, since it is felt that their apparent unwillingness to return must stem from their implication in the genocide, especially since members of the ex-government army and *interahamwe* are among them. The number of returnees was indeed down to a trickle (at the very most a few hundred in a 'good' week) until the mid-November 1996 events in eastern Zaire.

■ 3.2. COUNTRY SITUATION IN JULY 1994

It is important to bear in mind constantly that the situation of Rwanda is one of not only post-genocide, but also post-war. Thus, not only has it suffered massive targeted, face-to-face killings on ethnic lines, encouraged, facilitated and carried out largely by civilians, including religious leaders, neighbours and even family members of

the victims, but it has also experienced the human and material destruction and devastation (shelling, mines, looting, breakdown of basic services) that is wrought more especially during conflict between armed forces.

3.2.1. Population

Even population statistics from before the genocide vary widely, despite the 1991 census, which gave a national figure of 6.5 million. UNICEF has quoted the 1993 population as being 7.8 million,¹¹ and other (though in principle less authoritative) sources in fact put the figure at over 8 million.

Probably up to 2 million people (essentially Hutu) sought refuge outside the country during the genocide: two thirds in Zaire, one third in Tanzania. Almost simultaneously, hundreds of thousands of former Tutsi refugees returned to the country, especially from Uganda.

There is a continuing debate on the number of victims of the genocide. The international community now generally views the initial estimates of over 1 million (a figure still often quoted officially today) as being exaggerated; the highest figure usually mentioned at present is 800,000, with an increasing tendency to refer to 'at least 500,000'. In the light of such vast numbers, whatever the exact figure, this debate may appear to be somewhat hollow. The discrepancies are fertile ground, however, for revisionist tactics to spawn, with attempts to deny the real nature and magnitude of the events. There is growing pressure for precise documentation to be carried out to end the disputes and enable the mourning to take place on the basis of an accepted reality. The Paris-based association Memorial International was to embark on an initiative to document each and every death with these aims in view.

In the meantime, it seems reasonable to estimate the total population in July 1994 as being in the region of 5 million. The Government now states that almost two thirds of today's adult population are females (250,000 women were reportedly widowed because of the genocide and war), but there is a lack of hard data in this regard.

3.2.2. Infrastructure and communications

While some parts of the country were worse hit than others, the overall situation was an almost total breakdown of the country's infrastructure and services, partly because

11 - 'Progress Report 1', UNICEF Rwanda.

Kigali, at the centre of the network, had been the theatre of the heaviest fighting for over two months and was virtually deserted of civilians by the end. Telephone and radio communications were destroyed. Most schools (which closed down within days of the genocide starting), health centres and hospitals were out of commission, having been ransacked and damaged like all public buildings. Water supply lines, though usually intact, had not been maintained and were non-operational. Many individual homes had also been pillaged and wrecked; livestock had been killed and crops laid to waste.

3.2.3. Government

The newly formed Government had literally nothing: the national reserves had been looted. The new ministers

who were appointed – many of them returnees to Rwanda after decades in exile – had no staff and in many cases not even a chair and a desk, let alone a telephone or means of transport. Gradually those staff who had escaped the massacre and had not fled abroad began returning to work in their previous ministries. Many were still, however, having to come to terms with massive and bestial killings in their family, often perpetrated before their eyes, and the not infrequent implication therein of people they had previously trusted or considered as friends. They were now expected to sit calmly round a table working out and budgeting for reconstruction and rehabilitation programmes. The personal tragedies and the overall post-genocide climate, coupled with lack of communications and supplies, were obviously massive obstacles to setting to work.



The tragic genocide and war left thousands of children without parents, and the massive flows of refugees separated many more thousands of children from their families (cf. 4.3.1.1.). As order was restored to the country, the process of family tracing for possible reunification began. In many cases, such as that of this young boy whose parents and brother were killed during the genocide, family tracing can at best locate members of the extended family who are able to take in the child. Owing in part to the massive scale of the situation in Rwanda, and to the fact that huge fractures exist within Rwandan society and even within families, much debate has arisen over approaches advocating the placement, at all costs, of children with families.



This boy at a centre for unaccompanied children has been photographed to assist attempts to trace members of his family (cf. 4.3.1.1.). Officially, more than 20,000 children had been reunited with their families as of the summer of 1996, and family tracing continues to involve UNICEF and several NGOs. Amid differences of opinion, centres such as this one continue to house children until suitable alternatives can be found. Foster care, especially informal care, has flourished, with as many as 400,000 children being looked after by families other than their own.



Photo by UNICEF/R. Lemoyne

After living as a refugee in Zaire, this unaccompanied 8-year-old girl is reunited with her uncle in a western Rwandan village. It is widely believed that most families – including newly married couples, the elderly and impoverished widows – are now looking after at least one child who is not their own, placing a great deal of strain on the institution of the family in Rwanda (cf. 5.1.3.).



Centres for unaccompanied children, such as the one housing these four youngsters, grew steadily in number during the first months of 1995, when some 77 such centres were caring for nearly 13,000 children (cf. 4.3.1.2.). Owing in part to efforts by the Government to close centres and to family tracing, the number of children living in them had been nearly halved by the autumn of 1996.



Photo by UNICEF/B. Press

The size of the Trauma Recovery Programme initiated in Rwanda, like the magnitude of the problem itself, is unprecedented (cf. 4.3.2.). But because of the vastness of the problem, achieving a wide and timely outreach has proved extremely difficult. Trauma alleviation programmes seek to help children rebuild optimism, and among the methods used is that of recounting the experience orally, in writing or in a drawing. Intervention is particularly important for adolescent boys, like this 16-year-old Tutsi orphan who is reading his story to other students in the centre for unaccompanied children where he lives.

4. RESPONDING TO THE POST-GENOCIDE AND POST-WAR SITUATION

■ 4.1. THE IMPACT OF THE CRC

The extent to which the CRC has impacted on policy and programming in Rwanda – or elsewhere – cannot be measured by the number of times it is referred to in project documents or activity reports. If that were the case, unbounded optimism would be the order of the day.

The real indications of the impact of the CRC are often, naturally, far more subtle and therefore more difficult to detect. They lie, for instance, in the type of programmes undertaken and projects launched and in the kind of problems they address. They lie in how, and with whom, these initiatives are carried out, and for what purpose. They lie in the degree to which efforts have been made to build on previous experience. And in many other aspects besides.

In other words, the fact that a project for war-traumatized children, for example, is expressly founded on article 39 of the CRC is no guarantee in itself of the treaty's impact on the content of the project; but the very fact that a survey is carried out to determine community attitudes towards children allegedly involved in the genocide – in order to determine how best to ensure the children's social reintegration – is a strong indicator of the CRC's influence, even if the treaty is not mentioned by name in the 'project justification'. Equally, a call to close down all centres for unaccompanied children may appear to constitute a forceful example of advocacy based on the CRC, while a project to build detention facilities for 14- to 17-year-olds might be qualified as running diametrically counter to the treaty's philosophy. A closer look could well reveal that the arguments for and against each initiative are not quite so black-and-white as they may seem at first sight, however, and that inspiration from the CRC is at least as present in the latter policy as in the former.

This section describes efforts to respond both to

generalized problems affecting children and to situations faced by specific groups. Explicitly or implicitly, the review should bring to light the elements that provide insight as to the degree to which, six years after coming into force, the CRC has – or has not – become an accepted and integrated basis for action by whoever works for children.

■ 4.2. RE-ESTABLISHING BASIC SERVICES

4.2.1. Education

4.2.1.1. Primary education

The events of April-July 1994 annihilated the school system: most teachers were either killed or had fled the country, and school buildings were destroyed and ransacked. Although the Machel Study notes that '[e]ducation has a vital role to play in rehabilitation, yet is rarely considered a priority in relief programmes',¹² the response in Rwanda would seem to be an exception. Both Government and agencies demonstrated clear awareness of the importance of schooling in post-conflict situations in that it serves above all to restore an element of structure, routine and normalcy to children's otherwise disrupted lives. Indeed, the UNICEF Education Project Officer arrived in Kigali in mid-July, just one day after the ministers of the new Government had been appointed, with the responsibility of organizing a response to the educational emergency. From its inception this response was carried out as a joint programme with UNESCO-PEER (Programme for Education for Emergencies and Reconstruction).

12 - Para. 200.

A planning meeting was held in early August, by which time the Ministry of Primary and Secondary Education (MINEPRISEC) had a total of just 10 staff. It was decided to base planning on a projected primary school enrolment of initially 700,000, corresponding to about 60 per cent of the estimated number of children in the 6-14-year-old age range. The Government's aim was to have the system up and running, come what may, by 19 September 1994. Radio Rwanda was used to contact former teachers and to recruit replacements. In cooperation with the recently arrived Project Officer for psychosocial recovery, the Education Officer put together a Teachers' Emergency Package, an improved version of the TEP prepared for Somalia by UNESCO, with emphasis on basic literacy and numeracy skills. Each kit contains a step-by-step manual for one teacher and sufficient materials for 80 pupils over a maximum three-month period. Nine thousand were ordered, thus catering for a potential initial intake of 720,000. By providing rudimentary training – covering psychosocial trauma as well as use of the TEP – to selected teachers in each *préfecture* and having them provide training in turn, with their trainees in turn becoming trainers, it proved possible to reach a core group of no fewer than 11,000 teachers by the time the schools opened, on schedule.

Follow-up to this rapid and, under the circumstances, apparently effective response has probably not been given the importance it deserves by UNICEF, the principal partner, in terms of human resources, material assistance or institutional support. While there are now more than 19,000 teachers, some 70 per cent of them are avowedly underqualified; those with the least experience and qualifications are hard pressed to maintain motivation, earning just US\$10 per month (the highest paid earn almost US\$50). The population in the 6-14 age-group is now estimated at 1.2 million, but about one quarter are not enrolled in school (similar to the corresponding pre-war figure¹³). It is not clear what proportions of this percentage are to be put down to one or more of the factors of mobility and distance from school, poverty or parental attitude towards the utility (or cost-effectiveness) of education, though the latter is generally claimed to be of special significance in the context of present-day Rwanda. This may be especially so in view of the large numbers of children in some form of foster care (see 4.3.1.3) for whom the investment in schooling may appear unwarranted to the foster parent(s).

There are persuasive grounds for considering that the integration of the 25 per cent non-enrolled children into the primary school system should, if the choice has to

be made, take priority over (though hopefully not preclude) improvements in the efficiency and quality of education. It is certainly the most directly CRC-related concern, and not only in view of the requirement to extend all rights to all children. In addition to the fact that this group of children obviously constitutes a high-risk contingent when they enter adolescence, the major argument lies in the previously mentioned 'normalizing' role that school plays for children in a post-conflict situation. The sequelae of the genocide are clearly still very present and will continue to be so, particularly for those children who have been excluded from the security-building experience of school attendance. These 300,000 children will be the hardest to reach, but if the immediate post-conflict response is to have any real value, they will have to be reached. The first step must of course be to determine the essential reasons behind non-attendance. This might reasonably be considered a realistic MINEPRISEC responsibility on the condition that, for this currently one-off exercise and using the decentralized and labour-intensive methods now well-tried in Rwanda, the modest cost involved be borne from outside.

Nonetheless, basic training should not be ignored. Consideration might be given to providing minimal in-service training through, for example, qualified teachers sharing skills with less qualified colleagues on a given day each month. The potential returns to pupils from such a scheme largely outweigh the loss of teaching during the necessary monthly one-day closure of schools over the ensuing three to five years. It has also been suggested that a rationalization of the current 45 '*écoles normales*' (teacher training schools) could bring about substantial improvement in the quality and homogeneity of training without increased cost – or possibly even with savings. This might involve retaining, as a maximum, one such *école* in each of the 12 *préfectures*, or even, in accordance with one proposal, reducing the total number to four.

Improving and rationalizing teacher training – both initial and in-service – and reaching out to the children currently not enrolled in primary school are, in summary, obvious and inevitable tasks to be carried out in order to ensure respect for children's rights in this sphere.

4.2.1.2. Secondary education

This sector is – and always has been – significantly under-resourced and under-prioritized in Rwanda, both by the Government and by international aid agencies. UNICEF

13 - 'Rapport sur la situation des droits de l'enfant au Rwanda', Ministry of Justice, May 1993.

itself, nationally and institutionally, excludes secondary schooling entirely from its areas of concern and support. Nonetheless, access to secondary education is an explicit provision of the CRC, albeit not in the form of an absolute right.

The Rwandan system is based on a mix of private and public boarding schools, including some set up as community or parental initiatives. All are fee-paying and currently have places for a total of just 54,000 pupils (as opposed to 45,098 in 1993¹⁴). Thus, over 90 per cent of children in the pertinent age-group have no access to secondary education, including three quarters of those who successfully complete primary school. The present Government, however, is reportedly seeking to modify the singularly elitist nature of secondary schooling by tripling intake within the coming five years.

One of the rare exceptions to the general neglect of secondary education by external agencies is the initiative of the Dutch-based foundation SRO-2000, which is responsible for disbursing European Union funds to provide all meals for the entire secondary system. It is claimed that this programme – started in 1993 and relaunched in 1995 – results in a reduction in school fees of about 8 per cent, thereby in principle facilitating access to a wider group of children.

The logic behind the massive reluctance within the international community to foster secondary education is far from obvious, even if there is *a priori* justification for priority to be given to ensuring generalized functional literacy and numeracy through the basic primary system. Over and above its immediate relevance to overall respect for, and promotion of, the CRC, it is hard to see how the aim to improve the quality coverage of primary education needs will be achievable for children in the year 2000 without their teachers-to-be receiving today a level of secondary education consonant with the implicit requirements of that objective. This cannot happen until there are sufficient secondary places available to cater for demands in this and so many other spheres. Objectively, there would seem to be no more reason to place responsibility squarely on the Government alone to bring this about in a sustainable manner than there is in regard to the medium-term realization of many other rights contained in the CRC for which support is seemingly readily available from multilateral and bilateral donors. This issue at least merits immediate examination.

4.2.1.3. *Education for peace*

If the future of Rwanda depends significantly on the success of efforts to effect justice and promote reconcilia-

tion, then 'education for peace' assumes special importance as a component in the overall endeavour to bring this about.

To some extent, no doubt because its results are not measurable (in the short term at least) and because it cannot take place effectively in a vacuum, education for peace nonetheless remains the subject of controversy, especially when it is carried out in a form that sets it apart from the normal education process. It is recalled, for example, that the former Yugoslavia had a much-applauded and sophisticated education for peace programme, to no apparent avail. Some say that the cleavages within Rwandan society are now so deep and so steeped in personal experience that education cannot hope to have an impact. Others counter this approach by maintaining that messages conveyed in part by the previous education system, precisely, contributed to making the genocide possible and that education must therefore be part of the effort to redress the situation.

The Rwandan authorities – notably through the Ministries of Primary and Secondary Education and of Higher Education and Scientific Research (MINE-SUPRES) – have adopted the latter stand, as has UNICEF. They are cooperating on an education for peace programme that, at present, has two major thrusts, with an additional one planned.

The first element has been to ensure the inclusion of education for peace in the primary school curriculum on the basis that (1) children need to integrate the fundamental knowledge, skills and attitudes that underpin cooperation and conflict resolution at a relatively early age, and (2) at present secondary education is insufficiently widespread to have the desired impact and outreach. It was in fact during the fieldwork for this study that the formal decision was made to incorporate 'civics' – essentially education for peace – into the curriculum as of March 1997. Interestingly, the 'rights and duties of the child' is to be an important element for inclusion under this theme, at the insistence of the Government. A teaching guide and teaching materials have already been prepared in consultation with teacher trainers and by drawing on UNICEF's global experience in this sphere.

The second element is the organization of Youth Solidarity Camps. This initiative stems from the Ministry of Youth, Sports and Vocational Training (MIJEUMA) and is designed to reach older children, in the 14-18 age range. The first Camp took place in spring 1996. Each

14 - Ibid.

Camp brings together about 1,000 young people of both sexes and – obviously – both main ethnic groups, all from one *préfecture*, for a period of a month. Since the Camps take place more or less successively, the programme can cover virtually all *préfectures* within a 12-month period, with the cycle then beginning again. ‘Doubling up’ (holding two camps simultaneously) is now being contemplated in order to ensure wider coverage sooner.

Each Camp incorporates a special community project designed to contribute to national reconstruction, the focus depending on the location: brick-making, house construction, crop planting, construction of recreational parks, etc. Recreational and cultural activities are foreseen, as are discussions on topics suggested by the participants. The overall aim is to put the principles of education for peace into action. These include cooperation, promotion of self-esteem and self-awareness, destruction of stereotypes, as well as empowerment to enable the young people to take responsibility for their decisions (they manage their life in the Camp together). The approach is thus resolutely participatory, and the ‘solidarity’ element comes into play both *among* young people and *with* the community.

The element still being worked on is the inclusion of an education for peace approach in non-formal literacy programmes, particularly those targeting girls and women. In this regard, ‘dialogues’ are currently being prepared that will include the theme of the ‘rights and duties of the child’.

It goes without saying that the aim of the programme as a whole corresponds to the provisions of CRC article 29 on the aims of education. It can be noted, too, that other initiatives in the education sphere – e.g. the revision of school textbooks that have been identified as promoting ethnic division – and elsewhere – e.g. elimination of the mention of ethnic origin on new national identity cards – are practical indications of an overall move in the direction of the principles behind the education for peace programme. To that extent, therefore, it does seem to form part of a coherent outlook rather than running against the tide or taking place in a void. At the same time, this clearly involves a long-term investment that is constantly jeopardized by immediate and short-term phenomena, in a climate where the underlying currents have yet to be elucidated. There can be little doubt that the attempt has to be made; its success cannot, however, be measured in the future simply on the basis of whether or not Rwandan society manages to regain peace with itself, since that will of course depend on a far wider range of factors.

4.2.2. Health, nutrition and water

Along with the World Health Organization (WHO), UNICEF and the particularly effective Ministry of Health (MINISANTE), there are relatively numerous medical NGOs and general relief NGOs whose programmes include a medical component and that are very much involved in both service delivery and training in the medical sphere.

Primary health care was at the heart of the country’s health policy as of 1987. A fairly developed network of nearly 300 health centres – with at least one per commune – had been established, the great majority of which were destroyed during the genocide and war. Among the first priorities was enabling this network to begin functioning again, clustered around regional centres and hospitals. As in other domains, most of the original personnel had fled or fallen victim during the genocide. As a result, not just physical refurbishment and supplies were required, but also a massive and rapid training programme in fields ranging from diarrhoeal diseases and family planning to general health promotion and nutrition work, which was done in more than 100 nutrition centres throughout the country. This last area is particularly vital given that a June 1995 survey found that nearly 10 per cent of children under the age of five suffered moderate or severe malnutrition, more than twice the percentage in 1993.

There were considerable achievements. By the end of 1994, for example, the ‘cold chain’ was back in operation, 60 per cent of the health centres were functioning (and a further 20 per cent by late 1995), and immunization was already almost back to pre-1994 levels (60-70 per cent for most autogenous vaccines). This was classical post-emergency response – and it had to be done.

As a result of the war, the national grid was out of action, so urban water systems could not function. With the grid repaired and necessary work carried out on the systems themselves, Rwanda once again has the highest coverage of access to safe water (80 per cent in rural areas) and sanitation in sub-Saharan Africa. At the same time, the national average for household water use is just eight litres per day, against a recommended average for rural Africa of three times that amount. The health and hygiene consequences of this low rate of use are many, and the aim is at least to double household consumption. A scheme has been devised to bring the management of water supply and usage down to community level, which involves a social mobilization and community education process founded not on the health benefits in themselves, but on the fact that paying for water (to the community association responsible) will be more than com-

pensated by cost reductions in other areas – notably, of course, that of health.

The incidence of AIDS and HIV infection in Rwanda falls into the higher bracket for Africa. A Rwandan National AIDS Control Programme exists, and UNICEF, for example, has worked with it to develop materials for teachers on HIV/AIDS awareness. Ten trainers have been identified, targeting 1,500 primary school teachers and 200,000 children in the last two years of primary school. Prevention booklets have also been produced for both in-school and out-of-school youth. It is also the subject of sessions during solidarity camps (cf. 4.2.1.3.) and of radio spots sponsored by UNICEF. Interestingly, too, upgrading AIDS education in the army was one of the conditions laid down for UNICEF's cooperation with the Ministry of Defence (MINADEF) – a Ministry with which it would not normally work directly – on demobilization of children from the armed forces (cf. 4.5.). But over and above access to information, the wider rights issues involved – e.g. protection from discrimination – do not seem to have been addressed in any systematic way and have certainly been given far less emphasis than in nearby countries such as Uganda.

The community base and outreach features of many health-related programmes and initiatives are encouraging. It is still a field, however, in which concepts such as the right of the child to enjoy 'the highest attainable standard of health and access to facilities for the treatment of illness and rehabilitation of health' are rarely if ever mentioned, let alone analysed for their implications in programming terms. The same applies to the approaches suggested, or required, by the CRC as a whole that need to be applied in the health field. This is not a purely Rwandan issue, of course, and it is one that is gradually being taken up. But the size of the challenge remaining is great: this is indicated, for example, by a UNICEF Rwanda Progress Report written in 1996 in which the only mention of the CRC as a 'guiding principle' for assistance to children relates to those in especially difficult circumstances.¹⁵ Furthermore, it is under the section on CEDC that 'advocacy for child rights' figures, with the comment that 'Rwanda's recent achievements in putting the CRC into practice are well illustrated by the UNICEF supported child soldier demobilization project, the ongoing transfer of juvenile offenders from adult prisons and preparations for the removal of women prisoners and their infants to alternative detention centres in 1996.' The main implication of this – that achievements in 'health' are to be considered as something completely different from 'putting the CRC into practice' – is both unfortunate and telling.

4.2.3. Disability

Considering in particular the 'normal' link between disability, and poor nutrition and living conditions, and the incapacitating injuries that will in principle have been sustained during the genocide, the data and information regarding disability in Rwanda today contain some extraordinary paradoxes.

Already in September 1994, a massive three-month nationwide survey ('Ampleur du Handicap au Rwanda') was launched to determine the reality of disability in Rwanda, organized by Handicap International/Action Nord-Sud in conjunction with the Ministries of Rehabilitation and Social Integration (MINIREISO) and of Labour and Social Affairs (MINITRASO) and with the financial support of UNICEF. The results, published in March 1995, constitute the latest national data available in this sphere. According to the survey, the percentage of disabled persons within the population as a whole stood at an astoundingly low 0.58 per cent. (UNICEF Mali, for example, cites 700,000 disabled among that country's total population of 9 million, giving nearly 8 per cent.) The percentage for children would be considerably lower (although it is not given in the survey findings), since the disabled in the 0-19 age-group (the range somewhat surprisingly chosen for the survey) make up just 30 per cent of all disabled identified, whereas the 1991 census had shown that children in the 0-15 age-group alone constituted no less than 48 per cent of the overall population. On this basis, and while recognizing that the population structure will surely have changed to some extent since the genocide and the flight from and return to the country, the disability rate for children could be projected as no more than 0.3 per cent. This compares with a worldwide average approaching 5 per cent (based on WHO estimates of 120-150 million for a world child population of at the very most 3 billion).

It is true that the threshold for recognition of disability, particularly in its mental manifestations, is relatively high in Rwandan society – though this is also the case for Africa generally – and that 'mild' cases will therefore likely be considerably under-reported. The survey also notes that three communes and 10 sectors could not be covered for security reasons and that there was a lack of information regarding refugee camps, military camps, prisons and recent returnees. Whether these factors could explain the 20-fold gap between the proportion found and the higher-than-average proportion that might be

15 - 'Progress Report 2', UNICEF Rwanda.

expected in Rwanda's situation can only remain open to conjecture at this stage. But the question obviously needs to be answered, even if, for the moment, no one seems even to register surprise.

The answer is all the more warranted in that action on disability issues would seem to be extremely limited. If this reflects a genuinely low incidence, the problem may not be serious; but if the real situation is as yet to be brought to light, the low response level would be acute. At the present time, it appears that no intergovernmental agency is active in this sphere in any systematic manner, and that only two NGOs are supporting government efforts and those of civil society: Healthnet works on physical re-education and Handicap International/Action Nord-Sud have a prosthesis programme as well as an income generation project run with the local Association générale des Handicapés du Rwanda (which existed prior to the genocide). There is reportedly no activity at all in relation to mental handicap.

One major children's rights question highlighted in the survey concerns access of disabled children to education. While overall enrolment in primary schools is 75 per cent, the percentage for amputees in the 6-15 age range drops to 55 per cent, to 48 per cent for polio victims, and to 37 per cent for children with deformities. In these cases, the physical disability involved in no way reduces the children's ability to benefit from schooling, yet they are disproportionately denied access to education, which, as the survey notes, constitutes an additional handicap. Not surprisingly, corresponding enrolment figures for the blind (31 per cent), deaf (12 per cent) and mentally ill (25 per cent) are even more alarming. Overall, 70 per cent of disabled children surveyed had never been to school.

The recommendations from the survey are thoroughly in line with the stance of the CRC, underlining *inter alia* the need for a participatory approach – including the reinforcement of local self-help associations – and community-based rehabilitation. In large measure, however, they seem to have been neglected so far.

■ 4.3. FIRST IDENTIFIED PRIORITY GROUPS: UNACCOMPANIED CHILDREN AND TRAUMA VICTIMS

4.3.1. Caring for unaccompanied children (UACs)

4.3.1.1. Family reunification

According to official figures, the organized reunification of 20,395 children with their families had been effected by

August 1996.¹⁶ While reuniting a child with his or her family should obviously remain the ultimate objective whenever possible, the Rwandan experience has clearly demonstrated the pitfalls of carrying out such a programme under the assumption that simply ensuring that the child and the parents are physically brought together is sufficient to guarantee a successful reunification. The 'reunification at any cost' approach – which is one automatic product of the 'close all the centres' campaign (see the following sub-section on 'Centres') – is roundly criticized in certain quarters. It is charged both with being insensitive to children's wishes – some older children in particular do not want to go home and indeed run away soon after their return – and with being carried out inadequately.

According to the NGO Action Nord-Sud:

the constant failures ... of reunifications are unfortunately too numerous and are caused essentially by a lack of preparation, but also by a lack of follow-up. In effect, even if preliminary work is performed well and under the best conditions, if no follow-up activity is put into place, the success of the reunification or reinsertion cannot be assured.¹⁷

Action Nord-Sud has therefore opted for a 'slower but surer' reunification programme. Staff members of the agency are present and known in the centre, and a child whose parents have been traced is assigned a member of staff who ensures that the psychosocial and economic conditions exist for reunification and who follows up the reunification. Action Nord-Sud maintains that the system operated by the larger NGOs – relying on one person coming 'cold' into a centre to interview the children, another organizing the return and possibly yet another preparing the family – carries an inherently high risk of failure.

Many factors can bring about breakdown of the reunification process. One specific to the Rwandan situation is the fact that some children are known to have been returned to their extended family, certain of whose members were suspected of having been involved in the killing of their parents. Less dramatic factors include living conditions that the child finds difficult to accept after experiencing a centre, parental inability to cope with a child's trauma, and personality changes as a result of two years or more of separation.

16 - 'Children: the Future of Rwanda', MINITRASO/UNICEF Rwanda, No. 6.

17 - Action Nord-Sud, 'Volet psychosocial, Opération de suivi des réunifications', quoted in report of a Workshop on Community-Based Follow-up of Vulnerable Children, Kigali, 11-13 Sept. 1996.

4.3.1.2. Centres

Before 1994, there had been 37 'orphanages' catering for some 4,800 children. Sixteen of these remained after the genocide; additional makeshift centres had been set up by the Rwandan People's Army (RPA) as it moved through the country. By the end of the year, and despite persistent – though perhaps not always consistent – messages from the Government, UNICEF and certain other agencies that institutional care was not an appropriate response, the number of centres had risen to 55, housing 10,381 children. The figures continued to rise in the first months of 1995 to a maximum of 77 centres and 12,705 children in April. However, as the Government became better-placed to enforce its policy – especially in regard to centres deemed to be substandard in provision of care – and as numbers dwindled in the centres active in the family reunification and foster placement of those in their care, there began a gradual reduction in UAC centres, and particularly in the number of children they were housing. By October 1996, there were 57 centres caring for just 6,620 children.

The centres ranged – and still range – in capacity from a few dozen to several hundred children; standards of care have been equally varied. So too have been the objectives of those in charge. This is especially the case in questions of whether they actively participate in tracing efforts, or are at least willing to 'release' children when families or suitable substitute care have been identified, or if on the contrary they see their role as resolutely long-term, for more or less licit reasons, and are therefore uncooperative in allowing children to leave. One of the largest centres still in operation is said to fall firmly into the 'uncooperative' category, yet for some reason the authorities seem to have no power – or will – to influence its policy.

Equally, concerns have been expressed in regard to several specific institutions variously accused of child exploitation – both in terms of labour and of a sexual nature. In one centre it was alleged that there had been no food for a period of three days during September 1996.

The setting up and ongoing existence of centres have been the subject of a ferocious debate in which many elements are brought into play. Those who have contested the practice put forward various combinations of the following arguments:

- the CRC requires that every effort be made to protect family life (arts. 7, 9 and 18.1, for example) and clearly looks on family-based care as the most desirable response, and institutional care as the least, when a child is unable to live with his or her parents (art. 20);

- it proved possible to avoid the setting up of centres when dealing with UACs in Ngara (Tanzania);
- the process was uncontrolled, involving *inter alia* unqualified and inexperienced private groups arriving with donations earmarked solely and necessarily for the founding of a centre;
- many such initiatives were motivated by the ease with which funds could be raised from the general public, hence the desire of certain of them to maintain numbers in their care even when alternatives were found;
- easy access to centres has fostered abandonment of children to their care.

The counter arguments revolve around the following:

- the CRC recognizes institutional placement as a solution 'if necessary' (art. 20) and refers to conditions that should exist there (art. 3.3);
- the Ngara experience failed; some centres finally had to be established;
- prior to the genocide almost 5,000 children were already being cared for in institutions in Rwanda, so a maximum of 13,000 in the post-emergency phase and the current number of under 7,000 are in fact surprisingly low figures;
- conditions were such that there was no alternative, and if parents continue to place children in centres, this shows that their circumstances are still untenable;
- a significant proportion of children still in care are adolescents and therefore very difficult to place with foster families;
- the possible bad practice of a few is not a reason for denying the services provided by centres as a whole.

While it is obvious that the potential caring role of centres is a question of fundamental importance in an emergency and post-emergency situation, the polemics that continue to be provoked by this issue are at the very least disturbing, as are the inconsistencies in approach.

There are indications – for example, by the Joint Evaluation¹⁸ – that the situation found in Rwanda was too complex to enable placements with substitute families to

18 - Joint Evaluation of Emergency Assistance to Rwanda, *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience*, Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda, 5 vols., 1996. The Joint Evaluation was commissioned by governmental donor bodies in Rwanda and the Steering Committee was composed of representatives from 19 OECD-member bilateral donor agencies, plus the European Union and the Development Assistance Committee (DAC) secretariat of the OECD; nine multilateral agencies and UN units; the two components of the International Red Cross and Red Crescent movement; and five international NGOs.

be made immediately and on a systematic basis, without recourse to some form of transitional group care. It has also been found that an absolute ban on such care facilities may be unrealistic and that attempts to proceed directly with foster placements cannot be totally successful: in Ngara, for example, UAC centres had to be set up subsequently as a result.

As the Machel Study warns:

there is always the risk that temporary centres may become permanent. The creation of centres may also in itself generate higher numbers of unaccompanied children. During her visit to the Great Lakes region, the Expert was deeply concerned that, as a result of media attention, many centres had been created as a way of profiting from humanitarian aid.¹⁹

This latter point in particular has yet again led to the terms 'centre' and 'orphanage' becoming perceived as virtually interchangeable, and thereby giving an entirely false impression of the goals that the centres should be pursuing, in addition to the fact that, invariably, most children in their care were not 'orphans'.

In the last resort, however, the setting up of centres was not in itself the real cause for concern. The main problems in Rwanda seem to have arisen because of the anarchy reigning in, and the lack of a unified aim underscoring, the provision of such facilities. The anarchy resulted in far too many initiatives being taken in this sphere, often by agencies ill-equipped to do so. The lack of adherence to the single aim of providing care for the shortest possible time until appropriate alternatives could be found (essentially through family tracing or foster placements) undermined the legitimate efforts of those agencies involved in family reunification and family-based solutions.

The above puts into perspective the frequent calls for closing down all centres. These calls are to be seen more as an over-reaction to the abuses than as an immediate requirement. Drastic measures to close all institutions in other contexts in favour of 'community-based care' have, owing to the lack of necessary substitute services and guarantees, all too often engendered problems at least as serious as the over-use of residential facilities. In the Rwandan situation, it is clear that there are still major difficulties in practice with a significant proportion of family reunifications and, especially, alternative family-based care. The need is therefore not to shut down arbitrarily all centres, but first to work consistently to

resolve these problems. Their resolution should in fact result partly from ensuring that preparation of the children and families concerned is carried out as thoroughly as possible, and very much on an individualized basis.

Thus, the debate over whether or not centres for unaccompanied children should be set up too often misses the point and, taken to its ideological extreme as it often is, can result in serious violations of children's rights.

No one (hopefully) would suggest that, as a general rule, children should be cared for on a long-term basis in an institution. But the results of the anarchic creation of centres in Rwanda, as much as that of their initial prohibition in Ngara, demonstrate that a simplistic black-or-white response leads nowhere.

The basic questions to be asked about such centres are: why, by whom, for whom, with whose permission, under what conditions, how many, for how long and with what viable alternatives? The responses should prevent the setting up of large, self-perpetuating 'orphanages' by incompetent organizations answerable to no one and hindering the tracing of their charges' families. They should equally prevent unaccompanied children being placed without follow-up in exploitative or destitute foster families, sometimes in groups as large as those in a small centre, with no hope of education, or returned precipitously and unprepared to extended families they hardly know or, in extreme cases, whose members have killed one or other of their parents.

4.3.1.3. *Formal and informal foster care*

The number of children being looked after by families other than their own is variously estimated at between 200,000 and 400,000, depending in part on the exact definition of terms (e.g. whether or not foster care includes care by distant relatives).

The vast majority are being fostered informally, either having been taken in spontaneously during or immediately after the genocide or having been 'placed' by relief workers. Formal foster care as such is a new concept in Rwanda, where the extended family would normally look after children who had lost their parents. On the Day of the African Child in June 1995, a campaign was launched by the Government under the title 'un enfant, une famille' (family for every child) with the aim of encouraging families to foster a child. There is also an attempt to formalize these arrangements by requesting families to sign a form and therefore accept their responsibilities in writing (developed, incidentally, by an NGO,

Concern). MINITRASO states, however, that its success is very limited: only a few hundred children are said to have so far been fostered in this 'official' manner.

While this family-based form of substitute care is in principle to be preferred to institutional placement, there is a clear tendency to idealize this solution unduly, or at least – as in the case of family reunification – to ignore the pitfalls. The view of the Machel Study is that 'these arrangements need careful supervision. Many foster families take excellent care of a child, but where economic and social situations have been undermined by war, children may be at risk of exploitation. The situation of a child in a foster family should therefore always be closely monitored through a community-based system.'²⁰ There is indeed considerable evidence of fostered children being obliged to work, being treated significantly less well than the family's natural children and, notably, being deprived of the opportunity to attend school.

In addition, foster families have often agreed to take in a large number of children. One UNICEF staff-member reported, for example, that a visit to a foster family involved in a scheme run by a local association revealed that no fewer than 21 children were being cared for, and most were clearly suffering from malnutrition. The difference between such conditions and those that exist in an institutional setting is unclear – except, perhaps, that professional care in a centre is likely to be eminently preferable.

4.3.1.4. Adoption

Although formal procedures for adoption are to be found in Rwandan law,²¹ official in-country adoption has rarely been carried out in Rwanda for essentially the same reason as formal foster care has not been widespread. Inter-country adoption was reportedly also infrequent prior to 1994, and in the post-genocide period the authorities have refused to envisage this practice as a 'solution' for unaccompanied children. This decision is, moreover, in complete conformity with both the CRC and guidelines adopted by UNHCR, which advocate a period of at least two years after a catastrophe before looking to inter-country adoption as a possible response to the needs of certain children without parents.²² As long as tracing continues and alternative care can be arranged for those who have lost their own families, this policy should remain applicable. According to the Machel Report, 'the vast majority of children have some family somewhere. Therefore no adoptions should be permitted until exhaustive family tracing, including into the post-conflict phase, has been attempted.'²³ This issue is further covered in a recommendation that accompanies the 1993

Hague Convention on Protection of Children and Cooperation in respect to Inter-country Adoption.²⁴

The obvious ramification of the above is that no adoption agency should be allowed to set foot in a country during the immediate post-conflict period. A longer-term safeguard – to the extent that inter-country adoption might be a solution to be envisaged for certain children once tracing has patently failed – would consist of ratifying the 1993 Hague Convention and thereafter permitting intervention only by accredited agencies from countries that have themselves ratified that Convention as well as the CRC. This is for the Rwandan authorities to decide.

4.3.1.5. Child-headed households

Officially, 2,945 children have been identified as living in child-headed households, but in three *préfectures* only.²⁵ The national figure will therefore be much higher. Such households may be composed of siblings whose parents and other adult family members have been killed, or of groups of orphaned children who have spontaneously

20 - Para. 71.

21 - Civil Code, art. 340 ff.

22 - 'It is UNHCR's policy that children in an emergency context are not available for adoption. Any adoption of an unaccompanied child of concern to the High Commissioner must be determined as being in the child's best interests and carried out in keeping with applicable national and international law. It should not be carried out if:

- (a) there is reasonable hope for successful tracing and family reunification in the child's best interests;
- (b) a reasonable period (normally at least two years), during which time all feasible steps to trace the parents or other surviving family members have been carried out, has not yet elapsed;
- (c) it is against the expressed wishes of the child or the parent;
- (d) voluntary repatriation in conditions of safety and dignity appears feasible in the near future and options in the child's country of origin would provide better for the psychosocial and cultural needs of the child than adoption in the country of asylum or a third country.'

From: UNHCR, *Refugee Children: Guidelines for Protection and Care*, Geneva, 1994. Para. 71.

23 - Para. 90.b.

24 - 'The Hague Conference on Private International Law recommends [to States Parties to the Convention] that they take into consideration the following principles in applying the Convention with respect to refugee children and to children who are, as a result of disturbances in their countries, internationally displaced ...

2. The competent authorities of the State to which the child has been displaced shall take particular care to ensure that ... before any inter-country adoption procedure is initiated,
 - all reasonable measures have been taken in order to trace and reunite the child with his or her parents or family members where the child is separated from them; and
 - the repatriation of the child to his or her country, for purposes of such reunion, would not be feasible or desirable, because of the fact that the child cannot receive appropriate care, or benefit from satisfactory protection, in that country ...'

25 - 'Classification of Vulnerable Groups: Provisional Data', MINITRASO, 1996, quoted in 'Recovering Childhood', UNICEF Rwanda, forthcoming.

decided to live together – or in some cases a mixture of both. The Machel Study warns that '[t]heir need for legal and social protection is especially acute; lack of land, property and inheritance rights add to their instability.'²⁶ The Study further deems that child-headed households 'are particularly vulnerable to exploitative labour and prostitution. Dilemmas have arisen in designing appropriate policy and programme responses ...'.²⁷ It recommends that UNICEF, UNHCR, the Food and Agriculture Organization (FAO) and the International Labour Organisation (ILO) 'give urgent attention' to developing 'policy and programme guidelines' for the protection and care of these children.²⁸

At the governmental level, MINITRASO has over-all responsibility for these children. Its strategy is essentially based on making use of community structures to provide support and assistance and to monitor the children's situation on an ongoing basis. Several NGOs – including World Vision, Save the Children Federation-USA (SCF-USA) and Concern, as well as ADAP, a Rwandan association – are instituting programmes that build on the idea that, with appropriate support, child-headed households can be a positive solution for some children. On the basis that foster care is difficult to secure for children over 7 years old and that a significant number of children in centres are therefore hard to place, Concern is assisting the establishment of child-headed group homes with supervision formally entrusted to a neighbour.

4.3.1.6. *Children sent abroad*

During and following the genocide, 32 seriously injured children, some also severely malnourished, were taken to France by *Médecins du Monde* (MdM) for specialist surgical treatment. MdM had given its assurance to the Rwandan authorities that they would return to the country immediately after their convalescence, which was spent with volunteer families under MdM's 'La Chaîne de l'Espoir' (Chain of Hope) scheme. MdM's desire to adhere to the terms of that agreement – though allegedly not entirely systematically²⁹ – led to fierce disputes both with some of the foster families and within the movement itself as of mid-1995. The organization was accused of wanting to return the children without due preparation, without secure knowledge of who would care for them, and without being certain that overall conditions in the country were adequate. It was further claimed that many of the children themselves were extremely anxious about going back to their country (their most recent and striking memories of which, of course, were those of the

genocide period) and that most had lost their families.³⁰ Clearly, many of the foster parents were seeking to adopt the children (cf. 4.3.1.4. on this question).

Although it makes no specific recommendations in regard to medical evacuations of this kind, the Machel Study notes that 'difficulties often arise when the foster family, thinking the child will have better opportunities in the host country, does not want to allow the child in their care to return to the original family.'³¹ In the case outlined above – which in fact seems to be more common – the issue focused more on expressed concern about the timing and conditions of return to Rwanda, where it was feared, precisely, that the 'original family' may either not exist or that members of the extended family may not be able to provide appropriate care.

While situations such as this usually involve only a small number of children, they bring to the fore some of the most fundamental child rights issues, ranging from identity and family relations to taking account of the child's opinion and various interpretations of the 'best interests of the child'. In most instances, the problems can and must be foreseen. When such problems are allowed to manifest themselves, they cause unwarranted and often severe anxiety for the child as well as an avoidable over-concentration of energy that could be better devoted to other activities. To the extent that the medical evacuation itself is justified, it must be made unequivocally clear from the start – and the subject of formal agreement – that the child will not be allowed to remain in the host family, with whatever status, once the medical reasons for his or her stay abroad no longer exist, unless the security conditions in the home country are clearly too dangerous when that moment comes. In line with the position taken in the 1980 Hague Convention on International Child Abduction as regards abduction or retention abroad of a child by a parent, the principle of return to the child's place of habitual residence must be upheld consistently – even if the decision on residence is subsequently revised – in order to avoid abuses of the child's presence abroad. At the same time, this means that organizations undertaking operations of this nature are responsible for arranging the return under appropriate conditions – in the host country as well as within the family or community in the country of origin. In this instance,

26 - Para. 88.

27 - Ibid.

28 - Para. 90.

29 - Author's files.

30 - Open letter from Dr Simone Gerber, June 1995.

31 - Para. 75.

it would seem that most of the problems that MdM and the children faced could have been avoided through the provision of better information to the foster parents, both before and at the end of the placement, and facilitating their ongoing contact with the child should they and the child so wish.

A not dissimilar situation occurred in relation to children from an orphanage in Masaka (Kigali-Rural *préfecture*) who were evacuated to France in April 1994 as the fighting moved nearer their locality. In France they were cared for at a centre in the Loiret *département*. At the behest of the Rwandan authorities, and after considerable prevarication, 46 of the children returned to Rwanda in July 1996, together with some of the French staff, initially to be housed at a facility in the southern city of Butare, which came to be known as 'Le Loiret'. Again, there had been many calls for the children to be put up for adoption in France. By the beginning of October, 17 had been reunited with their families,³² and efforts were under way to enable the remaining children to rejoin their families or be placed in foster care by 31 December 1996. The programme was however alleged to be resented by some staff, who were said to be giving 'mixed messages' to the children regarding its desirability as opposed to a solution in France.

An analogous evacuation took place in mid-1994 under the auspices of an Italian association, 'Together for Peace'. This initiative involved taking to Italy no fewer than 218 children, aged from a few months to 17 years, from Kigali and three other *préfectures*. Some were evacuated at the height of the conflict at the request of their families; the others were already in centres, particularly in Byumba *préfecture*, and were reportedly taken abroad with the agreement of the RPA, which already had control of that region. In Italy, some were cared for by foster families and others were placed in centres. The Rwandan authorities have requested their return, and it is understood that 126 children had been brought back to Rwanda by end November 1996, meaning 92 remained in Italy. It appears that, as in the case of France, there is reluctance among many Italian foster parents towards letting the children return because of doubts about the country's stability. Significantly, it is reported that almost all the children who have returned have been reunited with their families – though not always without problems. The main difficulties recorded in regard to their reintegration relate to coming to terms with their families' poor economic circumstances and – for the younger ones especially – the fact that many no longer speak, or have never spoken, Kinyarwanda.

'Evacuations are sometimes essential', notes the Machel Study, in which case 'whole families should move together, and if this is not possible, children should at least move with their primary caregivers and siblings.'³³ According to the Study, the need for evacuation was agreed by 'international agencies ... in the Great Lakes region when orphanages were being targeted for purposes of ethnic cleansing'. The question nonetheless remains: to where, and with whom, should the evacuation of 'orphans' (cf. 4.3.1.2.) take place, and in what conditions of care, in order to combine continuity of care and security with the avoidance of unnecessary distance from the country of habitual residence? This is not a new problem. The now well-known potential consequences – and sometimes unclear motivations – of moving children alone to provide substitute care several thousand kilometres away (Bosnian children 'evacuated' to Malaysia constitute a particularly apposite recent example) demand that governments and agencies develop detailed criteria in this regard, based especially on a correct interpretation of the CRC. Fifty-two handicapped children who had been evacuated from a centre near Kigali during the genocide, in circumstances not unlike the Le Loiret children, returned to Rwanda on 28 November 1996³⁴ – but the Belgian priests responsible for them had taken them not to Europe, but just across the border to Bukavu. Apparently, it can be done.

From a rights perspective, the separation of children from their parents and families is possibly the most fundamental choice one can make. That choice becomes even more pointed when neither the parents nor the child have committed acts that might warrant their separation, even temporarily. Whatever the motivation for an intercountry evacuation, therefore, the responsibilities of those who organize it are correspondingly of the highest order. To the extent that it may be necessary in specific cases, it cannot be allowed to hang on *ad hoc* arrangements. The Rwandan experience once again demonstrates that there is a strong case for developing more stringent regulations and vetting systems, wherever possible at governmental level, in this field. Having too often watched from the sidelines and sometimes helped later to pick up the pieces, UNICEF might now feel that it has a contribution to make in such a process and that the time has come to make it.

32 - UNICEF Butare.

33 - Para 76.

34 - Agence France Presse.

4.3.2. Traumatized children

The trauma recovery programme initiated in Rwanda is unprecedented in size. Launched by UNICEF, MINIREISO and a group of NGOs (notably Africare, AVSI, Triangle, Concern, CUAMM, and Care-Australia) within three months of the end of the genocide, it had to overcome one major obstacle and make a fundamental choice from the outset.

The obstacle was scepticism about the seriousness and incidence of trauma suffered by children, and therefore about the need for large-scale intervention. Children did not 'look' traumatized; they were laughing and playing, attending school. There was a feeling in some quarters that their 'resilience' would, given time, be sufficient for the healing process. The choice was between one-to-one clinical interventions by outside specialists and community-based para-professional assistance taking account of cultural traditions.

The obstacle crumbled – or was made to crumble – within months as a result of a wide range of factors. Firstly, two misconceptions were clarified:

- 'resilience' had to be built upon, not relied upon;
- the programme was concerned with post-traumatic stress reactions – or the identification of symptoms

denoting a normal reaction to abnormal experiences – and not with the diagnosis of the often contested post-traumatic stress disorder.

Secondly, the 'normalcy' of school attendance and play became correctly recognized as a factor of reassurance that helps the healing process to take place but does not demonstrate that healing is necessarily under way.

Thirdly, initial indications of the prevalence of trauma – later vindicated by a large-scale survey – showed that the vast majority of children had witnessed extreme forms of brutality and had feared for their own lives (see Table 1).

Fourthly, time was clearly not healing. Children in centres, foster families and their own homes were still waking at night, reliving their experiences in terror. Lack of concentration at school, withdrawal, lack of trust and outbursts of violence continued to be commonplace symptoms. An abnormally high incidence of failure to thrive, attributable to post-traumatic stress, was also noticeable among the youngest children.³⁵

35 - Interview with Leila Gupta.

Table 1 - Exposure to War-Related Violence among Rwandan Children and Adolescents

Traumatic event	% of children (n=3,030)*
witnessed violence	95.5
experienced death in family	79.6
witnessed someone being killed or injured	69.5
were threatened with death	61.5
believed they would die	90.6
witnessed killings or injuries with 'pangas' (machetes)	57.7
witnessed rape or sexual assault	31.4
saw dead bodies or parts of bodies	87.5
witnessed massacre	51.9
hid for protection	80.2

* aged 8-19, half in centres, half in the community

Source: *Exposure to War-Related Violence among Rwandan Children and Adolescents: A Brief Report on the National Baseline Trauma Survey*, Leila Gupta (UNICEF Rwanda, February 1996).

As a result of these observations, the 'choice' became easier: it was quite simply not feasible to envisage clinical intervention and the specialist follow-up such treatment demands on the scale required. In addition, adult caregivers, whether family or professionals such as teachers, also needed support, and initiatives in this domain therefore had to be very much community-based and grounded in accepted methods of self-expression: recounting the experience orally as a story, or writing or drawing about it.

The primary objective of the Trauma Recovery Programme therefore came to be 'to strengthen the knowledge and skills of Rwandan professionals, para-professionals and lay persons who work directly with children in unaccompanied children's centres, schools, family settings and communities'.³⁶

Achieving this wide outreach involved first and foremost setting in motion a snowball effect: training trainers to train the various 'social agents' at community level. By October 1996, a total of 12,600 such agents had received basic training and they had identified and worked with more than a quarter of a million children needing support. In the great majority of cases, they were able to provide the required assistance themselves. In a nonetheless significant number of situations, they needed to be able to call on guidance from a specialist and/or they identified children whose trauma seemed too severe to be dealt with solely in the community setting.

The appointment (October 1995) of a 'trauma adviser' in each *préfecture* was thus designed to ensure adequate training and support for community-level workers, as well as sensitizing communities about war trauma. The advisers are also responsible for screening referrals to the National Trauma Centre, set up by MINIREISO and UNICEF in June 1995, which caters for the small number of severely traumatized patients whose condition requires a clinical response.

It was then realized that both a male and a female adviser should be available, and an additional 12 trainee advisers were therefore to be selected. However, morale within the core group has consistently declined over the months; financial considerations and the fact that many were working in *préfectures* far from their homes led to no fewer than eight resigning in the course of 1996. They, and another adviser who died, have not yet been replaced. By early November, 15 applicants had been selected for training, and the social ministries had been requested to propose further candidates, but they would not be able to take up their posts until February 1997 at the earliest. It is envisaged that, in *préfectures* where a

male and a female adviser are appointed, the posts will be half-time.

Alongside the establishment of this care network, public awareness campaigns have been carried out via radio programmes and the production of a booklet (in Kinyarwanda) called 'What Causes Bad Memories'. It is designed to reassure children (and indeed their carers) that their reactions are normal and that expression of their feelings and fears is helpful to the healing process. Specific groups, such as victims of rape, child prisoners and child soldiers, have also been targeted in cooperation with the relevant line ministries and NGOs.

National Trauma Seminars were organized in the symbolic month of April of 1995 and 1996 in order to maintain concern and promote awareness about the psychosocial impact of war trauma among government officials, community leaders, NGOs and concerned professionals.

The biggest task in the recovery process is helping children to rebuild optimism.³⁷ Pre-school children, and even those up to the age of eight, may in fact be less vulnerable to severe trauma from their experiences because death is perceived as a reversible phenomenon. From that age onwards, a child's concept of death resembles more that of adults, and countering a 'no future' attitude becomes that much more difficult. Adolescent boys, aged 11 and above, are seen as the major risk group, with a high propensity to re-enact violence and traumas in an aggressive manner.³⁸ They also have more difficulty than younger children in accepting a substitute caregiver.

Early intervention is, as might be expected, likely to be the most successful. The sheer scale of the trauma phenomenon, however, was to preclude this for most children. In addition, there was no in-country experience in psychosocial recovery – not surprisingly, on this scale and to this degree at least – and only limited expertise elsewhere. Even now, more than two years after the genocide and despite mass training and outreach on an unprecedented level, it is possible that only one fifth, or even less, of the child population in need of counselling has been reached (based on an estimated child population in Rwanda in July 1994 of at least 2 million and the survey figure of 69.5 per cent of children who witnessed someone being killed or injured, as opposed to the 95.5 per cent who reportedly witnessed violence and were

36 - UNICEF/CEDC Psychosocial Trauma Programme, 1995 Summary of Activities, UNICEF Rwanda, 1996.

37 - Interview with Leila Gupta.

38 - Ibid.

thus exposed to traumatic events). This said, it would be utterly wrong to deduce that henceforth intervention is not worthwhile. Trauma alleviation is to be regarded as a potentially life-long exercise, and intervention at any stage is likely to have beneficial effects in comparison to denying support on the basis of its tardiness. Thus, it is only recently that the primary school curriculum has been adapted to include 'trauma time' for one hour each week, when group discussion can take place, and only in 1997 that a similar programme has been extended to secondary schools.

■ 4.4. CHILDREN IN PRISON AND JUVENILE JUSTICE

The situation of children arrested – for whatever reason – in Rwanda during the post-genocide period is surely unique. While virtually all its individual facets have been – or are being – experienced elsewhere to some degree, their combination in the case of Rwanda has constituted an unprecedented challenge on a number of fronts, posing fundamental ethical dilemmas for all organizations and their staff that became involved. Such difficult issues still exist. Those who have to face them are not always best placed to resolve them, nor do they receive adequate support and guidance to do so. As the Machel Study notes:

the dilemma of dealing with children who are accused of committing acts of genocide illustrates the complexity of balancing culpability, a community's sense of justice and the 'best interests of the child'. The severity of the crime involved, however, provides no justification to suspend or to abridge the fundamental rights and legal safeguards accorded to children under the Convention on the Rights of the Child.³⁹

Indeed, one might add that maintaining these rights and safeguards could be said to be all the more important in such extreme circumstances, when those rights are most likely to be contested or wilfully ignored.

During the genocide, prison guards fled and prisoners were freed. In July 1994, therefore, all jails and police cells (*cachots*) were empty. Furthermore, the justice system was non-existent: most judges and other staff either had been killed or had sought refuge across the border, and the court offices had been ransacked.

The large-scale arrests – invariably of persons sus-

pected of having participated in the genocide – that began in mid-July and have continued ever since, albeit on a gradually decreasing scale, have thus produced a situation in which virtually all detainees are being held awaiting trial. In addition, there are an estimated more than 85,000 detainees (well over 1 per cent of today's *total* population) in prison facilities and *cachots*, which have an official capacity of no more than a quarter of that number. Only in late 1996 did the justice system show signs of being set in motion again, and even the most optimistic forecasts indicate that it will take well over a year – some say three or four – before all current cases are dealt with.

The situation of detainees only became known to the international community in November 1994, when a European delegation visited Kigali prison. A German member of the delegation at once approached UNICEF regarding the horrendous conditions of the hundreds of juveniles among the 7,000 genocide suspects detained there at that time. An immediate inspection by UNICEF staff led to the agency's involvement, firstly in ensuring separate detention facilities for the youngest prisoners, then, pragmatically, in an ever-wider range of juvenile justice concerns, often in cooperation with other agencies, both intergovernmental and non-governmental, as well as with Rwandan Government counterparts. These initiatives cover both administration of juvenile justice and conditions of detention, as well as legal reform (this latter issue is dealt with under 4.10.).

4.4.1. Children below the age of criminal responsibility

The first task was advocating for full recognition of the fact that children under 14 at the time of the alleged offence or crime – including those accused of acts of genocide – could not be held criminally responsible under Rwandan law, and thus for their removal from adult detention facilities. This led to the conversion of the Gitagata Re-education Centre into special premises for male children. It was opened in July 1995, with an initial intake of 152, followed by an additional 45. In June 1996 it was announced that a further 200 were to be transferred there, but by year's end this had not taken place, ostensibly because age determination and preparation of case-files were proving a problem.

Whatever the age of criminal responsibility, no country would allow children accused of a serious crime sim-

39 - Paras. 250-251.

ply to return to the outside world without any form of treatment or follow-up. The 'outside world' in Rwanda was, in addition, potentially extremely hostile to these children, as was shown vividly in an unprecedented study on feelings towards children accused of genocide participation carried out by SCF-USA in 1995.⁴⁰ Although some now say that its disturbingly negative findings would be somewhat attenuated today, others believe that the change has been insignificant. Many children had no families to whom they could return, and immediate possibilities for alternative care were virtually zero. The rationale for maintaining these children in a protected environment therefore seems to be sound. At the same time, it is probable that the full child rights ramifications of the use of 'protective custody' for these children have not been thought through in sufficient depth for any criticism to be countered effectively: after all, 'protective custody' in various forms is a much-abused practice, and the children are being held formally in Gitagata on the same legal grounds as were their 'vagrant' and 'beggar' predecessors at that very same centre pre-1994 (cf. 4.6.). To boot, the Gitagata project has suffered a large number and wide range of problems.

To the extent that Gitagata is intended to be rehabilitative rather than punitive, it must rely on creating an environment and lifestyle that reflect this aim. In reality, the primary school has been virtually the only structured activity centre, and there are concerns that most of the children have become poorly motivated to study. Older boys (now aged 16) in the group are running gangs, and physical and sexual abuse is frequent. Staff (provided by a local association) have had low morale. Tracing activities had to be stopped in June 1996 because of lack of transport; they were relaunched in October, with the costly solution of hiring a vehicle. Water is still being trucked in daily (4,000 litres) at great cost because the supply system has not yet been installed. And, since it is the only centre of its kind in the country, visits are difficult for families living afar.

The transfer of Gitagata from the Ministry of Justice to that of Labour and Social Affairs in August 1996 may improve matters on several fronts, given the different outlook of the newly responsible Ministry. Attention is being paid to improving staff motivation and skills. The school is being opened up to children from the local community, and sports and counselling are to be developed. Older and younger children have been separated to reduce the incidence of violence. And there are of course anyway positive aspects, in addition to the fact per se that the children are no longer in prisons with adults: health care is more readily available, food is more nutritious, etc.

A good number of NGOs, the International Committee of the Red Cross (ICRC) and the World Food Programme (WFP) have been heavily involved with UNICEF in assisting the project in a number of ways. Gitagata has become, in the words of one Rwandan official, the 'in thing': it attracts funds easily and, with the Kadogo school for 'demobilized' children (cf. 4.5.), has become one of the programmes that every visitor and journalist wants to see.

On the first count, this has led to its being criticized, like the Kadogo school, as being an unwarrantedly expensive venture for a few hundred boys, given the overall needs of Rwandan children. Such criticism is unwise. It would have been unconscionable – not to mention a violation of their rights – to allow the children to remain in prison. The alternative proposed must clearly also correspond to international standards – not only the CRC, but also the UN Rules for the Protection of Juveniles Deprived of their Liberty (JDLs), which still apply even though the children concerned are not criminally responsible. Indeed, in the event, criticism might be more validly directed towards the fact that the JDLs are not sufficiently respected in many ways under present circumstances.

The second count is, strangely perhaps, more disturbing. While there are in principle considerable benefits for monitoring respect for children's rights that can be gained from institutions being in the public eye, i.e. open to outside scrutiny, there are also limits on the extent to which the constant presence of lookers-on is positive from a children's rights standpoint. Firstly it can only perturb the rhythm and atmosphere of the establishment; more importantly, the question has to be asked as to whether it is in conformity with the rights of the children at Gitagata, under the age of penal responsibility but nonetheless 'presumed guilty', to have their privacy interfered with and their identities known for reasons other than their rehabilitation. This project has been given a very high profile, complete with press releases, photographs and film footage. Its notoriety has snowballed and aroused unusual curiosity. Snowballs melt, but in the meantime one is bound to wonder what precisely lies behind this extraordinary interest in the somewhat ordinary fact of keeping children in an institution away from adults. It would no doubt have been far more in keeping with the CRC to have taken this initiative in a less publicity-oriented manner.

40 - 'Children, Genocide and Justice: Rwandan Perspectives on Culpability and Punishment for Children Convicted of Crimes Associated with Genocide', Save the Children Federation-USA, 1996.

4.4.2. Children accused of genocide-related crimes⁴¹

On the basis of the CRC, UNICEF has advocated for, and facilitated the achievement of, separate sectors for juveniles aged 14-17 being held in general prisons – well over 1,000 such juveniles are concerned and six such ‘wings’ have been completed to date. On less obvious grounds in terms of international standards, advocacy has also been undertaken in favour of maintaining juveniles who turn 18 while on pre-trial remand in the juvenile section, separate from adults. It is logical that UNICEF’s concern should continue for young persons over the age of 18, since they are covered by the CRC by virtue of the age at which their alleged offence or crime was committed. The problem with advocacy on this particular issue lies in the absence of any explicit guidelines in the CRC or JDLs – bar the fact that, precisely, those over 18 should be housed separately from younger detainees. There are national experiences of maintaining 18-21-year-olds in accommodation separate from adults, but also necessarily from juveniles if standards are to be respected, and this may not be feasible in the current situation of Rwandan prisons. The exact solution being promoted needs to be clarified and set against the pertinent standards.

As might be expected, there has been considerable controversy over the degree to which UNICEF and others should become involved in ‘prison-building’ schemes. Each organization may decide its policy on this, but two factors at least should be taken into account by those who would tend to decry such involvement. Firstly, it is arguably more reasonable to ensure appropriate facilities for what is bound to be a significant population of persons found guilty of genocide-related acts who were under age 18 when the acts were perpetrated, some of whom could receive custodial sentences of many years, rather than to react – or urge others to react – after the fact. Secondly, the very fact that the JDLs exist alongside the Beijing Rules demonstrates that it is in no way incompatible to use the former set of standards as guidelines for action while simultaneously working to move the juvenile justice system away from reliance on sentences involving deprivation of liberty. In the reality of post-genocide Rwanda, this second distinction is, moreover, blatantly clear.

Looking ahead, though not very far, it would also be necessary to determine the conditions under which those who are found guilty and were juveniles at the moment of the crime are to serve their sentence. Provision for the separation of accused and sentenced juveniles will

equally be required once the court hearings begin, in accordance with JDLs Rule 18.

Precisely in preparation for the hearings, a number of initiatives have been taken by certain NGOs and UNICEF. The request was strongly made for special juvenile benches to be set up for cases to be tried under the Genocide Act, which was approved in August 1996 with such a provision included. Forty-eight judges are receiving special training for this, with UNICEF support. UNICEF has also provided funding for MINIJUST to recruit 10 lawyers to prepare case-files for juveniles accused of genocide, but such is the scarcity of lawyers in Rwanda today that only four full- and one part-time lawyer could be identified and employed under this scheme. Case-file preparation is therefore going painfully slowly. The agency has also been involved – with the Canadian Government – in facilitating the training of more than 100 criminal investigators who should be giving priority to preparing the dossiers on juveniles, and it has held one-week training sessions for prison inspectors on children’s rights issues in the detention setting.

4.4.3. Children in prison with their mothers

There are no fixed standards or guidelines in international law specifically regarding the detention of pregnant women or mothers with young children, nor regarding the age until which children may be allowed to remain with their mothers if the latter are deprived of their liberty. National practices reflect this silence, varying widely. Under Rwandan law, children may accompany their mothers in prison up to the age of three years, which can be said to correspond to an ‘average’ age-limit internationally in this sphere.

At least 350 children are currently incarcerated with

41 - Article III of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (see note 2 above) specifies the following acts as punishable: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide. The 1996 Genocide Act of Rwanda, which incorporates the 1948 Convention’s definition of genocide classifies perpetrators into three groups: Category 1: planners and organizers of genocide, perpetrators having acted from a position of authority, ‘notorious murderers’ and ‘perpetrators of sexual torture’; Category 2: other perpetrators, conspirators and accomplices of intentional acts causing death; Category 3: perpetrators of other serious acts against persons.

No children under 18 are believed to be on the list of those accused of crimes under Category 1; most are likely to be tried under Category 3, for which the sentence is half of the corresponding Penal Code sentence for adults; those found guilty under Category 2 face between 10 and 20 years’ imprisonment. Sentences for Categories 2 and 3 are to be reduced if the juvenile confesses prior to the court hearing.

their mothers. A visit to Gisenyi Prison in September 1996 indicated that conditions for them were both deplorably unhygienic and vastly overcrowded. Efforts are being made to improve the situation. For example, SCF-USA has launched a programme entitled '*Protégés-moi*' in nine prisons where mothers and their children are detained, concentrating on psychosocial development activities. At Butare prison, a playground area and pre-school facility have been opened. In addition, 65 children have been placed with the extended family outside the prison, and monthly visits are arranged between mothers and children living outside. A separate centre for girls 14-18 and women with children is due to start functioning soon at Miyove, though there are fears that the female detainees in many parts of the country will not want to move there: it would mean losing family support, including food rations. Some women also fear being tried at Miyove if transferred there and claim the right to a trial at the place where they were arrested.

From a CRC point of view, the situation of these children in particular poses another major dilemma. On the one hand, they should of course not be in prison. On the other hand, separation from their mothers may not provide an appropriate solution. Experience elsewhere has shown too that mothers themselves may find that, without the presence of their baby, their period of incarceration is unbearable. And invariably, the children themselves are too young to be able to express their own opinion. It would seem that the only valid guideline in this situation – in Rwanda as elsewhere – is the pragmatic one of improving conditions as far as possible and deciding on placement of the child outside only with the free consent of his or her mother.

■ 4.5. 'DEMOBILIZATION' OF CHILDREN ATTACHED TO THE ARMED FORCES

The issue of ensuring the appropriate process whereby children involved with armed forces can be successfully reintegrated with their families and communities is naturally of special importance in post-war situations such as that of Rwanda. Consideration of this question is also used here to illustrate the concerns expressed elsewhere in this study regarding the fact that UNICEF Rwanda was apparently not enabled to benefit sufficiently from experience within the agency as a whole when called upon to tackle certain problems.

It seems that the existence of children among the ranks of the RPA came to light as the result of a sponta-

neous announcement by the authorities rather than in response to pressing questions from the international community. In October 1994, MINADEF declared its commitment to the demobilization of all children, the disabled and the elderly (altogether totalling 10,000) as part of a wider plan for 30,000 soldiers to be demobilized.⁴² At that time, it estimated at 5,000 the number of under-18s in the ranks of the armed forces and stated that it had never been policy to recruit them – they had simply become attached to the RPA as it moved through the country.

The now common use of the term 'demobilization of child soldiers' in the Rwandan context apparently has its origins in this announcement. Its appropriateness, however, would seem to be highly questionable;⁴³ it is felt by some to give a very misleading and (deliberately?) sensationalist picture of the reality. In the absence of hard data, there are estimates that the great majority – perhaps 80 per cent – of the children concerned could not reasonably be described as 'soldiers', even if some of them carried out tasks or played roles that assisted those involved in the armed effort.

It was nonetheless agreed that these children (known as *Kadogo*, or 'little ones' in Kswahili) could not simply be dismissed and sent directly 'home': to begin with, many had lost their families. In addition, their experiences and attitudes might cause problems for reintegration into their respective communities, and they were felt to require psychosocial, educational and/or vocational preparation for their future.

There were differing views as to how this should be carried out. In the end, the rather surprising decision was made to create a single rehabilitation centre to prepare them for a return to productive civilian life. UNICEF, together with a number of NGOs, agreed to cooperate in this demobilization process, firstly by ensuring the refurbishment of a former Ecole des Sous-Officiers in Butare. Although still unfinished, the '*Kadogo* school' opened on 5 June 1995, complete with 41 teachers, 15 social workers and a small administrative staff. It had an initial intake of 2,400 children (nearly twice the number originally planned), who had been selected by the authorities, apparently according to criteria of their own, from among the ostensible total of 5,000.

The authorities continue to reiterate their commitment 'to the social reintegration of former child soldiers

42 - 'Children of Rwanda', UNICEF Rwanda, No. 6.

43 - See, for example, McCallin, M. and E. Jareg 'Situation Assessment of Children Associated with the Military', internal report for International Catholic Child Bureau, 1996.

back into the community, in a manner that ... will allow these children to grow and develop into responsible members of their communities'.⁴⁴ MINADEF now maintains that, with 2,922 *Kadogo* demobilized, there are no more left in the army – although this is contested in certain quarters on the grounds that some units have not yet been surveyed. Of these, 400 have been reunited with their families, 1,702 are at the *Kadogo* (primary) school, and 820 are in secondary schools. Considering the number of places available in secondary education (cf. 4.2.1.2.), access for the *Kadogo* must certainly rate as a major privilege emanating from their special status. It has been noted, however, that some of the latter group were refused admission to such schools – supposedly because fees were not covered – and have requested to return to the armed forces. Such requests have so far been refused, but in November 1996 the Director of the Department of Demobilization at MINIREISO was ready to consider the principle of reviewing their applications on a case-by-case basis. At the time of writing, her decision was not yet known.

A number of problems have arisen at the *Kadogo* school. Funding for the social workers expired and they have left. The expectations of the ex-soldiers were of special treatment in recognition of their contribution to the struggle, but it was decided that facilities and supplies to the school could not be superior to those foreseen in other residential institutions. In addition, there are claims that the school offers virtually nothing more than primary education and basic material necessities such as food, clothing and shelter. A full-fledged reintegration programme, from provision of life skills to preparation of the community for the boys' return, is said to be cruelly lacking.

On 5-7 November 1996, MINIREISO took the very positive initiative of organizing a workshop on 'Definition of Government Policy on assisting the *Kadogo*: a case for self-reliance'. It invited representatives of four other ministries (MINADEF, MINITRASO, MIFAPROFE, and MINISANTE) as well as a limited number of international partners, notably UNICEF, the ICRC and Save the Children Fund-UK (SCF-UK). Of special note was the way in which the CRC came to underscore the proceedings, not just as the obvious reference point through articles 38 and 39, but, far more importantly, as an overall approach. Why should *Kadogo* be demobilized in the first place? To give the children back their rights. Who are the partners in the demobilization process? The Government, international agencies, the community – and the *Kadogo* themselves.

If the recommendations of this workshop on inter-ministerial involvement are followed effectively, considerable progress could be made in addressing the problems and lacunae identified in the project. The participants suggested the implication of 10 line ministries in addition to MINIREISO – which would serve as coordinator – each with specific responsibilities. These would include MININTER (to ensure local authority participation in reintegration), MIFAPROFE (working with the *Kadogo* families), MINEPRISEC (providing reconciliation courses), MICOMART (providing industrial training), and MIJEUMA (providing vocational training).

At the workshop, moreover, an oral report was given on the informal concluding observations of *Kadogo* school staff at a seminar in August 1996, where special concern had been expressed over the role of the international community. NGOs were criticized for sometimes carrying out activities without taking account of the opinion of the 'beneficiaries' and, together with donors, were accused of 'dictating their terms to the Government'. Similarly, at the MINIREISO workshop three months later, these same agencies were urged to improve their understanding of the nature, extent and context of problems of the *Kadogo* before proposing or implementing programmes. Also noteworthy is the concern expressed by the director over 'the number of visits to the school by journalists and representatives of foreign organizations. Children have been photographed and questioned about their experiences, often left distressed as a result, and then do not understand why there is no follow-up to these visits'.⁴⁵ This echoes forcefully the situation at Gitagata (cf. 4.4.1.) and again smacks of high-profile sensationalism of the 'child-soldiers-demobilized' variety rather than concern for upholding the principles of the CRC.

UNICEF is committed to supporting the school until late 1997, and there is also to be an evaluation of its role at that time. At present, a three-year plan is foreseen by the authorities, and proposals as to the establishment's future are being reviewed.

There is little doubt that the *Kadogo* school response is strangely paradoxical. On the one hand the authorities and UNICEF were loudly proclaiming that children's centres should be closed (cf. 4.3.1.2.); on the other, and simultaneously, they not only set up a 'centre' themselves, but also planned it on a scale that is reminiscent of the very worst forms of institutional placement.

At least part of the explanation no doubt lies in the

44 - MINIREISO, letter of 23 Oct. 1996.

45 - Cf. McCallin and Jareg, note 43 above.

fact that UNICEF Rwanda, implicated from the very beginning, seems to have felt obliged to start from scratch when tackling the 'demobilization' process:

The first challenge was the limited amount of information available concerning this type of demobilization and social reintegration. As far as the CEDC section [of UNICEF Rwanda] could ascertain, all of the other demobilization programmes in which UNICEF was fully and directly involved in other countries focused on transferring the children straight from the military units back to the families.⁴⁶

This is a telling perception of the situation. It implies that UNICEF Rwanda had almost no access to useful documentation of experience either within the institution as a whole or through the institution from other sources. Yet there it was, lead agency on the front line for 'demobilization' in Rwanda. Apparently, UNICEF Rwanda did make direct attempts to secure expertise from outside bodies, but without success. This was particularly unfortunate given that there indeed existed considerable information that might have substantially changed the approach taken if it had been procured or made available. And certainly, comparable initiatives in which UNICEF has been in some way involved have consistently revolved around a 'half-way' stage between 'demobilization' from the armed forces and reunification with the family or community.

As an illustration, the case of Uganda in the 1980s has much in common with the situation confronting UNICEF Rwanda and provides clear pointers to both good practice and potential pitfalls. The basic similarity lies in the fact that

[w]hen the Uganda National Resistance Army (NRA) fought its way into Kampala in January 1986 to capture state power, among its rank and file were child soldiers ... After government troops attacked villages, the NRA would find many desperate children who had survived the killing of their parents and other relatives. Others were displaced children who would be found in hiding or running away from the fighting after getting separated from their family ... The NRA would 'adopt' these children to give them protection, food, shelter and parental care.⁴⁷

It was under pressure from the international community, in contrast to the Rwandan authorities' spon-

taneous initiative, that the NRA decided to act on the child soldiers issue shortly after it took power in 1986. Various agencies offered to help resettle the child soldiers through formal education and vocational skills training so that they could later have the option of pursuing either military or civilian careers. However, the army decided to 'demobilize' them from active service and reorganize them into a special primary school from which they could later join civil secondary schools and technical institutes. Soldiers who were professional teachers were mobilized and sent for a refresher course in teaching methods and counselling. A primary school in a barracks was renovated and opened in 1987 under the Ministry of Education, though managed and run by the NRA.

At the time, UNICEF Uganda and a number of other international agencies had in fact strongly resisted the 'military school' solution, maintaining that 'the children must first of all be removed from a military environment in order for a proper rehabilitation process to be set in motion. [They] therefore refused to establish a programme for the children unless an appropriate civilian context can be found for carrying out such a scheme.'⁴⁸ The NRA, however, felt that the issue of child soldiers had not been put into proper perspective and context. Among the main reasons given for choosing the option of opening an army school rather than sending the children to civilian schools in villages were the following:

- most were orphans and, for many, their villages and homes had been destroyed;
- any surviving relatives had been displaced and were in low-income employment, so going to live with them would have been difficult both for them and the *Kadogo*;
- the *Kadogo* would have perceived being sent to village schools as banishment.

A further case in point from the region is Liberia, where, as in the case of Rwanda, 'the entire Liberian society has been disoriented' with large-scale looting and destruction of public buildings and houses, as well as lack of educational materials and the displacement of parents and teachers. Although regrettably short-lived, a ceasefire agreed on 25 July 1993 signalled the start of a disarming and demobilization process that included 184 children aged 10-17. The Children Assistance Programme (CAP)

46 - 'Recovering Childhood', UNICEF Rwanda, forthcoming.

47 - Robby Muhumuza, 'A Case Study on Reintegration of Demobilized Child Soldiers in Uganda', World Vision Uganda, January 1995.

48 - *International Children's Rights Monitor*, 3.4, 1986.

Inc. 'was seen by UNICEF ... and the Government of Liberia as the appropriate institution to plan a national programme for rehabilitation and subsequent reintegration of the former child soldiers ... In response to this request, CAP set up a rehabilitation centre with funding from UNICEF for a period of 13 months.'⁴⁹

Yet another useful experience in the rehabilitation of child soldiers that might have guided certain aspects of UNICEF's response in Rwanda would have been that of Sierra Leone.⁵⁰

The following are among the many other indications in reports that, with hindsight, might have helped UNICEF Rwanda in preparing optimally for the 'demobilization' or modifying aspects of its response:

- *Kadogo* should be accommodated in small age-determined groups to minimize risks of abuse, intimidation and manipulation (Sierra Leone, where three homes for a total of 370 children aged 8 to 17 were established under the immediate and direct responsibility of the Department of Social Welfare);
- they should be able to maintain close contact with the surrounding community (Sierra Leone);
- there are likely to be problems linked to substance abuse (Uganda);
- ensure that the military pays any school fees, but that the curriculum is the responsibility of the Ministry of Education (Uganda);
- school directors may fear discipline problems (Uganda);
- the *Kadogo* see themselves as heroes and victors, deserving of special treatment (Uganda);
- some children, especially the older ones, may refuse school life and abscond back to their units. If they remain adamant despite counselling, consideration should be given to accepting them back into the armed forces (Uganda).

There is, then, no little experience in the gradual reintegration of children attached to the armed forces nor a lack of information indicating some particularly delicate issues. More systematic reference to the materials would not have provided a 'blueprint', but it could have been useful both in avoiding the pitfalls inherent in reinventing the wheel as well as in orienting priority efforts. The following general conclusion may serve to illustrate this point:

Even where special programmes of rehabilitation and reintegration have been implemented (Sierra Leone and Liberia), it has been recognized that the children's ultimate recourse for protection and effective long-term social reintegration is their

families. Institutionalized responses, such as special schools or orphanages targeted only at former child/young combatants, may risk alienating the community and further marginalizing the children from their ultimate source of support. It must be recognized, however, that in some cases local conditions do not always permit family reunification. Here, the children's need for family life would be better addressed by identifying foster families, or establishing 'family groups' in situations where there is no alternative to special institutions.⁵¹

Finally, the consequences of unsuccessful reintegration are becoming woefully clear. In Mozambique the sudden emergence of widespread and extremely violent crime perpetrated, in part at least, by former child combatants is an eloquent example of the potential results of the unheeded combination of childhood experience, destitution and resentment.

■ 4.6. VAGRANCY

Vagrancy – basically the situation of those children whose 'home' is the street – undoubtedly poses one of the greatest practical challenges to CRC-based programming and advocacy. Judith Ennew has argued that street children are 'society's ultimate outcasts'.⁵² She maintains that they demonstrate the limitations of the CRC, which she sees as being based on the concept of children living with their families and which consequently completely neglects the situation of those living on the street. This is a somewhat extreme view, given that the CRC is explicitly intended to determine States' obligations towards *all* children within their respective jurisdictions (art. 2). Rather, children condemned to vagrancy are in most cases quite simply the visible victims of States' inability or unwillingness to comply with the provisions of the Convention, in particular those relating to support for the family and article 20, which concerns alternative care for children permanently or temporarily deprived of their family environment. 'Street children', by this or any other name, are for this reason, no doubt, not mentioned in the

49 - Case Study for Liberia, Appendix 4 in 'The re-integration of young ex-combatants into civilian life', paper prepared by M. McCallin for the Vocational Training Systems Management Branch, ILO, Geneva, 1995.

50 - Cf. Jareg and McCallin, note 43 above.

51 - From 'The re-integration of young ex-combatants into civilian life'. See note 49 above.

52 - In Franklin, B. (ed.), *The Handbook of Children's Rights*, Routledge, London, 1995.

CRC – although it can be said that there were no grounds in principle for omitting reference to their situation since the victims of other violations may find explicit redress in the treaty, e.g. children deprived of their identity (art. 7) and those who have suffered violence and exploitation (art. 39).

Thus, while there can be no doubt that vagrant children are as entitled as any others to benefit from all CRC rights, the treaty contains no specific guidelines as to how this should be realized, bar recourse to article 20. As mentioned elsewhere, this provision clearly and intentionally gives preference generally to family-based care as opposed to institutional placement. At the same time, the age and experiences of 'children of the street' often severely compromise the likelihood of successful adoption and traditional forms of foster care. In addition, experience globally shows that many children, if consulted, will not willingly envisage care in a substitute family, and even less in an institution.

Rwandan legislation considers vagrancy and begging to be delinquent – though not criminal – acts. Before 1994, children of any age (criminal responsibility not being an issue) found in such a situation were frequently apprehended under this law and taken to the Re-education Centre in Gitagata (which now accommodates children accused of genocide who were under the age of 14 – see 4.4.1.). The law is still in force, but children now coming onto the streets are in principle no longer picked up. The law in question is in fact likely to be removed from the Statute Book in the framework of the legal reform process. UNICEF and others are, not unnaturally, advocating in this direction.

As yet, the reality of the 'street children' phenomenon in Rwanda is not clear. In particular, there is no reliable overall indication of the incidence of diverse individual situations: breakdown by age, sex and origin; how many spend their entire time 'on the street', how many return home at night, how many 'work' or are sent to hawk products by their parents, how many have run away from home, foster home or centre, etc. Nor is there information on their attitudes towards their situation and towards the various options that might be open to them. A pilot survey covering 180 'street children' has been undertaken with a view to drawing up a full-fledged situation analysis, but the results are not yet available.

Overall numbers are deemed to be growing rapidly; but, at an estimated 2,670,⁵³ they are still no higher than levels registered prior to 1994, when Caritas-Rwanda put the figure at 3,000-4,000. Similarly, the July 1996

estimate for the Kigali urban area was 1,556 (MINITRASO), as opposed to 2,000 in 1991.⁵⁴ Although the current estimate is widely believed to be extremely conservative, perhaps the phenomenon has not quite reached the 'enormous proportions' that are sometimes attributed to it.⁵⁵ Few would doubt, all the same, that the phenomenon is now on a scale that warrants special concern.

The government body responsible for this area is MIJEUMA. Strangely, it is not UNICEF, but the United Nations Development Programme (UNDP), that has been given the funding – as part of an aid package from Belgium – to cooperate with MIJEUMA on this question. Together they have developed a project that is designed, first and foremost, to promote 'school, professional and socio-economic integration' of these children into 'existing structures'. One of the first results of the project has been the opening, in mid-September 1996, of a refurbished centre (*Centre National Rwanda Rw'ezo*) in Kigali, which is designed to cater for no fewer than 300 children on a non-residential basis and provides counselling, material assistance and a meal, as well as individual case assessment.

Surprise, not to say concern, has been expressed about the kind of approaches that have been adopted so far. It is noted that little or no work with children is done in the street itself – e.g. by street workers. Contact with the children is said to be principally aimed at persuading them to go to 'drop-ins' etc. Furthermore there is allegedly no consistency in outreach, with a different local organization every day sending its worker to make contact with a given group of children. MIJEUMA is planning to hold a national consultation workshop to discuss coordination and to develop a plan of action. This will hopefully include a preventive element that will link with MINITRASO's overall social policy. Nonetheless, this is an area where the 'children's rights approach' is only at the very first stages of being integrated into programming.

4.7. PROTECTION FROM EXPLOITATION

Apart from concerns expressed about children forced to work by foster parents and children working on the streets, the question of the possible *exploitation of child*

53 - 'Children: the Future of Rwanda', UNICEF Rwanda, No. 6.

54 - Bureau social urbain, 'Cahier du Bureau social: Projets Abadacogora & Intwali', rapport annuel, 1991.

55 - UNDP Trust Fund for Rwanda, 6th Progress Report, October 1996.

labour in Rwanda has apparently not been seriously broached, and enquiries about its existence in other forms received negative responses during the fieldwork for this study. According to professional sources surveyed, manifestations common in other African countries – e.g. domestic workers, plantation work – are unknown, as significant phenomena at least. One newspaper nonetheless reports that in Rwanda, ‘youth workers maintain that orphaned girls are often exploited as housemaids’.⁵⁶ Children do of course assist their parents in the fields; whether they – especially the 300,000 children not enrolled in primary school – do more than that requires specific investigation.

There is equally very little information – or spontaneous concern expressed – about the *sexual exploitation* of children. One non-governmental body opined that the problem exists and is increasing; in this context, for example, it was alleged that girls of 14-16 years are ‘recruited’ to service the military and other clients. Broussard affirms that ‘[c]ertain foster mothers ... show no qualms about “renting out” young girls of seven or eight to men passing through.’⁵⁷ Concerns have also been expressed about the sexual exploitation of girls in child-headed households, especially when they are themselves the heads. They apparently may be required to grant sexual favours in return for assistance to those in their care, and there were fears that this initiation might lead them into full-fledged prostitution. It is also claimed that sexual exploitation takes place in detention facilities, but in this context – as in centres – there may be some confusion between ‘exploitation’ as such and abuse or rape.

Clearly, there again seems good reason to undertake a more thorough investigation in this sphere and at the very least to take the potential problem into account when enquiring into a wide range of children’s situations.

■ 4.8. VULNERABLE FAMILIES

‘Vulnerability’ tends to be a much over-simplified concept, and this perception has important ramifications for action. The main cause and, simultaneously, manifestation of the simplistic approach lies in its frequent blanket application to groups or categories, such as street children or female-headed households. A more correct approach would be to determine vulnerability on the basis of certain criteria, such as access to basic services and the level of security and affection, and for each member of the population. Linked to this is its equation

with a state of distress and destitution rather than with the more accurate notion of ‘being at risk’ – to a greater or lesser degree – of given phenomena.

This latter approach to ‘risk’ seems to have been the thinking behind the initiative of a group of NGOs, together with UNICEF and MINITRASO (the lead Ministry on this issue), as evidenced in the preparatory meetings for the UNICEF-sponsored Workshop on Community-Based Follow-up of Vulnerable Children, held in Kigali from 11 to 13 September 1996. They analysed the conditions that would have to pertain in order to identify those at high, medium and low risk in fields such as access to primary education, shelter and clothing, and water and food. They came up with a very concrete listing of criteria in each field, leading them to conclude in the report of the workshop that ‘[d]ifferent levels of vulnerability exist within the various sub-groups of children, such as street children, children living in centres, or other unaccompanied children. Vulnerability is not determined by categories alone.’

The same applies to families. While those headed by elderly widows or children themselves, and those with a large number of young children, may constitute groups where risks are automatically likely to be relatively high, the individual components of these groups need to be surveyed to assess real vulnerability – and families in other more ‘resistant’ groups must not be neglected.

In addition to the direct benefits for rights fulfilment of correctly identifying families and children requiring support, the secondary effects of not doing so need to be highlighted as well. Institutional placement, vagrancy and exploitation of children are obvious examples, but not catering for basic needs also jeopardizes trauma recovery because the fundamental requirement of security and hope for the future is not met.⁵⁸

It is difficult to gauge the degree and effectiveness of response to the needs of vulnerable families in Rwanda today. Food security and income-generating projects have – on paper at least – mushroomed. Provision of, or credit for acquiring, seeds and tools or livestock, and credit for launching a small business as a cooperative, as well as training, have all figured large in projects. As yet, however, no evaluation has been carried out either with regard to their impact or, for example, to the appropriateness and/or application of criteria for granting loans. Identification of vulnerable families

56 - Philippe Broussard, ‘Gosses de personne à Kigali’, *Le Monde*, 10 January 1997. Author’s translation.

57 - Ibid.

58 - Interview with Leila Gupta.

seems to have remained rudimentary. A certain scepticism reigns, even among many of those that have instituted such projects, as to their overall impact. And is it not somewhat ironic that UNICEF, rather than UNDP, is involved – despite itself, perhaps – in income generation, where it surely has, and certainly should have, less ‘comparative advantage’ than in relation to work with street children? (cf. 4.6.).

There are counter forces and anomalies, too. Some are specific to this kind of situation: WFP provides food to centres, but not to vulnerable families – even in the form of remuneration in-kind for investment in self-sufficiency in the future. Others are more universally known: street children projects are well-funded, but a widow trying to prevent the children in her care from having to resort to the street to survive is unlikely to receive the support and encouragement required.

■ 4.9. CHILDREN BORN OF RAPE

More than two years after the genocide and the systematic though arbitrary rape that took place while it was being perpetrated, the problems of girls who suffered this abuse and the children born as a result of rape are rarely evoked outside the confines of the trauma recovery programme.

It is natural and usual that no hard information exists concerning the incidence of rape and consequent conception. Some sources indicate that virtually every woman and pubescent girl suffered rape by the *interahamwe* or ex-FAR troops. MIFAPROFE has estimated that at least 15,700 women and girls aged over 13 years were raped.⁵⁹ The *Office National de la Population* put resulting pregnancies at 2,000-5,000; MIFAPROFE opted for 5,000-10,000.⁶⁰ It is also reported that some 90 per cent of the girls and women involved did not want to go through with their pregnancies; in those cases where abortion was not carried out (or attempted), ‘many abandoned their children after delivery’.⁶¹

The secrecy and discretion surrounding such pregnancies and births can and should only be attenuated within the context of confidential consultations, either with medical services or as part of the specific trauma recovery programme. For the children, whether kept or abandoned, the primary aim will of course be to avoid stigmatization – and therefore to maintain confidentiality – recognizing that this will at the same time make it difficult to foresee special assistance to them. But the latter should be less necessary to the extent that confidentiality can prevent the stigma that they and their mothers would otherwise bear.

4.10. LEGAL REFORM

Rwanda’s legislation on child-related questions is minimal and often outdated, inspired by colonial laws or even unchanged since that era: the provision allowing the administrative detention of vagrant children (cf. 4.6.), for example, falls into the latter category. Its lacunae have been supplemented, moreover, by the need to deal with new situations resulting from the genocide, including the penal response to the crime itself, of course, as well as civil matters concerning child survivors. In mid-1995, MIFAPROFE therefore set up a Global Legal Revision Project to undertake an in-depth review of existing laws. Within the framework of this Project, a National Commission for Children’s and Women’s Rights was established. This body has sub-commissions on both criminal matters and civil questions.

The sub-commission on criminal matters comprises four NGOs, UNICEF, UNESCO and the United Nations Human Rights Field Operation in Rwanda (UNHRFOR), as well as government representatives and appointees. Its basic task is to prepare a juvenile justice code that includes the establishment of special juvenile courts, non-existent to date, and provides for special measures for child offenders. A draft (*‘Projet de loi concernant le droit pénal général des mineurs’*) has been presented under the aegis of MIFAPROFE, but for various reasons it did not benefit from unanimous support within the sub-commission. So far, it has not met with the approval of MINIJUST and may therefore require quite fundamental revision.

In contrast, the sub-commission on civil matters is composed only of five local jurists. It deals principally with issues such as inheritance/succession and foster care, which suddenly became central as a result of the genocide and war and for which appropriate legislation is cruelly lacking. It undertakes wide and thorough consultations with community-based associations, in part to ensure coherency of proposals with customary law (*gacaca*), on themes such as equality, polygamy, abortion, property rights, succession, dowry (*inkwano*) and the management of the property of children in foster care. Its overt progress has therefore been snail-like, but resulting legal

59 - ‘Viol (Le) comme arme de guerre au Rwanda: du silence à la reconnaissance’, report of a mission for Fondation de France, 26 December 1994-5 January 1995, Catherine Bonnet.

60 - It is generally estimated that under 5 per cent of rapes result in pregnancy; a figure of 5,000 pregnancies in Rwanda would thus normally imply at least 100,000 acts of rape.

61 - ‘Viol (Le) comme arme de guerre au Rwanda: du silence à la reconnaissance’.

texts should at least receive the ready approval of the population.

UNICEF, for one, has considered input into the legal revision process to be important enough to engage a consultant who works specifically on this issue and who also coordinated UNICEF's contribution to drafting the Genocide Act (cf. 4.4.2.).

Fulfilling an advisory role of this nature is a delicate task in such a situation, but obviously one that is of major significance from a child rights standpoint. Vital to its full success is active coordination among the non-national

bodies at least, both intergovernmental and NGO, in order to avoid conflicting views being conveyed to the authorities.⁶² Perhaps sufficient attention was not always paid, by all concerned, to ensuring that this took place during the process under way in Rwanda. It would explain in part the previously mentioned blockage of the draft code.

62 - This is analogous to a lesson beneficially learned during the CRC drafting process at both national and international levels.

5. SOCIAL FACTORS AND ACTORS INFLUENCING THE IMPACT, ENFORCEMENT AND MONITORING OF THE CRC

■ 5.1. SOCIAL FACTORS

5.1.1. How the child is perceived

There exists a certain disparity between the CRC notion of special measures for all persons under the age of 18 years and the situation in Rwanda. On the one hand, majority in Rwanda is still attained only at the age of 21; on the other hand, dependency on parents, or 'social maturity', rather than chronological age, is the determining factor for being considered a 'child'. As a consequence, a 15-year-old who has branched out on his own will no longer be regarded as a child, while a 20-year-old living in the parental home may well still be. This has obvious repercussions for attitudes towards some 'categories' of children, in particular those who are accused of having participated in the genocide or are known to have been attached to the military – or even who are heading up households.

The child's position in society has clearly changed as a result of the genocide. They are 'considered less now'.⁶³ Before 1994, the child was seen as 'belonging to the community'⁶⁴ and central to it. The status of adults revolved around children, hence in part the high fertility rate (8.4 according to the 1991 UNICEF Situation Analysis). Now communities are divided and the child has lost that unifying central place in society.⁶⁵ The system has broken down and there is very real scepticism about the possibilities of going back to the way children were previously considered and protected by the community as a whole.

5.1.2. Community identity

One of the many paradoxes in Rwanda is the fact that, on the one hand, 'community-based' programmes are *de rigueur*, yet, on the other, the breakdown of the community

is recognized in all quarters, governmental and non-governmental, foreign and Rwandan alike. What for the moment remains unclear is the extent to which the incitations for the 'community' to act in solidarity – monitoring the reintegration of unaccompanied children, for example – are changing attitudes positively or leading to the crystallization of mistrust. 'What is a post-genocide "community"?'⁶⁶ is therefore a frequently posed question, to which a partial answer might be, in the words of a UNICEF Rwanda senior staff member, one where 'there is no common emotional foundation on which to build, no mutual trust'.

Certain communities were of course less affected than others by the genocide; there, a cooperative spirit is more likely to have survived – or been revived – as evidenced by families working together to repair houses and the creation of agricultural associations.

'It is possible – and it is certainly necessary – to foster a "new" community', according to a MINITRASO official, but for this to happen, all the conditions required must be brought together. If justice is seen to be done (see 5.1.4. below), it may be that the CRC can be astutely used to build on this, helping to set the child once again at the centre of the community's concerns and thus serving as an accepted focal point in this long-term process.

5.1.3. Family structure and cohesiveness

The concept of 'family' in Rwanda is two-fold: the *urugo*, or nuclear family (including husband and wife, or wives,

63 - 'Integrating Child Rights Work Throughout a Range of Activities - the Rwandan Experience', Save the Children Fund-UK, Sept. 1996.

64 - Workshop on Community-Based Follow-up of Vulnerable Children, Kigali, 11-13 Sept. 1996.

65 - Ibid.

66 - Ibid.

and all children in the household, even those taken in informally), and the extended family, comprising relations who may be even six times removed. Both types have been torn asunder by the genocide.

An estimated 250,000 women were suddenly widowed between April and July 1994, probably corresponding to one household in five or six. It is widely believed, though not documented, that most families are now looking after at least one child who is not their own. It is thus not unknown for newly married couples to find themselves caring already for several children, not necessarily from their own family. Elderly and virtually resourceless widows face similar responsibilities.

'Mixed' marriages (between Tutsis and Hutus) were frequent. Surviving extended families may have known killers in their ranks, and returnees may be suspected as being killers by other family members. Many extended families were in fact almost annihilated: 'Out of 43 family members, just myself and two others survived,' said one interviewee who is not exceptional.

Family members old and young are therefore having to adjust to roles and to a degree of self-reliance for which they were utterly unprepared. Many are coping only with great difficulty; the family in Rwanda today is often an extremely vulnerable institution.

5.1.4. Impunity: the perception of 'justice being done'

Great emphasis has been – and still is – laid on the importance of identifying and punishing those who organized, were involved in, or were party to, the genocide. This is not only in reaction to the events of April-July 1994, but also because of the perceived 'culture of impunity' that has prevailed in Rwanda for decades and, in the opinion of the authorities, has to be halted once and for all. This impunity led to tolerance or even encouragement of killings and massacres by certain groups, and hence the belief that such acts were acceptable. Punishing the *génocidaires* is thus seen to be a pre-requisite for the national healing process to begin.

In view of this, the fact that no one had been sentenced, or even brought to trial, for this crime as of November 1996, two-and-a-half years after the event, may appear strange at the very least. Only in August 1996 was the Genocide Act passed by Parliament, after a marathon process of consultation with all sectors of society. With an estimated 85,000 prisoners awaiting trial – a figure that is almost certain to increase significantly in the

months following the influx of returnees starting in mid-November – nearly all for their part in the genocide, but with only a few hundred newly trained police inspectors, a minimum contingent of prosecutors and judges and just 16 practising lawyers in the entire country, the issue is at least placed in perspective.

Furthermore, the International Criminal Tribunal in Arusha, somewhat better resourced though always pleading penury, has to date likewise not managed to initiate a single hearing of those accused of orchestrating the genocide and who have sought asylum in a variety of other countries.

On 6 November 1996, the newly appointed Minister of Justice condemned the Arusha Tribunal for the delays and said that genocide trials in Rwanda itself would begin before the end of 1996 – a promise that was in fact kept by a margin of literally a few hours.

5.1.5. Confidence in the future

Although a vital factor, confidence in the future is surely the most difficult to measure. Some commentators believe that a 'day-to-day' mentality has taken over and that young people in particular have adopted a 'no future' attitude. This feeling of insecurity would be a foreseeable symptom of persisting trauma (cf. 4.3.2.). Others nonetheless perceive a growing industriousness that would tend to qualify such an assessment. Few, if any, would maintain that any significant degree of optimism reigns, however.

Save the Children Federation-USA has undertaken an illuminating survey – which, it can be noted in passing, constitutes another example of how the CRC has apparently influenced approach – on how children aged 11 to 17 judge their present situation as compared to before the genocide and how they look upon the future.⁶⁷ Among the overall concerns that they express, one of the most striking relates to the perceived lack of adult support – both within and outside the family – in helping them to prepare their future, which, regardless of their own willingness and initiative, they feel unable to foresee doing on their own. The many who are without parents and have had to give up school are naturally most affected in general by a negative perception of the conditions in which they will enter adulthood. In yet another example of the paradoxes reigning in the country, however, the

67 - 'Situation (La) actuelle des enfants rwandais et leurs perspectives d'avenir', draft, Save the Children Federation-USA, May 1996.

survey also reports that almost all the children believe their lives will be better than that of their parents – seen to have suffered wrongful policies and, thence, difficult situations – on the condition that ‘the present politicians do their work well’.

5.1.6. Subsisting mistrust, hatred and ‘mini-conflicts’

The proclamation of the end of hostilities and calls for national unity do not signal the sudden demise of conflictual feelings and attitudes. Personal experiences at all levels – within society as a whole, in relation to administrative and moral authorities, in the individual’s community and, as noted above, even within the family – have brought about deep-seated mistrust and hatred. Anecdotal evidence abounds as regards interpersonal disputes stemming from pre-genocide prejudices and, of course, the genocide period itself; the situation is exacerbated by the ‘returnees’ (see 5.1.8.). Philippe Broussard sums up the problem aptly:

Rwanda is confronted with a multitude of individual dramas, disputes over ownership and micro-conflicts that, in the short term, could result in a withdrawal into one’s own identity ... The Rwandese of old stock – those who have always lived here – hold a key position in this mosaic. Tutsi and Hutu alike, they share the memory of the war. Hence their deep-rooted trauma, a paranoid fear of the other, and a growing hostility towards those who were not there when ‘it’ happened.⁶⁸

Recognizing these divisions while nonetheless attempting to ‘build beyond’ them is clearly the immense though unavoidable challenge facing those working to secure understanding and support for the spirit and letter of the CRC as a backbone of reconciliation.

5.1.7. Instability linked to ‘external forces’

The events that took place in eastern Zaire during the compilation of this study will in principle have modified considerably the quality and significance of this factor. Until mid-November 1996, the existence of the ex-governmental armed forces (FAR) and the *interahamwe* shielded by refugees in camps less than 10 kilometres from the Rwandan border of course constituted a major

threat in the eyes of the authorities. ‘Destabilizing incursions’ by these groups were commonplace and were constantly denounced both in themselves – they invariably involved the assassination of survivors and witnesses of the genocide who had often since become community leaders – and as an indication of the continuing efforts to jeopardize the reconciliation process basic to the Government’s stated aims.

At the time of writing, it is impossible to foresee the consequences, in terms of Rwanda’s medium- and long-term internal security, of the return of some 600,000 refugees and the apparent flight of the armed groups, together with tens of thousands of other refugees towards the interior of Zaire. Equally uncertain are the ramifications for Rwanda of the Great Lakes Region as a whole becoming increasingly polarized in terms of ethnicity, the conflict in neighbouring Burundi being also of special importance in this regard.

5.1.8. Returnees

Prior to the uprising in eastern Zaire, refugees were returning to Rwanda at the rate of no more than a few hundred each week. The estimated 600,000 returnees in the second half of November 1996 alone probably made up some 10 per cent of the total population of Rwanda at the end of that month. They will not be returning in equal proportions to all *préfectures*: the major influx is to be foreseen in particular into the north and north-west (Gisenyi, Ruhengeri, Umutara and Byumba) and to Kigali-Rural and Kigali-Ville. In parts of those areas, returnees are likely to account for some 20 per cent of the population. The *bourgmestre* of Shyorongi, a commune in Kigali-Rural, is reported as estimating that returnees could even make up 30 per cent of the inhabitants.⁶⁹ Their reintegration in such large numbers, given the suspicions that have hung over them for having remained outside the country for over two years (and even though most will presumably claim to have been retained against their will during that time), undoubtedly constitutes a major challenge. Tension between them and the already settled population will no doubt run high in many cases. Denunciations and arrests will fuel the existing mistrust. Many will feel resentment at having to leave the houses they took over after the genocide in order to allow the

68 - Philippe Broussard, ‘Le Rwanda, pays des mille souffrances, face au défi de la reconstruction’, *Le Monde*, 4 December 1996. Author’s translation.

69 - Ibid.

rightful owners to move in, which they have to do in principle within two weeks of ownership being proved.

Factors such as these will surely further jeopardize the already delicate reconciliation process for some time, even if the situation is managed with diplomacy and perceived fairness. This tension may also be exacerbated by the pressures on resources (including housing itself, of course) and basic services such as schooling and health care. The quantity, quality and forms of assistance provided to the returnees to enable them to restart their lives in Rwanda will also be crucial in determining attitudes towards them. Experience elsewhere has shown that, if the aid they receive is deemed to be unduly generous by the rest of the population, a very high risk of resentment, rejection and even violence is created.

■ 5.2. ACTORS

5.2.1. The National Government

The post-genocide authorities have always been well aware that there is a race to make human rights seen to be working, precisely because of the need to start from zero. Apart from any other consideration, the country had to be perceived very rapidly as making the effort, given its recent history and the takeover of governmental functions by force. From the start it had to secure the support of the main players in the United Nations for its policies and attitudes towards neighbouring countries, as well as that of major donors (who are often the same, of course). It also had to gain the confidence of Rwandans outside the country who were wary of returning and might be influenced by reassuring propaganda, and those who had remained in Rwanda, or who had come back, and might put into doubt the legitimacy and goodwill of the new regime. The decision to issue new identity cards on which, contrary to long-standing practice, the 'ethnic origin' of the holder no longer appears, is one example of initiatives in this direction.

Within this 'human rights thrust', the CRC – for once – is proclaimed as being of major importance. Virtually half of the population is under 18, and within a few years it will be on this group that continuing peace and reconciliation will largely depend. The authorities have apparently not needed much – if any – convincing about the desirability of basing child-focused policies on the CRC. There would seem to be an unusually widespread acceptance today, moreover, of the basic good faith of the Rwandan authorities and civil servants as to

implementing and respecting the CRC. Criticisms tend to focus on different perceptions of priorities and concerns about capacity rather than on arguments over questions of substance or doubts about overall political will, though in some quarters lacunae are interpreted as indications that only lip-service is being paid to children's rights. As one foreign NGO representative put it, 'the authorities are serious about children's issues'.

At the same time, the post-genocide period has by no means always been characterized by the authorities' systematic adherence to the principles of humanitarian and human rights law, including the CRC. Probably the most disturbing single action by the authorities in the past two years came in the context of the now infamous closure of the (internal) 'refugee' camp at Kibeho on 18 April 1995. At that time, considering that the situation in the country was normalized, the Government was intent on putting an end to what it saw as the unwarranted continued existence of camps for 'refugees' within Rwanda's borders nine months after the end of the conflict. It also suspected – as later proved to be the case in eastern Zaire as well – that the camp was being used to prepare armed resistance.

The authorities tackled the problem head-on by deciding to close the largest remaining camp, at Kibeho in the former 'safe zone'. They gave the inhabitants – some 150,000 – a few days to leave and return to their communities. The 'refugees' were still extremely hesitant about leaving what they saw as the relative security of the camp, and the vast majority refused to move. As of the 18 April deadline, the authorities no longer allowed the distribution of food and water to those in the camp in order to persuade them to move. After negotiation, UNICEF was permitted to provide water to the children, and then biscuits. But on 22 April, with the majority still determined to remain, the authorities took more radical steps, resulting in the armed forces trying to clear the camp by firing massively and indiscriminately. The official death toll was 300. Most estimates from other sources, however, are far above this figure; many claim that 6,000 died, including hundreds of children. This was not the end. Several thousand 'refugees', including children, were then held hostage in the vestiges of the camp by armed *interahamwe*, surrounded by RPA forces who again refused to allow food distribution.

Allegations of human rights violations continue to be made against the authorities, particularly in regard to arbitrary killings by the armed forces, but also concerning arbitrary arrest and torture. Rarely have these allegations

so far related directly to the rights of children. The most systematic reports of violations come from the 140 or so monitors present under the auspices of the UNHCR. Although the Government frequently responds publicly to such allegations – and by no means always in the form of a flat denial – it is clearly irritated by the fact that UNHCR is looking only at the present human rights situation. The Field Operation is of course in the country with the approval of the Rwandan authorities, who must therefore see it as an initiative that is on balance and in principle advantageous to them.⁷⁰ However, they manifestly would have liked investigations and reporting to cover also alleged violations during and before the genocide – they consider, moreover, that the genocide actually began in October 1990 and simply culminated in the events of April–June 1994, rather than being limited to that three-month period.

The Government's relations with the Human Rights Field Operation are in fact symptomatic of clear – and from several viewpoints understandable – official ambivalence towards the intergovernmental community as a whole. More than sufficient evidence now exists to show that, despite being aware first of the dangers, then of the imminence, of genocide, UN and other agencies and bodies either did nothing or made irrelevant, distracting and/or unsustainable moves. In 1993 and early 1994, several reports made to the UN on the preparations for conflict had been completely ignored. The UN Security Council, having dispatched 2,500 peace-keeping troops to Rwanda in October 1993, decided to withdraw all but 270 just two weeks after the genocide began. Via the UN-condoned *Opération Turquoise*, France had enabled hundreds of thousands of civilians and FAR troops, allegedly involved in the genocide, to escape. The bitter taste left by that intervention is still very much alive.

In addition, the International Criminal Tribunal in Arusha has so far, more than two years later, proved utterly ineffective in accomplishing what is seen as an absolutely vital task in the healing process: bringing to book the escapee leaders of the genocide operation. Several countries have been openly and deliberately harbouring the major authors of the genocide, at worst without reproach, at best without effective action from the international community. Only at the very end of 1996 was this problem starting to be resolved. At the same time, France was seeking to return to the region in the latter part of 1996, this time in Zaire and again with a UN mandate, in a mission clearly contrary to the objectives of the Rwandan authorities to close the 'unwarranted'

refugee camps in which the former *génocidaires* were said to be preparing renewed conflict.

At the opening of a seminar to discuss the report of the Joint Evaluation (cf. note 18), on 10 September 1996, the President also criticized the way in which international aid had been provided (noting, for example, that aid in the form of vehicles simply meant that the funds returned to the country of origin) and even suggesting – in a not entirely innocent over-reaction, perhaps – that blame for the physical acts of genocide could reasonably and ultimately be placed at the door of the former colonial powers because of their alliances with one or other ethnic group, according to which seemed to serve their interests at any given time.

It was of course the events of November 1996 in eastern Zaire and the subsequent return *en masse* of refugees to Rwanda that demonstrated the limits of the authorities' overt patience with, and willingness to toe the line of, the international community. Effectively, albeit unavowedly, taking the cross-border situation into its own hands in the face of the international community's perceived inability even to respect its own rules on refugees, let alone facilitate a solution to their problem, the Government then proceeded to tell the UN and other agencies exactly how to organize their return: no transit camps, no assistance involving or encouraging stop-overs, the sole objective being that they quickly reach their communes of origin. After initial protests, the international community acquiesced and, in the end, grudgingly conceded that overall the plan had worked. This experience will surely have ramifications for roles and relationships in the future.

This having been said, cooperation with government ministries is generally reported to be positive. One NGO working with MINIJUST describes it quite simply as 'a pleasure'; another agency reported a 'very good' working relationship with MINISANTE. While some comments on certain ministries (notably those less directly concerned with children's issues) were somewhat less effusive, there was no insinuation of there being any overall lack of goodwill on the part of government counterparts. Concern was nonetheless expressed quite frequently over the adequacy of *technical* cooperation, especially at the global level – at which the CRC, moreover, has its main role to play. According to one interlocutor, for exam-

70 - In a similar vein, it is interesting to note that the governmental Radio Rwanda is not averse to quoting Amnesty International publications on human rights violations in other countries, even though the organization has issued quite damning reports about present-day Rwanda itself. In analogous situations elsewhere, the authorities have been more likely to avoid any mention at all of such human rights NGOs.

ple, 'political dialogue' had been neglected, and the Government was 'too reactive', working in an overall policy vacuum. Substantive exchange with a view to policy determination is, therefore, seen as having been neglected.

The Government has taken a number of initiatives in which international organizations are invited to participate as full members or where their involvement as observers is foreseen: the sub-commission to revise the penal code (cf. 4.10.) is one such case. The authorities also, for example, have plans to set up a National Commission on Children – there has been some pressure to add the word 'Rights' to the title – in response to the need to create an interministerial policy and monitoring body with special responsibility for children, as encouraged by the Committee on the Rights of the Child. The most recent plan was for the Commission to have the Prime Minister's Office (*Primature*) as coordinator, with the Ministry of Planning (MINIPLAN) as deputy. It would have four major tasks: to define broad policy options, to ensure ongoing coordination, to monitor the coherence of action planned and taken, and to carry out periodic assessments of progress achieved. It would cover four main areas: health and environment (under MINISANTE); family and women (MIFAPROFE); education and information (MINEPRISEC); and CEDC and participation issues, where MINIJUST, MIFAPROFE and MIJEUMA would cooperate with MINITRASO. Representatives of selected NGOs and civil society would have some kind of formal observer status, and it is foreseen that UNICEF will provide 'technical support'.

The integration of non-national entities in national bodies might seem at first sight a welcome move. However, it can carry with it certain less positive connotations with regard to the desirable role of international assistance, lifting it to what may be perceived as quasi-permanent status instead of a more appropriate temporary, *ad hoc* advisory function. Furthermore, it is not always clear to what extent the international community's involvement in such initiatives stems more from its own desires and *démarches* or from a genuine and spontaneous invitation from the authorities.

Finally, it cannot be ignored that today's Government is a self-appointed body, composed essentially of members of previously victimized population groups and with its own internal divisions and struggles. Whatever objective legitimacy it may claim to have is therefore at best fragile. In view of this, no doubt, and while by no means shrinking from making decisions, it has adopted a dual-thrust approach on many of the

potentially most divisive issues. The recently adopted Genocide Act, for example, was finalized only after consultation with community and associative representatives. Following enactment of the Act, high-ranking officials have been dispatched to the *préfectures* and, importantly, to the prisons in order to explain its content and ramifications both for the accused and for wider society. It remains to be seen if this method of promoting societal consensus through transparency and understanding, in the absence of authority by plebiscite, will forge the necessary legitimacy for the Government until it is felt that there is sufficient stability for elections to be held. There is every reason to believe that this will depend considerably on adherence to and promotion of the provisions of human rights instruments – including, of course, the CRC.

5.2.2. Decentralized authority

Rwanda has a sophisticated and somewhat idiosyncratic system of decentralized authority, reaching down from the *préfecture* level to groups of 10 houses. There are 12 *préfectures*, each headed by a government-appointed *préfet*. The *préfectures* are divided into *communes*, now totalling 152 throughout the country; each *commune* is under the authority of a *bourgmestre*. The *communes* are divided into about 10 *secteurs*, which provide *conseillers* to the *bourgmestre* of their *commune*. The *secteurs* are themselves broken down into *cellules*, which, in rural areas, are usually equivalent to *collines* (the hill communities characteristic of the Rwandan countryside); each has a chief. Finally, one inhabitant is made responsible for each group of ten households (*nyumbakumi*).

The problem with using this seductively decentralized administrative structure is that no leader at any level is elected; he or she is simply appointed by the leader at the level immediately above. As a result, it is very much a one-way, top-down system, which is extremely effective for disseminating information from the 'centre' to the individual – and is moreover used abundantly to this end. But it is far less effective for bringing the concerns of the community to the attention of the central authorities. In other words, it is a purely formal, administrative and somewhat authoritarian structure, not one whose elements the individual or community will, necessarily, readily identify with or feel a part of.

In addition, no one can forget that it was precisely through this 'line of command' that the genocide was so efficiently prepared and carried out. It is also the channel

for passing information today on those suspected of having participated in the genocide who have returned to their *colline*.

Nonetheless, it is not only the Government that relies on this structure for programme implementation: it figures large in the strategies of international agencies and NGOs alike. Thus, there are plans to set up local Child Welfare Committees to monitor and advise on children's issues; the *bourgmestres* are being approached to become 'defenders of children's rights' under UNICEF's Mayors' Initiative scheme; they are also to be involved in the reintegration of child soldiers. Indeed, creating public awareness on any issue, securing community participation of whatever kind, setting up local projects – all seem to rely fundamentally on working through and with the *bourgmestres*, the *conseillers* and/or the *cellules*. The system is therefore of special significance as regards promotion of the CRC in Rwanda.

5.2.3. Professionals

As yet, there are no professional associations in Rwanda. This means that promoting the CRC to and through the broad range of professionals working with children, their families and communities – teachers, social workers, police, the judiciary, etc. – has so far had to depend more on individual contacts and integration of the topic into workshops and training sessions organized, or co-convened, by the Government. This is not an ideal situation, but the indications are that the level of interest in the CRC is generally high among these professionals and that initiatives in this sphere would be welcomed.

5.2.4. Associations

Even before 1994, the associative web was markedly more developed in Rwanda than in most other African countries. Observers have put this down in good measure to the need to compensate for the somewhat alienating system of decentralized authority by setting in place structures that create a feeling of belonging. Many associations that existed before the genocide have relaunched their activities, or are trying to do so.

Since the genocide, and partly as a direct result, organized civil society has mushroomed. The 'direct' linkage lies in the creation – at national, *préfecture* and local levels – of at least 30 associations dealing with the rights of victims and of the survivors.⁷¹ A similar number of associa-

tions are working on women's rights questions, largely in response to inadequacies in the law regarding the succession rights of the 250,000 women believed to have been widowed during the genocide.

It is widely held that the post-1994 spawning of associations has also been generated by the breakdown of the community – a lack of any 'village mentality' – and the consequent felt-need for 'substitute groupings'. Most are local-based rather than national groupings and have limited, if any, access to funding sources. In order to gain strength and credibility they would need to create networks, but in many instances the omnipresent lack of trust makes them hesitant to work together.

In a limited number of cases – and Rwanda would by no means be unique in this regard – it is claimed that the motivation for creating an association was essentially the possibility of receiving financial support from agencies and NGOs eager to find non-governmental channels and partners in the country. This is in line with the often euphemistically termed 'capacity-building' strategies organizations are now virtually obliged to adopt – and that sometimes even lead to an association being set up almost entirely at their initiative.

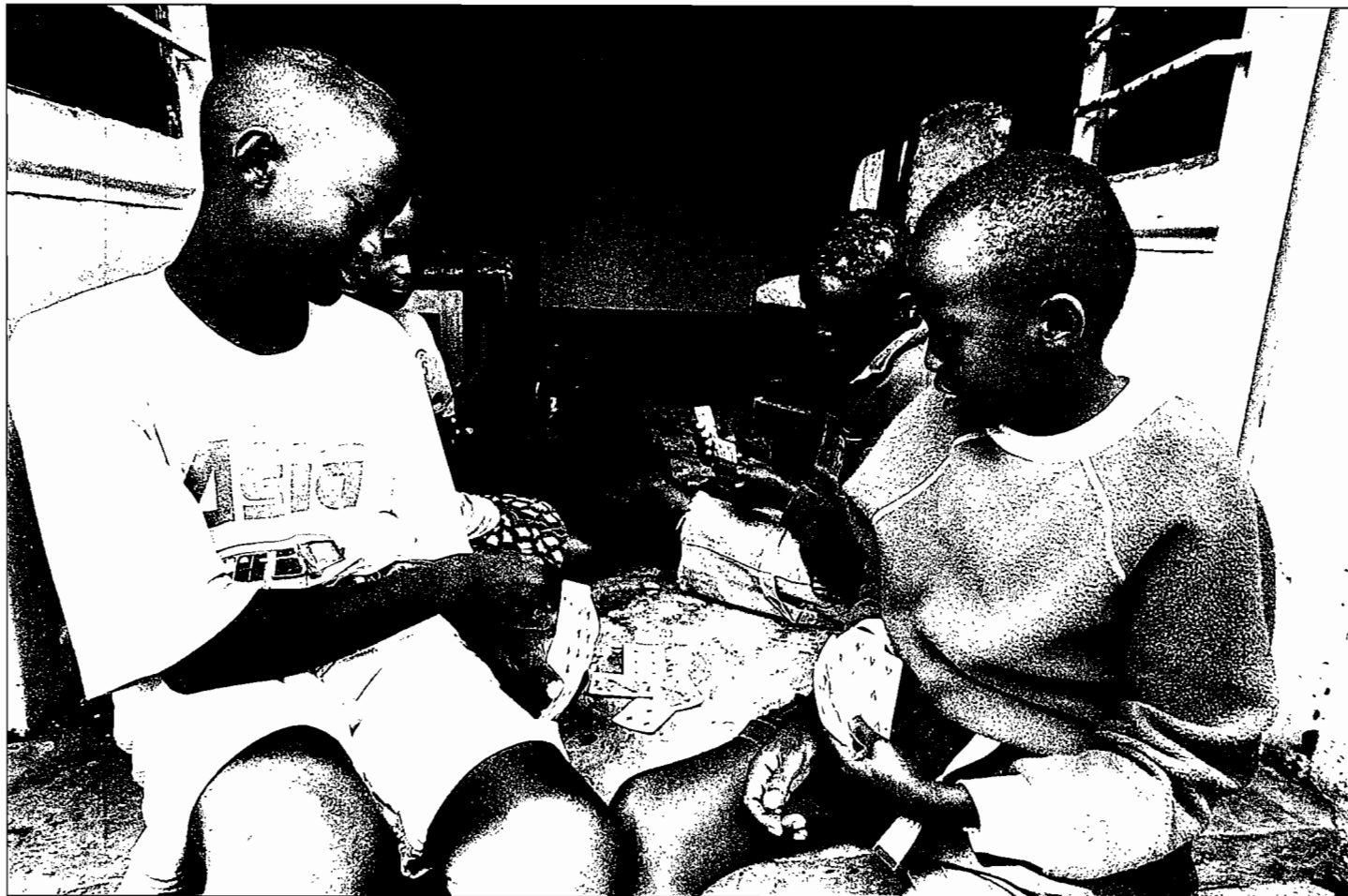
Associations are brought in as partners in a significant proportion of programmes carried out by the international organizations working in Rwanda, and their roles range from organizing surveys and training sessions to providing institutional staff.

While admiration is expressed for the energy and commitment of most of those involved in rights issues (e.g. of survivors), often composed entirely of volunteers and with virtually no resources, appreciation of the effectiveness of 'service providers' is far more varied. This again is not unusual. It is partly a problem of the not-for-profit sector taking on roles that it should not necessarily be asked to play – replacing statutory services or being involved in a project as a matter of form. It is also partly due to the failure of 'capacity-building' exercises, which too often exist only in name. In addition, experience shows that associations set up without genuine backing or impetus from a local or national constituency tend to lack the kind of basis on which, precisely, to build. The international community must beware of trying to promote organized civil society in Rwanda in a way that might involve or result in the rapid and artificial creation of entities that have few or no roots in society and are out of tune with national reality.

71 - 'Protection (La) juridique de l'enfant mineur au Rwanda', Charles Ntampaka, Juristes sans Frontières and UNICEF, 1996.



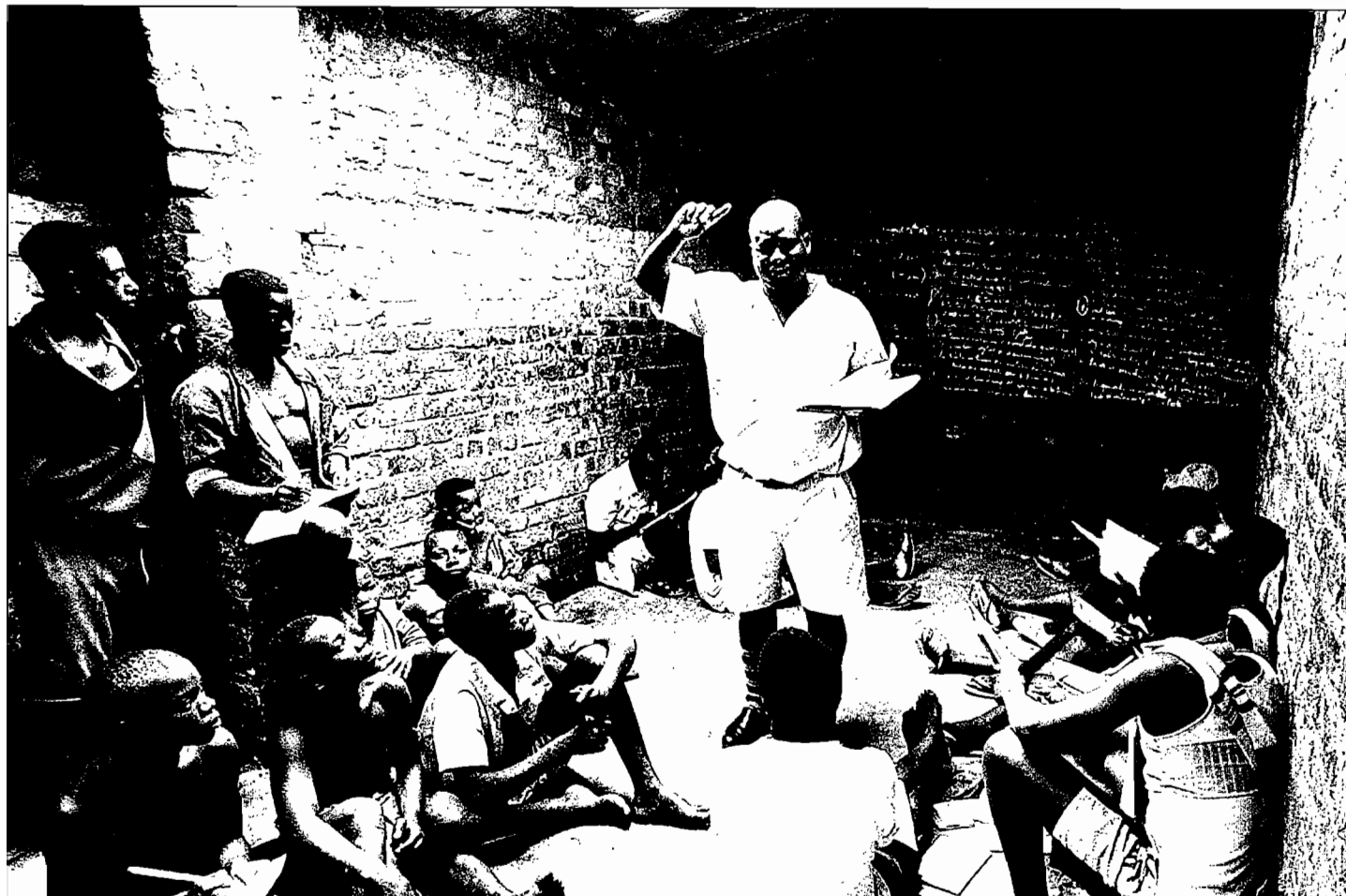
The Ministry of Labour and Social Affairs estimated that at least 85,000 children were living in child-headed households at the beginning of 1997, representing nearly a 30-fold increase on preliminary figures reported a year earlier (cf. 4.3.1.5. and Postface). The composition of these households can range from a family of orphaned siblings to a spontaneous grouping of orphaned, or at least unaccompanied, children. Some NGOs are working to ensure appropriate support in order to build upon the positive aspects of these arrangements, which are otherwise particularly vulnerable and prone to exploitation. This child-headed household in Kigali, in addition to consisting of the 'core' family, has taken in another six orphans from the neighbourhood.



This child-headed household (cf. 4.3.1.5. and Postface) in Kigali consists of 10 orphans from the local neighbourhood. With the difficulties in placing children above the age of seven in foster care, some initiatives have been undertaken by NGOs to assist in the regular establishment of group homes with supervision formally entrusted to a neighbour.



This boy, accused of committing a crime while below the age of criminal responsibility, is one of the approximately 200 underage detainees moved to the Gitagata Re-education Centre (cf. 4.4.1.). Prior to the transfer, they had been held in deplorable conditions in adult prisons. The Gitagata project, along with UNICEF's participation in it, has been criticized in some quarters as being too expensive for the small number of boys it serves and in view of the overall needs of all Rwandan children. But keeping them in prison would clearly have been a violation of their rights, and it would not have been feasible simply to let them return to their families or communities.



These boys in the minors' wing of Butare prison receive basic education from an adult inmate (cf. 4.4.). On the basis of the CRC, UNICEF has advocated for separate sectors for imprisoned juveniles aged 14–17 (of whom there are more than 1,000 in Rwanda). A sizeable proportion of those accused of genocide-related acts who were minors at the time of their alleged crimes have since reached the age of 18 years. Here, too, UNICEF has advocated for separate facilities within adult prisons.



Photo by UNICEF/G. Pirozzi

At the end of 1994, when this photograph was taken, children accused of involvement in the genocide were held under appalling conditions in adult jails (cf. 4.4.). These boys were incarcerated at Kigali Prison where the number of prisoners was five times greater than official capacity. It was only as of July 1995 that children under the age of criminal responsibility (14 years) began to be moved to a special re-education centre and that efforts were initiated to set aside special sections of prisons for older minors.

6. INTERNATIONAL COOPERATION

This section considers the situation, attitude and roles of foreign non-governmental organizations working wholly or partly on children's issues and of UNICEF – as the lead UN agency on children – in the post-genocide period, with special attention given to their relationship with the Government.

This topic is highlighted because the findings of this study demonstrate that the *form* of international cooperation should be seen as having at least equal importance as the *substance* – particularly in post-disaster situations such as that of Rwanda – as regards the effective promotion of the rights of the child and the development of a 'rights ethic' on which reconstruction and reconciliation may be founded.

When, as in the case of Rwanda, a single agency – may have at its disposal more resources than the Government's annual budget, and when the international community as a whole therefore manages funds that total many times that budget, the individual and collective responsibilities of aid bodies become all the more glaringly apparent. Willingness to coordinate among themselves in order to ensure non-duplicative use of the funds, and to cooperate with the Government wherever possible in order to maximize the long-term impact prospects of measures undertaken, necessarily becomes a major component of CRC-based action.

The significance of the quality of the relationship with the authorities is even further enhanced by the fact that the funds sought by, and provided to, aid agencies from institutional donors are in many cases those that, in the Government's eyes, could quite simply have been granted to it directly. This perception does not entirely reflect the reality, however. The 'choice' of the donors is governed by various factors, including in many cases a legal or other obligation to channel given proportions of relief assistance funding through multilat-

eral or non-governmental entities. Even so, there seems little doubt that the increasing tendency to distribute funds in this way is linked with the currently fashionable doctrine whereby the direct role of the State in social affairs is gradually being whittled away, and 'privatization' of services is becoming the ideal to be pursued and supported. The possibly unsuspected side-effects of this move when applied in the international assistance sphere – weakening governments and straining their relations with relief and aid agencies – are clearly having major ramifications for the overall efficacy of any efforts to promote the spirit and develop the use of the CRC.

All of this is further exacerbated when funds granted – whether to agencies or to the government itself – are earmarked for activities decided essentially by the donors, not necessarily in relation to governmental policy decisions and priorities. Frustration over such implicit directives from outside can seriously mar cooperation as well as compromise plans to promote or ensure the rights of the child. This is of course anything but a problem specific to Rwanda. The *Analyse de la situation des enfants et des femmes au Mali*, for example, sets out the problem and its consequences succinctly and brutally: 'The programmes and projects have been more the sum of the programmes and projects that donors are prepared to finance than a reflection of the Government's priorities and policies. Because of this weakness, the management of public resources has remained divorced from the policies announced.'⁷²

It is well worth noting at this point the extent to which the CRC itself considers international cooperation to be a necessary means for ensuring the realization of the rights it contains.

72 - Draft, October 1996, page 72. Author's translation.

On a general level, the utility of international cooperation is acknowledged in the final paragraph of the Preamble – which sets out the interpretive framework for the operative part of the Convention – where recognition is given to ‘the importance of international cooperation for improving the living conditions of children in every country, in particular the developing countries’. This global perspective is taken further in the operative provisions – in relation to those rights classified as ‘economic, social and cultural’ at least – by the *obligation* of States Parties (art. 4) to undertake all appropriate measures to implement these rights ‘to the maximum extent of their available resources and, where needed, *within the framework of international cooperation*’ (emphasis added).

International cooperation is also explicitly mentioned in certain provisions of the CRC dealing with specific issues, notably disability (art. 23), health (art. 24) and education (art. 28), but also in regard, for example, to ensuring access to appropriate information (art. 17). Special reference is made to the States Parties’ obligation to cooperate ‘as they consider appropriate’ with ‘the United Nations and other competent intergovernmental organizations and non-governmental organizations cooperating with the United Nations’ in relation to refugee children (art. 22).

Another form of international cooperation encouraged by the CRC is that of concluding and adhering to international agreements, or taking multilateral measures, in order to facilitate or ensure compliance with obligations in areas such as intercountry adoption, prevention of sale and trafficking, illicit removal or retention of a child, and recovery of child maintenance.

Finally and significantly, article 45, in setting out certain measures that the Committee on the Rights of the Child can take, begins as follows: ‘In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention ...’.

The emphasis placed on international cooperation in the CRC is important not only in establishing such measures as inherent to the treaty’s optimal implementation, but also for at least two other main reasons:

- in many cases recourse to international cooperation actually constitutes an obligation for States Parties, subject to certain conditions, and not just an opportunity;
- the *form* of international cooperation as envisaged by the CRC comes over clearly as being essentially directed towards helping States Parties in their efforts

to implement the treaty’s provisions, rather than direct assistance to populations or children.

It is this question – the form of international cooperation – that, as we have seen, is of special interest in post-disaster situations such as that of Rwanda. The first element to take into account concerns the discretionary powers of the State Party within whose jurisdiction international cooperation might be under consideration in these particular circumstances – and indeed at any other time. From article 4 it can be concluded that the State Party is responsible for determining whether or not there is a ‘need’ for such cooperation – although the Committee on the Rights of the Child may presumably call upon the State Party subsequently to justify global or selective refusal should this result in, or simply ignore, gross violations of, or inadequate responses to, children’s rights. This discretion is reinforced in article 22 by the reference to the State Party’s ability to decide on the appropriateness of the bodies to provide assistance and of the available assistance itself. While it is true that this provision refers specifically to refugee children, it would not be unreasonable to see the approach as being illustrative of a standpoint that is potentially applicable to wider situations, particularly those of an emergency nature.

From article 22 also comes reiteration of the concept of the ‘competence’ required of the partners in an international cooperation effort, whether they be intergovernmental or non-governmental. This provision lends clear though implicit support to the principle that a State Party would be perfectly entitled to refuse cooperation with bodies that it considers ‘incompetent’ even if it otherwise considered that resolving the situation in question required international cooperation.

Not surprisingly, it follows from all of the above that, in the spirit – and to a considerable extent even according to the letter – of the CRC, international cooperation for the rights of the child in a given country would seem to demand a high degree of active coordination with the authorities. This does not mean that action can never validly take place outside that cooperative framework. In extreme circumstances (deliberate gross neglect or systematic active violation of children’s rights, *de facto* lack of government, etc.) it may be required or unavoidable, but it would then constitute international *intervention* rather than cooperation. This is a very different concept that can have its own justifications in given situations (and examples of which, moreover, were not entirely alien to the Great Lakes region

at the time of writing). It is not a concept that, to date at least, should have concerned the promotion of children's rights in the post-July 1994 situation within Rwanda, however.

Thus, in order for the CRC to be fully realized, it is logically just as necessary for its cooperative provisions to be complied with as it is for its substantive rights to be respected. That is a further reason why in this section special attention is paid to the relationship between the Government and the international *cooperation* agencies.

■ 6.1. NGOS

There is no doubt that the work of many NGOs in Rwanda has been crucial to meeting the vast needs of the immediate post-genocide period. This is particularly – though not only – true for those who have brought expertise in specialist areas such as family tracing and reunification, conducting surveys, etc. Fully recognizing this, few would deny, however, that the overall NGO presence in Rwanda has been fraught with major problems, and it is on these that this section deliberately focuses for the most part.

To the extent that the generic term 'Third World' was supposedly designed to cover countries as different as Namibia, Bhutan, Morocco, Mexico and Jamaica, so the term 'NGOs' is entirely inadequate to describe usefully the spectrum of bodies whose staff or volunteers converged on Rwanda (and Rwandan exiles in neighbouring countries) during and, more especially, immediately after the genocide.

The exact definition of 'NGO' has long been the subject of debate. That debate is not resolved, and the ramifications of the ongoing confusion, as regards the most effective promotion and protection of children's rights, are very real in post-disaster contexts such as that of Rwanda, where an inexperienced, cash-strapped and under-staffed Government is confronted with a veritable tidal wave of foreign bodies, all claiming the special status supposedly conferred by calling themselves an 'NGO'. Initially at least, and having virtually no prior experience in dealing with NGOs, the authorities may well be tempted, resigned or bullied into accepting all on the same footing. This is not an African phenomenon; at the start of the decade, the fledgling Governments of Romania and Albania found themselves capitulating in the face of similarly massive heterogeneous influxes as they took their first tentative steps on the road to 'transi-

tion', with the result that the rights of many of their children were unceremoniously violated.

Whatever the definition, however, the term 'NGO' was of course not designed to be a catch-all for every private and – ostensibly at least – not-for-profit initiative. Indeed, it is not in the interest of anyone, least of all the children to be served, for this apparently all-encompassing terminology to be deliberately misinterpreted in that way. In mid-1994, the Red Cross together with certain NGOs published a 'Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief'; but respecting it is a voluntary and self-evaluated exercise. No one has yet identified an acceptable and feasible means of limiting participation in post-disaster situations to those organizations with the capacity and approach to ensure their appropriate and necessary contribution to the relief effort. There is discussion of some form of accreditation, but determining the supervising body currently constitutes a stumbling-block. That it is urgently and unquestionably required is nonetheless underscored once more in Rwanda.

It is worthwhile recalling in this regard that the *travaux préparatoires* of the CRC show that non-governmental organizations are covered by the term 'other competent bodies' (art. 45) that may be asked by the Committee on the Rights of the Child for 'advice on the implementation of the Convention in areas falling within the scope of their respective mandates' and to whom the Committee may transmit 'any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance ...'. Obviously the key word is 'competent'. If it is to be a criterion for the Committee seeking advice on implementing the Convention, it can surely be nothing less than an absolute obligation for any organization carrying out programmes in the field to that same end.

The Joint Evaluation made a similar point strongly:

It is unacceptable that an NGO with little or no relevant experience is able to send personnel to a humanitarian relief operation and engage in activities that discredit or undermine the overall effort; provide unacceptably poor standards of service and care to their beneficiaries; and then leave without any recourse. Such activities would not be tolerated in Western countries, where many of the NGOs in question are based.⁷³

73 - Study 3, p. 153. See note 18 above.

It is generally agreed that almost 200 'NGOs' were present in Rwanda at the height of their activity, towards the end of 1994. They ranged from experienced agencies with qualified staff, used to cooperating with governments and other partners during emergency situations, to nascent ventures whose volunteers, setting foot for the first time in Africa, bore privately donated funds that had to be spent at all costs on setting up an 'orphanage'. In between were groups whose religious fervour seemed to have outweighed their competence, others whose approach and professionalism largely made up for any gaps in previous experience, and yet others who, despite previous experience, were to persist in trying to set in place their own conception of a response to their equally particular conception of Rwanda's needs.

Despite their differences, most of these NGOs had at least one thing in common: relatively large resources. They, not the Government, had well-equipped offices and vehicles. They, not the Government, could finance the plans they drew up. And they, not the Government, had staff (or volunteers) who, in addition to being at worst reasonably paid ('too highly' according to the Government, much rankled by this point), were not having to come to terms personally with the direct psychological and practical effects of the genocide. Worse in the authorities' eyes was the fact that, as noted above, and in varying proportions according to the agency concerned, they were seen as benefiting from funds that could have been channelled directly to the Government.

And of course, they were quite simply far too many. The Joint Evaluation makes this point, albeit somewhat tautologically: 'The same volume of activities could have been carried out by a much smaller number of NGOs with larger programmes.' More importantly, a massive and heterogeneous influx (of whatever kind of agency, intergovernmental included) is likely to delay rather than advance the implementation of, in this case, the CRC. Competition, duplication, varying quality of services, drainage of resources and problems of coordination are some of the main negative implications of such a situation.

Thus began what has since proved to be the continuing – though perhaps less markedly so – ambivalent relationship between 'NGOs' and the new Government of Rwanda (see the Panel opposite). That the NGOs as a whole are, rightly or wrongly, still not regarded benevolently by Government two-and-a-half years after their arrival is clearly indicated by pronouncements such as the

one by Célestin Kayitare, Chief Adviser to the Minister of Health: 'Thirty per cent of NGOs do good work, and 70 per cent are a disaster.'⁷⁴

Today, about 80 'NGOs' remain active in Rwanda. Most are NGOs without quotation marks. They are all in principle registered with the authorities and cooperate with their government counterpart (a designated line ministry). Some attempt to coordinate their action when working in the same or related fields, although the government-instigated coordination mechanism seems to be functioning poorly after a promising start. Thirty are estimated to be focusing more especially, though not necessarily exclusively, on children's concerns, and many of these – invariably those already benefiting from a substantial track record – have justifiably gained considerable respect for the quality of their work. A limited number of selected NGOs are even included on governmental task forces and commissions and are mandated by the Government to carry out fixed-term projects specific to the post-emergency phase. They have a similarly constructive relationship with UNICEF and certain other intergovernmental agencies. Some have 'stand-by agreements' with UNICEF to act together if and when further emergencies occur (these were activated, for example, in preparation for the return of refugees from eastern Zaire in November 1996). And several NGOs have demonstrated characteristic inventiveness and initiative of the most positive kind: the surveys carried out by SCF-USA, for example (cf. 4.4.1., 5.1.5.), or the particularly attractive project devised by Juristes sans Frontières to set up a *Maison de la Justice*, designed to provide a 'space' and a forum for human rights associations as well as being symbolic of the hoped-for move away from 'impunity' to the 'rule of law'.

For NGOs that are child-focused or that have projects directly impacting children, the CRC is now almost universally the *sine qua non* of their mission statement and programme justification. In practice – and the same applies to governmental and intergovernmental agencies and bodies, it should be emphasized – the real influence of the CRC on their action varies considerably. Some are content to point out that their activities are founded on, or in conformity with, such and such provision of the treaty: e.g. providing substitute care as foreseen under article 20 or reintegration services as under article 39. Others – not necessarily the majority – are well aware that CRC-based action involves much more than looking up

74 - Interview in *El País*, 10 December 1996.

THE DECEMBER 1995 EXPULSION OF NGOS

The somewhat tenuous nature of the relationship between the Rwandan authorities and NGOs, and in particular the former's frustrations with the latter, was vividly illustrated by the Government's initiative of 6 December 1995 announcing the expulsion of 38 organizations. Nearly all were involved with work for children, so the significance of this move in regard to CRC-based efforts is clear.

The decision was communicated in a memorandum from the Minister of Rehabilitation and Social Reintegration, explaining that 'some of the NGOs operating in Rwanda have intervened successfully while others have not been up to standard either because of lack of adequate means and capacities, not having clear programmes and experience, or neglect of existing government regulations'. Annexed was a list of 102 NGOs granted permission to operate, 18 whose situation was still under consideration, and the 38 who were 'requested to cease activities in Rwanda'.

The list of those expelled essentially contained three basic groups:

- organizations that had in fact already left the country (it was later stated that half fell into this category);
- organizations whose programmes and/or operating methods were deemed to be undesirable or ineffective;
- organizations whose geographical origins clearly made them politically undesirable.

In particular because their ranks included a surprisingly large number of normally well-recognized NGOs, the outcry was vociferous. Lack of prior consultation with the NGOs concerned and political motives on the part of the authorities were the main criticisms levelled against the move itself; allegations – firmly contested by the authorities – of property being confiscated and bank accounts frozen in the context of the expulsions were also made.

A subsequent note 'to clear misunderstanding' was issued on 15 February 1996. Therein, the

Government emphasized that 114 NGOs were officially registered and still operating in Rwanda and that the expulsions were therefore in no way indicative of 'general hostility to all NGOs'. The communiqué recognized the effective response of many NGOs, but maintained that some

undertook to cover large needs without experience and qualified staff. Some NGOs' activities were characterized by duplication of effort and thus wasting resources, competition for media profile often distorting information ... The most intolerable reasons were involvement in actions that are contrary to declared mandate, which affected the security of the country; some behaved unprofessionally and unethically such as abandoning children in centres or selling of relief destined for vulnerable people. Others failed to follow the programmes and produce any tangible results.

The issue of coordination was also highlighted:

As the new Government was being put in place, many more NGOs emerged, at the time there was minimum accountability and lack of coordination generally ... Rwandan Government introduced a working guideline to help coordinate and orient humanitarian agencies towards projects that the Government felt were a priority ... [This] was appreciated by a recognized number of NGOs which registered immediately, yet some chose to resist the registration process ...

After renewed negotiations, certain of the expelled organizations were in fact allowed to return to work in Rwanda in 1996; at the same time, at least two of those originally given permission to continue working received orders to leave during the year.

and citing the article most relevant to its content. This difference has major ramifications for reactions to future situations comparable to – though hopefully not as extreme as – that of Rwanda.

First and foremost, it means making a decision as to whether the action will be instituted regardless of, despite, alongside or in cooperation with the authorities, once the latter effectively exist. Whatever its secondary uses – and they are many – the CRC is not a shopping-list or range of options for undertaking discrete and individualistic actions on behalf of children. The CRC is fundamentally and necessarily an intergovernmental treaty setting out clear obligations for its States Parties. Ultimate responsibility for its implementation in a given country rests squarely on the authorities of the corresponding State Party. If those authorities are not allowed or enabled to be aware of and, where desired, to be implicated to some degree in what others are doing for children in their country, by the same token they cannot be judged on their compliance or political will in relation to the treaty. Nor can they be expected – as seems to have been the pipe-dream in certain quarters – to sit back and let others attempt to shoulder the responsibility informally in their stead. The more experienced NGOs tend to know this. Many neophyte groups – and, surprisingly, even some well-established agencies – have on the other hand apparently confused their ‘independence’ as non-governmental bodies with a self-proclaimed right to do as they please, and their commitment with a sufficient guarantee of quality, provided (in the best cases) that what they do can be backed up with a suitable quote from the CRC.

Secondly, contributing to the implementation of any provision of the CRC requires reference to the whole. Several illustrations of this are given at various points in this report. To cite a single example, consider family reunification. While this issue is dealt with (for non-international cases) especially under article 7 (the right to be cared for by parents) and article 9 (prohibition of arbitrary separation from parents), the implications of reunification are much wider, as the Rwandan experience has once again demonstrated. Provision of preparatory and follow-up services, taking into account the child’s opinion, and foreseeing protective interventions are just some of the aspects that need to be considered – and belatedly led to the institution of ‘family mediation’ schemes when it was realized that simply returning a child physically to his or her family home did not always constitute an appropriate response on its own.

NGOs appreciated in Rwanda are generally those that have stuck steadfastly to their declared mandates and goals. Many others, however, are perceived as adopting more of a ‘flavour-of-the-month’ approach. As one senior civil servant put it: ‘they go where the money is. They started off with centres, then moved to community development, then everyone was into trauma and now it is reconciliation. Their programmes do not correspond to their particular expertise, they are largely donor-led.’ In fact, NGOs that might fall into this category tend not to deny the changes in focus. Clearly, one good reason for modifying programming is to adapt it to changing needs and realities: fewer children in centres, the end of the pure ‘relief’ phase, etc. This flexibility – as opposed to the more cumbersome programming processes of intergovernmental agencies – is indeed cherished, and not without justification. Some admit that they are moving into spheres where their experience is limited, but also point out that a great deal of inventiveness and experimentation has to take place in a situation such as that of Rwanda, where many problems are anyway being faced for the first time, at least on this scale.

The ‘donor-led’ charge is also admitted, in part and in private at least, by certain NGOs. This is part of a far wider phenomenon in terms of both geographical incidence and type of organization: it can affect the work of intergovernmental agencies, local associations and government ministries alike. The Joint Evaluation does not contest this point. There are certain approaches, at certain times, that become ‘musts’ from a donor’s point of view, all too often regrettably based on the ‘buzz-word’ mentality rather than on any in-depth analysis of the specific needs and of the practical implications of the approach being demanded in the country in question. ‘Capacity building’ (cf. 5.2.4.) is a frequent case in point. Then there are specific initiatives in which everyone wants to be involved: in Rwanda, attractive causes such as the removal of under-14-year-olds from prison and the demobilization of children from the armed forces have been readily financed, while other more mundane activities – in the field of secondary education, for example – struggle to find funding and the ‘sustainable’ or ‘time-limited’ angle that will make funding more likely to be granted. This is the often neglected reverse side of the ‘donor-led’ coin: what cannot get done instead because donors do not heed the calls.

■ 6.2. UNICEF

In the special context of Rwanda, what has been – and what could be – the role of UNICEF? As a UN agency to be sure; but more especially as the lead UN agency on children and the one whose explicit and unique mission within the UN family was to have as its framework the promotion of the CRC and the rights it contains with interested NGOs, with the Government, with the community, and with and for the children.

At an inter-agency meeting on Rwanda in early July 1994, UNICEF was given – and took – responsibility for five main action areas: health, nutrition, water supply, unaccompanied children, and response to trauma. Interestingly, within a few months it had contributed significantly to ensuring that primary schools re-opened quickly, had helped Radio Rwanda get back on the air, was planning for the demobilization of child soldiers, and was advocating for the transfer of children under 14 from adult prisons. Not instead of, but as well. An unconventional start to its new country operation.

UNICEF's status as an intergovernmental organization means that partnership with Government is not an option but an obligation. Thus, the agency was working in liaison with the previous régime, having had an office in the country since the early 1980s. And whatever government had secured power after the genocide, UNICEF would have been duty bound to seek cooperation with it – though not, of course, to support or be implicated in any child-focused policies or programmes that were not in conformity with the CRC.

In the event, UNICEF was faced with 'a unique opportunity, since the Government was willing to start anew'.⁷⁵ In addition, as noted previously, the Government had nothing. UNICEF, on the other hand, had launched an appeal for its Rwanda operation, which, for the first time ever, brought in virtually the whole amount requested: US\$ 56 million for the second half of the year, i.e. over 5 per cent of the agency's total annual budget and several times greater than that of the Government.

In order to enable its governmental counterparts to function at least minimally, UNICEF began by putting modest sums at the disposal of a dozen key ministries for basic equipment and provided jeeps. With communications out of service, it also decided to earmark US\$300,000 to put Radio Rwanda back on the airwaves, realizing that this would be an essential means of contacting former and potential government employees (cf., for example, under 4.2.1.1.), could help in family tracing and, more generally, in informing the population on spe-

cific issues. This initial assistance was not only valuable in itself, but also had the apparently unplanned effect of putting UNICEF in good stead with the authorities. In view of the latter's overall reticence towards UN agencies (cf. 5.2.1.), the goodwill thus created was particularly important for UNICEF's subsequent cooperation on children's rights issues.

Three major problems have been felt within UNICEF Rwanda itself in terms of its efficacy during the post-genocide period:

1. With a Government apparently willing to tackle issues from a children's rights standpoint, could the agency not have put more emphasis on finding ways to work with the authorities on developing an overall policy, as well as structures, that would underpin child-focused action? Two concerns are expressed over the consequences of what is perceived as inadequate attention to this. Firstly, it is feared that opportunities to create an appropriate 'political space' for children's issues – and particularly for the CRC in its various uses in the reconstruction and reconciliation process – have been lost. Secondly, problems are felt to have been approached in a reactive rather than a coherently planned manner (cf. comment under 5.2.1.).
2. When the Government was looking for guidance in dealing with certain problems and phenomena, e.g. trauma, detention, or even placement in centres, it was found that there were no 'institutional' guidelines to which reference could readily be made, even though UNICEF Rwanda was – or became – involved in those issues, and UNICEF as a whole had had at least some previous experience. Consequently, the foundations on which UNICEF Rwanda could play a 'technical advisory' role were often felt to be shaky, relying more on personal experience and interpretations than on a full-fledged organizational stand.
3. Even in certain spheres where UNICEF had both considerable experience and an accepted mandate, it was concerned about not having always been able to 'deliver the goods' – in its own eyes and in those of its partners.

The connecting factor between these three self-criticisms is, of course, 'expectations' – those spontaneously held by others, those actively created or fostered by the agency itself and, indeed, those of its staff. The two basic expectations of UNICEF – in situations such as that of Rwanda at least – are that it provide efficient ser-

75 - UNICEF Representative, Rwanda, September 1996.

vice delivery as part of a team and that it provide sound advice and, where necessary, support on children's issues of whatever nature.

The first is mostly spontaneous and stems largely from its historical mandate, experience, field presence and access to resources. If there are felt or alleged inadequacies in this domain, the specific problems have to be examined and the mechanisms reviewed with the partners concerned. It is essentially, though not always entirely, an operations and programme coordination question.

The second, in contrast, is both more recent and largely self-imposed, based on UNICEF's much-publicized acceptance of the CRC as the framework for its mission and its (legitimate) claim to be the designated lead UN agency on children. It is far more complicated and involves basic policy. Its implications are universal, but they are crystallized and of special consequence in the kind of emergency and post-emergency conditions found in Rwanda.

At the institutional level, UNICEF is caught between two contradictory thrusts that it is adopting simultaneously and that have major ramifications for the work it seeks to carry out in the field. One is UNICEF's public message, 'Children First', with its new CRC-inspired add-on 'All rights, all children, everywhere'. The other is the internal adage to concentrate on 'doing what UNICEF does best' or, in buzz-word-speak, 'concentrating on areas where UNICEF has comparative advantage'.

The result is eminently predictable. Global advocacy with a government in favour of the CRC as a whole – creating the political space – can only be truly credible if there is sound knowledge and experience of the issues involved. While the CRC gives guidelines in certain domains (cf. 2.1.5.), there are vast areas where only the goals or obligations are set out. Securing that knowledge and experience will require working in areas where comparative advantage may be lacking – but where alternative intergovernmental agencies to do the job may be equally absent. Likewise, ability to provide genuine technical assistance and advice on such issues demands the building-up of an accessible, proactive and systematically fed institutional memory or knowledge-bank, and not – as UNICEF Rwanda was often forced to do – recourse to individual intuition or to bringing on board a string of outside consultants on a temporary – sometimes *very* temporary – basis.

The course that UNICEF Rwanda followed was that of responding both to government requests and to situations where – because of the children's circumstances, its relationship with the authorities and/or the apparent lack

of other agencies in a position to take up the problem – it felt morally unable to remain inactive. It advocated on individual issues rather than on *the* issue of the human rights of children. And in so doing, it felt that it was not using its potential to the full.

Behind this lies another debate, akin to that alluded to when considering NGO attitudes: what should UNICEF's exact role be vis-à-vis governments? Again, the peculiarities of the Rwanda situation bring this question into the spotlight. The simplistic oft-quoted rejoinder 'UNICEF is not at the service of governments, but of children' is inadequate, not to say misleading, as a starting-point, let alone a guide. To maximize the impact of the CRC, the aim should precisely be to ensure that being at the service of government and children are not incompatible functions.

Although each country situation is obviously different, there are surely now a number of elements that can be taken as basic to all:

1. governments decide overall policy orientation and enact legislation;
2. they may or may not request advice and guidance from third parties, including UNICEF;
3. they take final responsibility for decisions reached;
4. UNICEF and others should try to help avoid decisions that run counter to the CRC and should refuse to co-operate on any initiatives resulting from such decisions should they nonetheless be made;
5. UNICEF and others should register concern or protest, in a potentially effective manner to be determined on a case-by-case basis, when CRC provisions are deliberately violated;
6. UNICEF and others should bring to the attention of, and be prepared to discuss with, governments any ideas, initiatives or information that could facilitate the effective implementation and use of the CRC and have a bearing on governmental policy.

What does not and should not figure in this list is a persistent and active 'ideological' campaign, directed at government, on children's rights – or the CRC – as a whole. A society and its government, in Africa, Europe or elsewhere, have to be allowed or enabled to go through their own processes, separately or together, in their own way and at their own pace. Indeed, ratification of the CRC is a case in point: in the name of the push for universal ratification, some governments were virtually hounded into ratifying the instrument – in many instances, virtually the first human rights treaty to which they had ever adhered – with only the vaguest idea of the

ramifications and obligations that such a step would, or at least should, imply. This can be counter-productive, and it certainly jeopardizes the aim of bringing the CRC to be a known and, especially, accepted backdrop and framework for policy and practice in child-related matters. The role of bodies from outside must be to assist processes, not to try to direct them or take them over.

Avoiding this trap is vital in cases such as that of Rwanda, where the 'opportunities' to influence can seem

unusually numerous and far-reaching because of the Government's relative inexperience and the potential power that resources bring. It was clearly never UNICEF's intention to operate in that way, but its own concern about 'missed opportunities' for creating political space should be significantly relativized in the light of the above considerations. In the long run, providing solid back-up is likely to be more effective for children's rights than seeking to play the driving role.



Photo by UNICEF/G. Piozzi

Under Rwandan law, children may accompany their mothers in prison up to the age of three (cf. 4.4.3.). In late 1996, a reported 350 youngsters were 'incarcerated' in this way. In this particularly difficult rights dilemma, it has been decided to improve to the greatest possible extent the conditions under which imprisoned mothers and their children must live when separation is not feasible. At Butare prison, where these six children live with their mother, a playground and pre-school have been opened.



Photo by UNICEF/Press

Women, many with their children, crowd a narrow courtyard that is their only access to light and exercise in the women's section of overcrowded Kigali prison. While children should not be in prison, separation may also not provide an appropriate solution (cf. 4.4.3.).

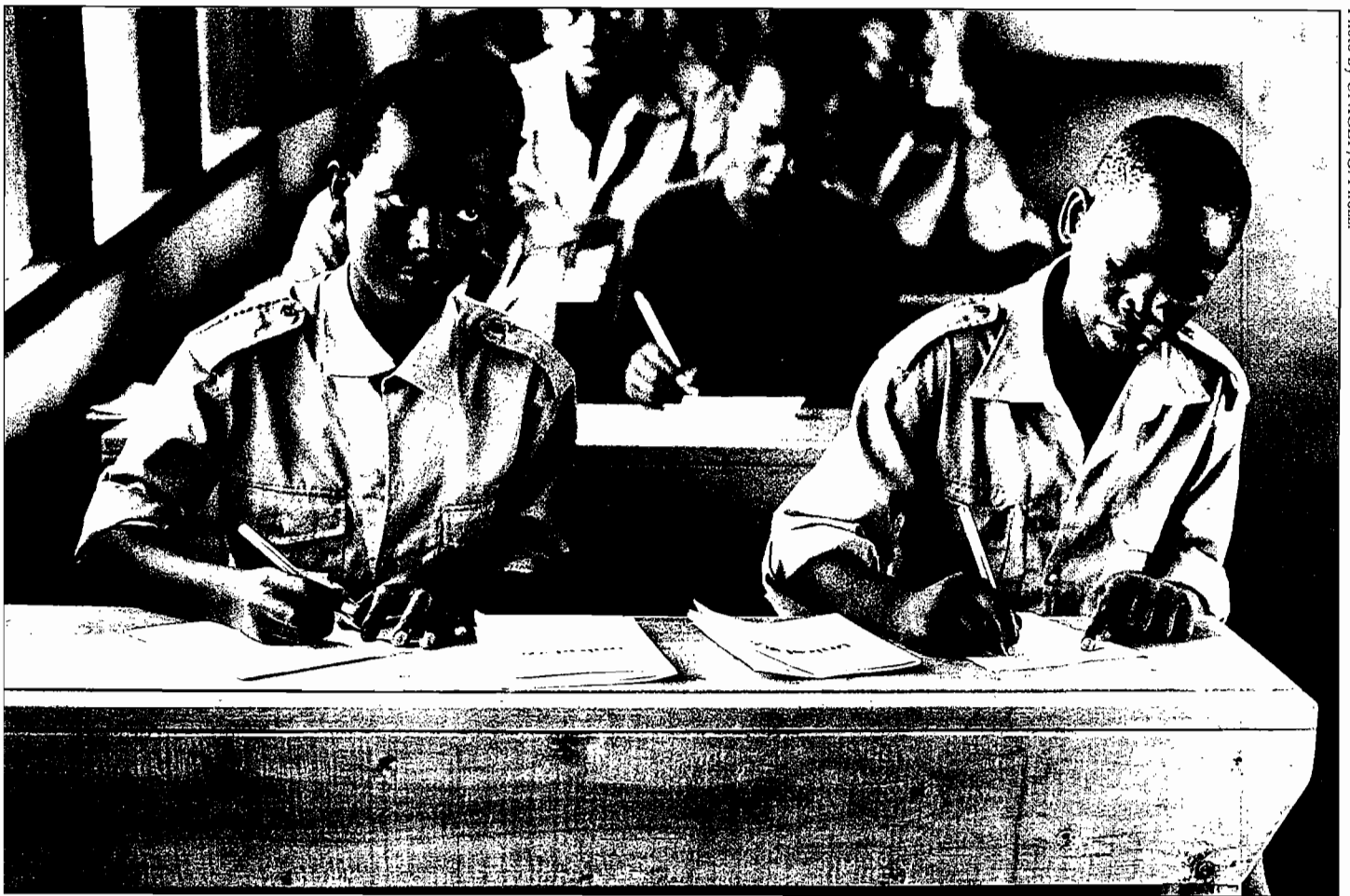
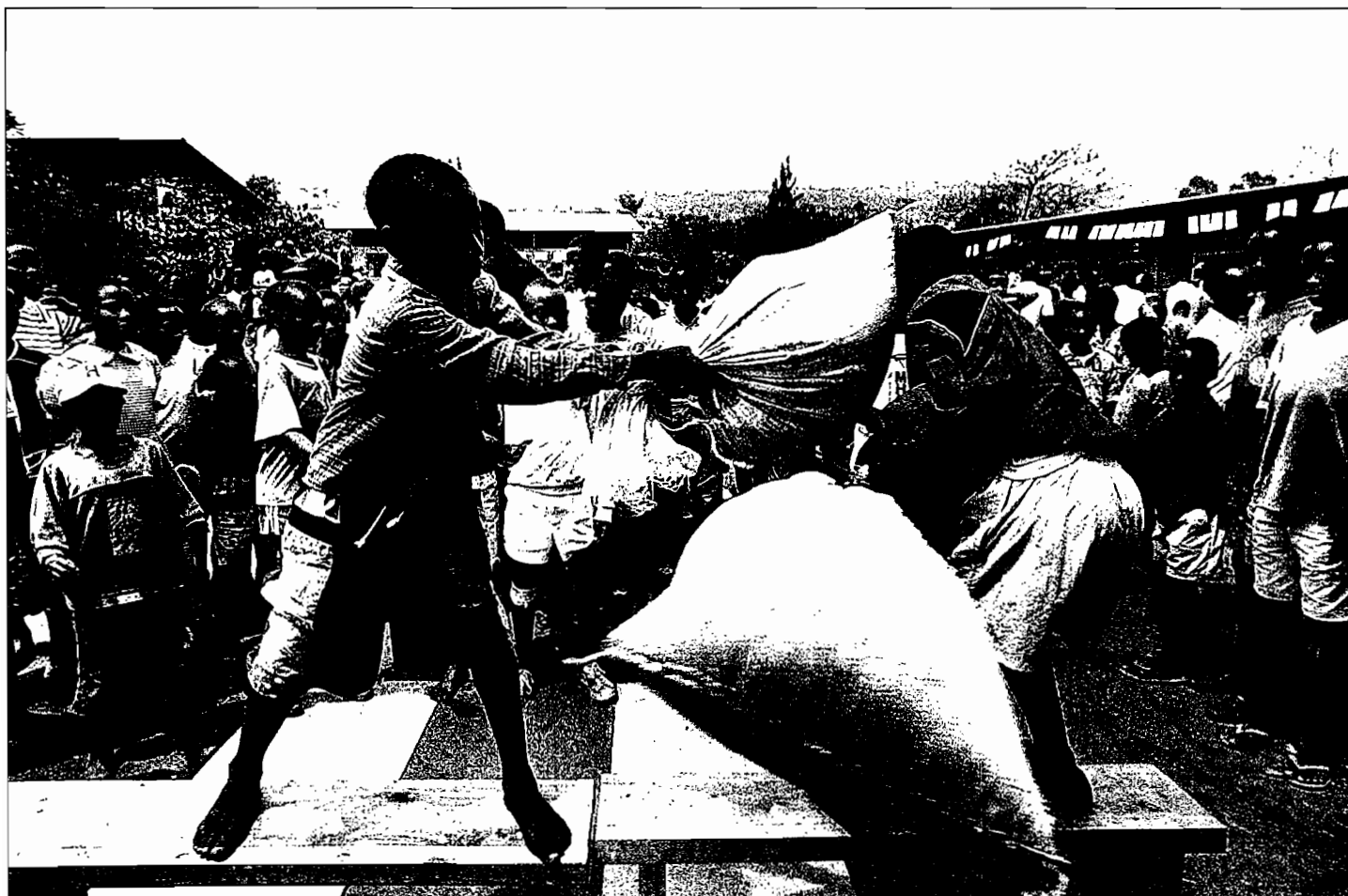


Photo by UNICEF/G. Pirozzi

Almost 3,000 underage boys, or Kadogo ('little ones'), who had been attached to the RPA (Rwandan People's Army) were 'demobilized' starting in late 1994 (cf. 4.5.). In response to the need to provide these boys with a special setting for the transition from military to civilian life, the Government, with the support of UNICEF and several NGOs, opened the Kadogo school in Butare in mid-1995. While the need for this transition into civilian life is unquestioned, the project has not been without criticism.



While there seems to be little concrete evidence that the number of street children has increased compared with the pre-war figures, the rights of these children, and their need for protection, nevertheless deserve special attention (cf. 4.6.). There are several drop-in centres for vagrant children, such as the Gatenga Youth Centre (pictured here) located near Kigali and run by the Don Bosco Fathers, but it appears that concerted efforts to understand the situation of the children concerned and to develop a coherent approach to outreach are lacking.



The future of Rwandan society will depend on its youngest members to rise above the hatred, mistrust, and deep ethnic divisions that have been reinforced by decades of colonial and home misrule and the tragic events of 1994. Rebuilding the country – physically, psychologically and spiritually – will be a major challenge, for Rwandans and the international community alike. To be successful, this task must be carried out in a State where human rights, including those of children, are respected and promoted.

7. REVIEW OF IMPLICATIONS FOR CRC-BASED STRATEGIC CHOICES

Much effort has already been put into developing guidelines and instructions for action in emergency and post-emergency situations. This section does not intend in any way either to duplicate in part, or supplement, existing 'handbooks'. Indeed, the reality of Rwanda demonstrates the limitations of trying to draw up 'blueprints' for such situations. Firstly, in their attempt to be comprehensive and sufficiently flexible, manuals often become so voluminous that their utility – especially, precisely, in an emergency demanding rapid response – may be somewhat compromised. Secondly, while individual agencies may have their own manuals, others exist for broader use and there may be confusion as to which is most applicable in given circumstances. And finally, on a very practical level, it is regrettably clear that their existence is often quite simply not known by those who are supposed to apply them – or they may not be easily available in the emergency context.

As pointed out in the Preface, this study is not an evaluation. It has simply attempted to look critically at various facets of responses to the Rwandan situation with a view to identifying ways in which the CRC can be optimally used and respected. Throughout, therefore, questions have been raised and concerns expressed under each issue dealt with. In this section, the aim is more to pinpoint in a constructive way some of the overall pitfalls and gaps that the Rwanda experience, and the preceding descriptive analysis, have suggested or brought to light in relation to action based on, and designed to promote and protect, the CRC and its individual provisions.

■ 7.1. UNICEF RWANDA'S OWN CONCERNS

Throughout this study, a considerable number of comments and suggestions have been made on a wide range

of actions undertaken by UNICEF Rwanda and on the impact in that country of approaches adopted by UNICEF as an institution.

At the start (cf. 1.3.2.), we noted the main concerns that UNICEF Rwanda itself had expressed: (1) having missed opportunities to create 'political space' for children, and (2) the reactive and somewhat haphazard and uncoordinated manner in which many of its programmes have developed. In telegraphic form, this translates into a desire to have more proactive input and influence regarding national policies and programmes that will set the stage for, and contribute to, the long-term reconstruction and reconciliation process that is seen as a pre-condition for the CRC to be respected and implemented. This section reacts briefly and specifically to those perceived problems.

In fact, the information gathered during this study would not tend to confirm the first of those concerns and would only partially support the second.

7.1.1. Creating 'political space'

The basic reasoning behind this approach is sound. While it may prove difficult to change significantly the mindset of the adult population after decades of incitation to hatred and the 'culture of impunity', it is by focusing attention on the attitude-formation and prospects of the rising generations that the best guarantees of reconstruction and reconciliation will be secured.

In practice, however, the broad designs – and even detailed strategies – for the future have been and are being drawn up with considerable emphasis on the contribution and rights of children. The dangers of UNICEF becoming over-implicated and, as a result, over-influential in this process are substantial. Actively by

design, or passively by their mere presence, the influence of the agencies has probably been too great already. Some – including UNICEF in certain cases – have sought to take on a high-profile role when discretion would have been a more appropriate watchword. As noted earlier (e.g. in 5.2.1.), their direct participation in – as opposed to a contribution to – what should normally be *national* commissions and task forces is not necessarily a positive move. Also, trying to create ‘political space’ by means of advocacy for the CRC on a general basis has major limitations, often becoming – and being seen as – a rather empty exercise. Helping to lay the foundations for optimal implementation of the CRC probably lies, as we have seen, in assisting in other ways.

7.1.2. Reactive programming

It seems true that many programmes are or were reactive and that a better-coordinated overall programme in Rwanda might have enhanced their individual and combined impact. At the same time, ‘reaction’ is not necessarily an incorrect approach, and there are other programme factors that would seem to merit as much or more concern. Some are related more specifically to the Rwanda situation, but most reflect more general problems or issues.

In line with the considerations on the ‘political space’ issue, among others, the overwhelming message that came over during consultations in the framework of this study was that UNICEF should seek to be – because it is not yet – the credible intergovernmental reference point and adviser on children to which government will turn of its own accord, and which, on that basis, can validly assist and cooperate with other agencies and organizations – intergovernmental, non-governmental and local associations alike.

In the case of Rwanda, there are several examples where the ‘reactive’ response resulted largely from not being that reference point. One such is the problem of children in prison. Once the situation in Kigali Prison was pointed out to it (four months after it had properly re-established itself in the country), UNICEF Rwanda made its own investigation within 24 hours. But it then had to debate about whether or not it should work in this sphere – which had of course not been included in the agreements initially made with the Government – and if so, how. Going into any emergency or post-emergency situation, however, UNICEF should by now have a large number of issues, additional to its ‘traditional’ concerns, on which it would seek to make an initial assessment,

including exploitation, children in institutions, the operation of the juvenile justice system – and children in detention. A ‘proactive’ assessment and proposal within, say, one month of its arrival would have done far more for its credibility – and for the rights of the child – than the high-profile approach to the Gitagata project.

On a different plane, UNICEF should also have been ready to point out potential problems and pitfalls related to the demobilization of children attached to the military, experience in which, as we have seen, was considerable. Knowing from its many previous post-disaster interventions that the issue of centres for unaccompanied children was likely to arise in the Rwandan situation, UNICEF would have done well to present itself as being in a position to provide the Government with documentation that could help it to decide on its stand – on the condition that it could indeed make the relevant documents available, of course.

Similarly, examples of ‘rules and regulations’ adopted by the authorities in other countries might have been put rapidly at the Government’s disposal and could have inspired a similar text that may have prevented the number of uncontrolled ‘centres’ from doubling within the space of a few months.

The failure to act in this way was clearly of an institutional nature and not the fault of UNICEF Rwanda as such. Country offices in these circumstances need to be provided with far more back-up in terms of documented ‘lessons to be learned’ from elsewhere and policy guidelines, all the more so if their staff, recruited and set to work at very short notice, lack direct experience of the issues concerned.

There is also reason to believe that the alternative approaches to (C)EDC suggested in this study, together with a 3P-based or similar analysis on input and response, may have been useful in avoiding the discrete nature of certain programmes. While one of UNICEF’s institutional concerns has been to ‘mainstream the CEDC programme’, it might have done better to ensure that that programme dealt only with children in especially difficult circumstances, *mainstreaming the children* as soon as their situation was in basic conformity with the CRC. As regards Rwanda specifically, it follows that neither Gitagata nor the *Kadogo* school, for example, should now be looked upon as (C)EDC programmes. But it also follows that the sector(s) taking over responsibility would need to have the CRC firmly entrenched in their approach.

At worst, then, the basis for this concern would seem to be more symptomatic of overall issues pinpointed in the study as deserving of in-depth reconsideration.

7.2. CREATING BASIC CONDITIONS FOR MAXIMIZING IMPACT OF THE CRC

The optimal conditions for the realization of the rights of the child are those in which the maximum proportion of the population is aware of, has accepted and has internalized those rights, and where the latter form the basis of government policy and practice in an '*Etat de droit*'.

No effort to promote and protect children's rights can realize its full potential unless the overall context is favourable. This is partly determined by the degree to which the authorities are willing, able and allowed to implement legislation, policies and programmes that establish or maintain an *Etat de droit*, that are consonant with the CRC and that are conducive to its popular acceptance. It is also dependent upon the extent to which those same authorities allow and enable the awareness of the population to be expressed in practical terms.

The implication of the above is that international cooperation in a sovereign territory should in principle be directed first and foremost at reinforcing – or, where necessary, securing – political will, and then at helping that will to be translated into action.

Such a proposition may well not meet with universal agreement at first sight. In no way is it meant to imply that agencies of whatever nature should blindly comply with government directives and not react when legislation, policy or practice contravene or contradict the CRC. It does mean, on the other hand, that the most effective implementation and use of the CRC will be achieved only by coordination and cooperation.

Resistance to this approach sometimes borders on the illogical. In some spheres – juvenile justice or school curriculum, for example – it is essentially impossible to work or to instigate reform without setting in place a cooperative relationship with the authorities. This is, or has to be, accepted. Yet in others where direct governmental control is inherently or voluntarily less – such as non-formal education and certain aspects of child care – working with government is often seen as some kind of betrayal of the cause. This is a rather naive and unconstructive ideology from a CRC perspective.

At the same time, when cooperation is nonetheless manifestly impossible because government insists on maintaining a policy that does not stand the CRC test, it is then that agencies should demonstrate more willingness to cease operations rather than opting to continue according to their own guidelines. The latter solution is not likely to enhance the long-term impact of the CRC; the

former stands more chance. This also means that outside agencies should have both a realistic and long-term view of their role. The Rwanda experience has shown once again that their input can facilitate processes; it invariably does not – and does not have to – provide solutions itself.

7.3. INTERNATIONAL COOPERATION OR INTERNATIONAL INTERVENTION

International cooperation or assistance is not international management. Whether it be intergovernmental, bilateral or non-governmental in source, it must not seek to impose or unduly influence governmental decisions but, where necessary and by various means, to enable those decisions that correspond to the aim of realizing the rights of the child to be put into practice. The opposite approach can often lead to artificial 'progress' that is likely not sustainable.

The means involved essentially revolve around the provision of resources, technical assistance and training. With exceptions – e.g. one-off, specialist programmes like tracing that need to continue only in the short-term – direct provision of services in the post-emergency period is generally neither cost-efficient nor useful in pursuing long-term CRC implementation. However well-known this principle may be, its practical application is often neglected.

7.3.1. Resources

Governments are prone to be – or to feel that they are being – treated with more mistrust than NGOs as far as funding is concerned. The international governmental community should reconsider carefully its funding options. The decision to channel funds essentially through intergovernmental agencies and foreign NGOs, rather than providing the authorities with resources directly, has many negative implications, including:

- agencies possess disproportionate power;
- agencies consequently take on tasks and/or play roles that may be objectively unnecessary and go beyond a technical assistance and cooperation mandate;
- governments are obliged to request funds on agencies' terms;
- governments cannot be an attractive employer, prolonging reliance on 'capacity building' – by the agencies;

- avoidable tension is created between government and agencies;
- duplication of effort may occur among the agencies.

Donor-led priorities and 'fashions' must be resisted, though this can only happen if agencies acquire the professional credibility that will ensure that they are consulted rather than instructed, however subtly, regarding programme areas and kinds of projects that should be implemented (see also under 7.3.5.).

7.3.2. Technical assistance

Technical assistance should aim essentially at responding to specific requests and reflect less the all too frequent insistence on being included in processes and securing decisive influence on outcomes. The direct participation of outside agencies in government commissions and task forces, for example, is dangerous. It falsifies the process and gives the agencies roles that they should not be playing, as well as a degree of influence that they should not have, in a national context. If the commission or other body concerned wished to request from other agencies, in view of their special competence and experience, prior documentation for, and/or feedback on the results of, its work, this would constitute a more logical approach. It would also demonstrate more clearly the real capacity of the agencies to access and provide expertise and comparative information.

7.3.3. Training

This covers three main areas: training proper (professional expertise as a whole or courses on CRC for professionals involved with children); so-called 'capacity building' (helping structures to carry out their role more effectively and efficiently); and general education or awareness-raising on children's rights. The first and last of these are broached under 7.4.2. and inspire no special comment at this stage. 'Capacity building', on the other hand, demands a closer look here. Firstly, it is a term often employed with neither great conviction nor clear content, but is now perceived as an essential ingredient in programming and funding proposals in that it conveys commitment to 'sustainability'. Secondly, foreign agencies, keen to respond to criticisms about the proportion of expatriates they employ, offer positions to nationals at more than competitive rates, draining some of the most

experienced personnel from the public and local not-for-profit sectors, meaning in the short-term at least that capacity may be actually reduced therein.

Consequently, there is a need to take a hard look at current practice to ensure that this 'enabling' role of outside agencies – including UNICEF – is approached consistently: the validity of the aim and content of 'capacity building' must be verified, and care must be taken not to jeopardize it through other actions. There is a valid concern that the term and concept often become empty jargon in practice, and even a *leitmotiv* for maintaining unduly high levels of presence and influence.

7.3.4. Coordination and 'quality control'

The Rwandan experience has once more underlined the counter-productivity – *inter alia* for children's rights – of *laissez-faire* attitudes towards international assistance on the part of any or all involved. The December 1995 expulsion of NGOs (cf. 6.1.), which was at least partially a result of the free-for-all inherent in such an 'approach', had tremendous implications for work on behalf of children: financial cost, diversion of energies, discouragement, mistrust of cooperation, etc. This affected not only the organizations expelled, but also – and possibly with greater ramifications – those allowed to remain.

This problem has to be tackled from at least two sides. The authorities have to be enabled to shoulder their responsibility of coordinating work within the country they govern and for the children within their jurisdiction, towards whom they have clear obligations. This should be one of the very first actions to be, if necessary, proposed and supported by the international community. Where the authorities are unaccustomed – for whatever reason – to working with NGOs and other international agencies, the design and functioning of such a cooperation mechanism would need to be thoroughly discussed beforehand in order to maximize the chances of meeting the expectations of both the government and the agencies and of creating an atmosphere conducive to collaboration. An organization such as UNICEF, with its history of working with both governments and NGOs, might be seen as well-placed to advise and facilitate in this regard (and indeed has done so already in other contexts, such as Romania).

Secondly, it is urgent that the consultations already under way (see 6.1.) reach a conclusion on viable means of ensuring that only the necessary number of competent and *bona fide* organizations and personnel operate in

emergency and post-emergency situations. This in no way implies that only the largest agencies with the longest experience would be permitted to undertake programmes: it would depend on the specific needs identified and the expertise required and offered. The potential dangers of (1) thereby creating a self-perpetuating 'elite' group of NGOs, (2) arbitrary exclusion and (3) unwarranted restriction on private initiative are well known and have to be taken into account. But the very real dangers of exercising no control – or reacting only after the event – must take precedence if the foundations are to be laid for promoting and protecting children's rights effectively.

7.3.5. Donor influence

By whatever channel donors choose to provide financial assistance – direct to government, via multilateral agencies or through NGOs – the problem of donor-led (and donor-snubbed) activities appears. The consequences are evident and frequently raised, almost everywhere, in terms of *what* gets done (or what is slated to get done) and what has to be shelved – sometimes half way into a programme, more usually before it starts. Behind this, however, lies a question that receives less attention: *who* is offered the resources to carry out approved programmes. Be it for administrative convenience, political considerations or other reasons, donor bodies are constantly 'choosing' partner agencies whose objectively measured relative competence in a given sphere can be questionable. This has its own additional consequence of encouraging agencies to pander to donor priorities, even if they are in fact well aware of their inexperience in the sphere in question or doubtful about the validity of the approach required – or, indeed, about the comparative need and opportuneness of the activity to be undertaken.

Paradoxically, donors themselves are in general hardly wildly enthusiastic about the results of such policies. Whatever its other limitations, the Joint Evaluation commissioned by governmental donor bodies in Rwanda (see note 18) once again reflected this unease at various points. Yet the buzz-words and politics seemingly continue all too often to hold sway. This reality could constitute a further justification for agencies in the field to strengthen their coordination – and thereby their combined voice – in order to resist more effectively the deliberate or inadvertent manipulation that donors can exercise. This is not an issue confined to the NGO community, moreover. UNICEF and other intergovern-

mental agencies need to be equally wary of the implications for CRC-based work of current practice in this regard.

■ 7.4. MAKING BEST USE OF THE CRC

There is now general – though not total – acceptance of the fact that the utility of the CRC does not lie only in the formal obligations it places on governments. Nonetheless, its potential additional uses have to be kept in perspective and approached in a realistic manner. It would be wrong, moreover, to emphasize these other uses so much that the importance of the legalistic aspect of the treaty is thereby unduly played down. As noted in 2.1. above, it is the CRC's legal and binding nature alone that provides the basis for such 'extra-legal' initiatives, and these initiatives are directed precisely at reinforcing implementation of the legal obligations the treaty contains.

Bearing this in mind, and if we take for granted its formal requirement of inspiring legal review and reform, judicial decisions, policy determination and translation of these into practice, the following could be seen as the main ways in which the CRC can be put to work.

7.4.1. Institutional use

- a) The CRC should serve as a common reference base for all initiatives on behalf of children, whoever carries them out. This implies a common understanding and interpretation of the treaty, which is far from being the case at the present time. Being aware of its genesis and drafting history is fundamental to this understanding, as is cognisance of the intention of its provisions, individually and as a whole. Virtually all other human rights instruments essentially remain the domain of 'specialists'; this one has been brought into the public arena and is sometimes variously used and abused in ways that are not conducive to realizing the human rights of the child. It cannot serve as a common base unless its legally interpreted ramifications are known.
- b) The CRC can then – but only then – serve as a framework and guide for institutional policy, programming and evaluation. Its quasi-universal ratification already has one major and basic implication for policy and programming: there are no longer any 'delicate issues' to the extent that the CRC covers them. All that may remain 'delicate' is the decision on how to broach the

issues in any given circumstances. This said, the way in which the attempt is made to put the CRC to these uses needs careful reflection. Taking its structure for programming purposes, for example, cannot work: that structure was intended for a treaty, not for a planning document. Among others, UNICEF is not immune from falling into that trap. In fact, the use of the CRC in this sphere is linked much more to the approaches to programming that it suggests, such as – but not necessarily, of course – the ‘3Ps’: provision, protection and participation (cf. 2.2.1.). The same applies to evaluation.

- c) The CRC is also a monitoring and advocacy tool. The point that is often missed in this regard is the intimate relationship between these two concepts. The essential reason for monitoring is to determine what changes have to be advocated for. And the basis of advocacy has to be hard data acquired through a systematic and reliable monitoring process. The changes that are then, hopefully, brought about must themselves be subject in turn to further monitoring, and the process starts again. Relying unduly on advocacy for the CRC *per se* and as a whole is therefore unlikely to prove a credible approach; the treaty really comes into its own in relation to specific problems on which all necessary information has been gathered.

7.4.2. Enabling the CRC to underpin the societal approach to children

At some point there has to be a conscious decision to take up fully – or on the contrary to ignore, at least in part – the challenge of promoting conditions that will help foster the reconstruction and reconciliation process by making best use of the CRC: its principles, its guidelines and the status and importance it confers on children. Recognition of the daunting constraints that Rwanda’s past imposes on the present (cf. 5.1.) and that militate forcefully against efforts – from within and outside the national society – to rebuild confidence, communication and trust cannot be allowed to serve as an excuse for setting that challenge to one side.

As is so often the case, many – perhaps most – of the necessary efforts involved are not specifically and uniquely aimed at rebuilding these sentiments. They have to take place in the context of programmes and initiatives in the fields of health, education and other practical ‘development-oriented’ spheres, whence the importance, highlighted in this study, of the CRC underlying

and inspiring the approach and content of all such activities. But, for the ‘whole’ to be achievable, some equally necessary efforts also have to be overtly devoted towards the more direct dissemination of CRC-based information, making use of the society’s diverse structures and actors (cf. 5.2.). Certain of these are considered below.

- a) It is a well-known comment that the more widely rights are known, the more likely they are to be respected. This underlies the injunction in CRC article 42 to make information on the rights it contains generally available to adults and children alike. The basic aims of this exercise are (1) to bring about attitude change and (2) to encourage participation (what some would term ‘empowerment’). As in the case of advocacy, it is necessary to relate efforts in this sphere to very concrete situations; it is more effective to introduce children’s rights questions into debates on community issues than to hold meetings specifically on ‘children’s rights’. This is of course best done through local associations in the context of discussion rather than delivery of information. Added momentum can often be given to such initiatives by engaging the support of local leaders; in the Rwandan context, and despite certain drawbacks (cf. 5.2.2.), it may well be that the decentralized system can provide a positive environment in this respect, although blind and almost exclusive reliance on these channels and fora carries its own dangers.
- b) The media are poorly developed in Rwanda. As yet there is no daily newspaper, national television – for those who have access to it – is limited to three evenings a week, and the main source of information remains the national (governmental) radio service. The latter is receptive to broadcasting ‘messages’ founded on children’s rights, but the impact of these – remembering in addition that other views expressed through this governmental medium may sometimes have questionable children’s rights implications – is probably limited. A small number of human rights journals exist, some funded or co-produced by NGOs and one by UNHCR, but with a minimal circulation. The need to find or create other forms of public dissemination of information related to children’s rights is therefore clear – indeed, the publication of a regular children’s journal, with UNICEF support, is at last under discussion and would be an important addition in this regard. There has so far been a surprising lack of emphasis on genuine ‘communication’ efforts in this field.
- c) In contrast, considerable attention has correctly been paid to securing the inclusion of children’s rights in

formal education and 'education for peace' programmes. As yet it is too early to attempt to assess the adequacy and impact of these initiatives – a difficult task in any circumstance – but it is evident that any inherent 'success' will be qualified, positively or negatively, by the degree to which the messages they deliver correspond to those propounded or reflected in other contexts of the child's reality.

- d) The aim of founding professional practice more firmly on the precepts of children's rights faces a number of obstacles. The noted lack of professional associations in Rwanda is a key factor, making it difficult to organize basic and in-service training in this regard, to develop intra-professional dialogue and experience, to draw up codes or guidelines incorporating the issue, and to monitor adherence to them. An unusually high proportion of professionals are new and inexperienced. Securing the involvement of international professional associations (e.g. those of social workers, paediatricians, teachers, juvenile judges, etc.) that already have children's rights very much on their agendas would surely be a positive move, and is surprisingly long in coming. It could result in the establishment of national affiliates whose membership would directly benefit from the information and experience of the international body. Many of these international professional associations have few or no funds (or easy access to traditional sources) for 'development cooperation'. They constitute a curiously neglected resource whose notable absence from the NGO community in Rwanda is symptomatic of that neglect, not of inability or unwillingness to contribute. Here as elsewhere, modest funding to such bodies could have already ensured valuable and cost-effective 'capacity building' inputs based on the CRC.

■ 7.5. PRIORITIZING AND OTHER STRATEGIC CHOICES

7.5.1. Macro or micro?

The 'CRC ethic' once more underscores the basic fallacy of the ongoing but sterile debate over the wisdom and justification of devoting scarce resources to micro-problems – now often seen as equivalent to (C)EDC – as opposed to macro-issues such as basic health and education. If 'all rights for all children' is to mean what it says, the health and education sectors should be positively enthused by the prospect that, through (C)EDC inter-

ventions with children in prison or attached to the armed forces or in the street, they will have access to those children who frequently were not previously reached. The proviso is of course that close cooperation takes place between the 'micro' and 'macro' sectors, and that the latter is both offered and prepared to take responsibility for those children as part of the normal programme.

Even better, some might say, in certain instances at least, would be to foresee the health and education sectors taking the lead and automatically including in their initial assessments and programme planning children in institutions and detention, the homeless, etc., and then calling for (C)EDC involvement as required, instead of the other way round.

7.5.2. 'Everything' or a selected few?

Whatever the positive ramifications of its development-oriented approach towards children's issues, there has been at least one very negative consequence of this UNICEF policy: large numbers of children never were and never would be in a position to benefit from the agency's preventive and sustainable development efforts. 'All rights for all children' and (C)EDC notwithstanding, the obvious platitude that 'UNICEF cannot do everything' and the consequent recourse to the concept of 'comparative advantage' in order to determine what it should do may continue to lead inexorably and unjustifiably to a conclusion based largely on the amassed 'development' experience of past years.

Thus, there was apparently no debate as to whether or not UNICEF should become involved in income generation in Rwanda: it seems to have done so almost instinctively, and only now are questions being asked about the real efficacy of this form of assistance. In contrast, there was much soul-searching within the Rwanda office – understandable under present conditions – regarding its possible intervention in favour of children in prison. To its considerable credit, it took the plunge with, overall, a probably satisfactory outcome. To this day, however, there are still murmurs – not unrelated to the 'micro-macro' issue discussed above – in some quarters of the agency that, in so doing, UNICEF was overstepping its mandate and spending undue amounts on a few hundred children.

Almost next door to the UNICEF offices in Kigali are those of the massive UNDP to whom – not to mention to a cohort of NGOs as well – 'income generation', whatever its potential weaknesses, is second nature. It could and should have been left to them.

No other UN agency, on the other hand, was responsible for 13-year-olds accused of genocide and crammed into overcrowded adult prisons. In the intergovernmental community, there was thus no agency with which UNICEF could 'compare' its advantage. Looked at positively, it was therefore literally beyond compare, despite its inexperience in this field. UNICEF Rwanda could nonetheless quite easily have mustered arguments, with ready institutional support, in order to side-step the issue. Had it chosen to do so, it would have been an unconscionable step backwards.

In many ways, it is precisely where there is no comparative advantage to be measured that UNICEF will find itself – and in particular should increasingly find its principal role – as 'lead UN agency for children'. Both the positive and less positive aspects of the way its work developed in Rwanda clearly demonstrate that, at least in post-disaster situations, the first choice to be made is neither between a micro or macro approach, nor between 'trying to do everything' or being selective. The choice must be between deciding *a priori* what it will and will not do, or determining which rights of which children it will have to defend and promote in a given situation because, intergovernmentally at least, no one else can or will.

7.5.3. Responding to 'vulnerability': the case of adolescents

Ensuring that an appropriate attitude is taken to 'vulnerability' is particularly important in a situation such as that of Rwanda, where, on the one hand, some would contend that almost the entire child population can be considered as vulnerable, and, on the other, decisions to prioritize activities in favour of any given group can have grave consequences for those effectively marginalized in the process.

The complex factors that determine vulnerability, and those that turn vulnerability into destitution and total despair, need to be taken more into account in formulating priorities, policy and programmes. Vulnerability is a relative, culture-linked concept that is not simply equivalent to belonging to a given group defined as being in 'especially difficult circumstances'. In addition, responses to those initially deemed vulnerable may result in the marginalization and increased vulnerability of others whose needs are not addressed and whose rights are not defended.

It is clear from available documentation concerning

Rwanda, as well as from spontaneous remarks made during consultations for this study, that adolescents aged 14-17 are one such neglected group, with the exception of the few thousand who have been deprived of their liberty, demobilized from the armed forces or identified as heading households.

Yet adolescence is generally recognized as a particularly vulnerable phase in human development even under 'normal' circumstances. As the Machel Study notes:

[a]ll cultures recognize adolescence as a highly significant period in which young people learn future roles and incorporate the values and norms of their societies. The extreme ... circumstances of armed conflict interfere with identity development. As a result, many adolescents – especially those who have had severely distressing experiences – cannot conceive of any future for themselves. [Despite this] adolescents, during or after wars, seldom receive any special attention or assistance.⁷⁶

Adolescents in centres are hard to place with substitute families; they require secure environments and vocational training. Adolescents are likely to suffer greater trauma than a 7-year-old; they too need the structured school environment as part of the return to 'normalcy' that underlies successful trauma recovery, but they rarely have access to secondary school.

Adolescents, in other words, tend precisely to be automatically marginalized in the assessment of vulnerability. They are seen as being able to 'fend for themselves', in contrast to the dependent baby of three months or the young child of five years. It is towards the lower age-group, therefore, that attention and assistance are focused, thereby simply exacerbating the relative vulnerability of adolescents.

Rwanda will have provided one more reason to take a long hard look at precisely why services and support are invariably oriented away from addressing the rights of adolescents.

7.5.4. The need for consistency

Several problem areas taken up in this study revolve, in part at least, around problems of inconsistency in approach, for example:

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- inconsistency of policies applied in different spheres: the clearest illustration of this was, on the one hand, the call to close down UAC centres and, on the other, the creation of a single *Kadogo* school for over 2,000 children;
- inconsistency of approach in time and place: the lessons learned from UNICEF's involvement in 'demobilization' schemes elsewhere were not integrated into its initiative on this question in Rwanda.

Lack of a coherent thrust is serious, in itself and in its potential consequences. In the first of its above-mentioned manifestations, it may reflect more especially the fact that UNICEF and its staff are still in the process of internalizing the CRC and its implications, rather than any fundamental problem. In its second manifestation, it would seem to reveal that previous experience is not being analysed in the light of the CRC – or at least is not being made available when and where required.

The somewhat confused 'message' passed on as a result will surely be disconcerting for governmental and other partners. In very practical terms, the inconsisten-

cies will have no doubt led to solutions being proposed that do not always respond optimally to CRC requirements. This is an issue that UNICEF as a whole will have to tackle. It is relatively straightforward and, arguably, it deserves far greater priority in terms of programming than certain unnecessarily complicated attempts to draw up a 'CRC-based programme' that the agency has sometimes been tempted to make to date.

There may in fact be good justification for arguing that consistency is the single most important key – consistency within and among organizations regarding the approach they take to the whole range of situations affecting children, and consistency of that approach with all the provisions and implications of the CRC. Without this, it is indeed difficult to see how, individually and collectively, these organizations can promote and use the treaty appropriately and fully as a basis for recovery and reconstruction. And on this, of course, the credibility and value of their individual and collective cooperation depend. How else could they reasonably expect the rights of the child to be respected and to serve as a basis for the future credo of a nation?

POSTFACE

Data and information received since the end of 1996 have not been incorporated in the body of the text. Essentially they would anyway not alter the analysis. At the same time, they illustrate vividly some of the difficulties faced in developing cooperation programmes in a situation such as that of Rwanda, even 30 months after the precipitating event. The two following examples are telling in this regard, all the more so in that they cover a period of just four months:

Figures. The 1996 figure of fewer than 3,000 children in child-headed households (cf. 4.3.1.5.) in three of the 12 *préfectures* – which might reasonably have led to the projection of perhaps 12,000-15,000, and up to a maximum of 20,000 for the country as a whole – was superseded in February 1997 by a MINITRASO estimate of no fewer than 85,000. Differentials such as these clearly alter drastically perceptions of programme needs, approaches and priorities.

Government policy and practice. By the end of 1996, UNICEF had finally received funding (from the Italian authorities) for work with street children (cf. 4.6.), but resisted supporting the MIJEUMA *Rwanda Rw'ezo* centre. Instead, UNICEF and MIJEUMA agreed to host a National Seminar on Street Children, held 23-25 April 1997. The Seminar produced a recommendation – supported by MIJEUMA and UNICEF as well as by UNDP, NGOs and donors – advocating for strategies based on the family and community. Ironically and most disturbingly, within 48 hours of the meeting taking place, the Kigali *préfecture* authorities proceeded to round up 'children who were on the streets', with the result that, at the end of May 1997, a staggering total of 1,622 children had been removed to Shorongi Centre. The round-up has now placed street children very high on the agenda, and all the organizations concerned, including MIJEUMA and the local authority, are reportedly intent on producing rapidly a unified solution to address the specific situations of these children, whether they have families or not and irrespective of age, gender, etc.

It can also be noted that on 28 March 1997 a rationalization of public administration was carried out. The number of ministries was cut by four to 18. MINIREISO was abolished and its tasks – including those relating to the *Kadogo* – were taken over by a new Ministry of Gender, Family and Social Affairs (MIGEFASO), which itself also envelopes the former MIFAPROFE and the 'social' element of the former MINITRASO. Theoretically, this new grouping should facilitate the work of UNICEF and NGOs, who had previously had to be in contact with three different ministries on these issues.

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