

CHILD HEADED HOUSEHOLDS: DILEMMAS OF DEFINITION AND LIVELIHOOD RIGHTS

Marion MacLellan
African Studies Centre, Coventry University

ABSTRACT:

Studies over the past decade have identified and briefly examined the phenomenon of child headed households in Sub-Saharan Africa. However the issue of what constitutes a child headed household can be contested, as such units can be formed from, just siblings or other groupings- relatives, or of non-related associations. This paper will analyse the typology of child headed households, and furthermore will examine the children's access to livelihood rights, in particular those of property, education, and health in the context of RWANDA.

Presented at "4th World Congress on Family Law and Children's Rights",
Cape Town, March 2005

Child-headed households: Dilemmas of definition and livelihood rights

“ A child is a gift of God to its parents, a precious companion to its brothers and sisters, a continuity of its family and the future of its country. This beautiful human being, cherished and fragile, should be protected and grow up in an environment that is favourable to its moral, intellectual and physical development. In many countries, and above all in the poorest of them, the majority of the children will never have known this blossoming, which is nevertheless their full right”¹

The phenomenon of child headed households has been reported in academic and non-governmental organisation circles in the past few years, due in part to the AIDS crisis in Sub-Saharan Africa, but has also featured in analyses of vulnerable children in the context of situations of conflict and displacement. Whilst there has not been significant academic examination of the issues of child headed households, there has nevertheless been discussion of the problems and the circumstances of such households by non-governmental organisations, particularly in regards to the establishment of programmes to support these children, as well as a recognition of their difficulties by international bodies such as the UN. Equally, in countries where there is a significant population of households headed by children, governments have been urged to take action, and indeed some have independently designed programmes and policy in an attempt to support and assist them.

The question of what constitutes a child headed household is significant in attempting to define a typology of this subject, and in assessing the impact upon the legal rights and protection of children. Whilst the presumption is that the child headed household (henceforth known as CHH) will always be comprised of siblings or family members, it has been acknowledged that a range of compositions within the CHH framework may exist— siblings, children with an incapacitated adult, extended family, or an arbitrary grouping of the vulnerable, united in misfortune. Furthermore, the configuration can alter over time.²

Additionally, the concept of “household” itself requires examination – for example, who is included, is it a permanent or temporary sharing of shelter or of food? Furthermore, definitional parameters, as adopted by the UN, of vulnerable children, orphans and CHHs may not be universally applicable. Some countries define an adult as over 18 years, others as over 20. Equally the term “orphan” may be subdivided as a “single orphan” (with one parent deceased) or a “double orphan” (having both parents deceased). Thus the term “orphan” is therefore based on the level of available adult care, although a further categorisation of “vulnerable children” broadens that interpretation to those living without adult support, and does not limit it to those children whose parents are deceased.³ The concept of childhood may also vary between cultures, in particular relating to what is expected of children in different

¹ Nyriamilimo, O, Minister in Charge of Social Affairs, 2003, Rwanda, quoted in *National Policy for Orphans and Vulnerable Children*, p.1, MINALOC

² Focus discussion, CHH Seminar Day, African Studies Centre, Coventry University, Dec. 2004

³ MINALOC & UNICEF, 2001, *Struggling to Survive: Orphans and Community Dependent Children in Rwanda*, p.16

societies. Whilst the view that children are expected to play is universal in most countries, in some cultures children are also expected to tend herds, pound maize, wash clothes and dishes, fetch water, care for crops and look after younger siblings. The term “vulnerable children” is increasingly employed by organisations to incorporate all those who are in need of support but not necessarily alone: - it may include children in a wide range of differing circumstances -street children, children caring for parents, CHHs, unaccompanied children, children in centres, and fostered children.

CHHs exist as a result of several possible causes. Whilst the situation of all vulnerable children and orphans in Sub-Saharan Africa is complex in the matter of rights, that of children living in CHHs involves many disadvantages and inequalities, as their precarious circumstances, in addition to the lack of an adult or legal responsible in the home to advocate, can prevent such families from claiming assistance or property which is rightfully theirs. Orphans who are fostered, either formally or informally with extended family, will have at least some protection and support, benefits which will be missing in the lives of those in CHHs. In the latter, children will have to take on the task of caring for themselves and others, which leads to a definite loss of rights for at least one of the members of the household – the one who heads it, who earns money, who makes the decisions, and who, at the same time, should be in the care of adults.

There is an evident increase in the number of vulnerable children, living with parents or alone, in Sub Saharan Africa, and consequently programmes and legislation need to be designed to provide for, and protect those especially vulnerable, who are without adult care or role models, to teach them socialisation and responsible behaviour.

This paper examines the definition of CHHs, and considers the issues raised regarding daily survival and livelihood rights, following preliminary investigations focussing on Rwanda, and reviewing progress on rights for CHHs in general including the work of Julia Sloth-Nielsen in particular.

Recent research and reports on the phenomenon of CHHs have identified the issue of HIV/AIDS as a major contributory factor to their establishment. However it is clear that such compositions have always existed at some point in most cultures, primarily in times of hardship or conflict, but in general on a very minor scale. A child becoming a sole carer is the last resort, and those households concerned would be in very vulnerable circumstances. More recently, the existence of such groupings was recognised in countries such as Uganda, where high rates of HIV/AIDS infection led to a rapid increase in the number of single orphans and then progressively double orphans. A major consequence of this, however, manifested itself in a rise in the numbers of foster families needed to cope with the high numbers of parentless children. Traditional coping strategies, which were originally adopted, comprised chiefly the care of orphans by extended family - grandparents, aunts and uncles. However such strategies broke down in many cases, and particularly in certain areas, as the sheer numbers of children needing homes outgrew the capacity for integration into the extended families, families which had already taken in several orphans, and for whom resources were already scarce. In addition, the health of the carers was frequently poor, and as the infection continued to spread through communities, it

weakened and debilitated not only the carers themselves, but also the structures and mechanisms which had supported communities in the past in times of difficulty.⁴ Whilst HIV/AIDS is one of the most significant factors in the establishment of CHHs, however, in Rwanda its partner in this tragedy is conflict, which, along with the by-product of displacement, serves to increase the number of orphans and estranged minors, and decrease the number of potential carers. Numbers of CHHs have been estimated at 45,000, of which 90% are thought to be girl-headed.⁵ However some surveys have estimated numbers of CHHs to be as high as 227,500 countrywide.⁶ In the 2002 census, it was reported that over 1.2 million children have lost one or both parents, with that number increasing when all vulnerable children are included.⁷ The genocide of 1994, which left 1 million people dead, half under 18 years, also bequeathed a bitter legacy to the structure and institution of the family.⁸ During the course of the genocide, attempts to flee the killing and fear of the RPF forces resulted in a mass displacement of the population, and, in the chaos which followed, estrangement of families. The exodus of Rwandans into refugee camps in Tanzania and Zaire prompted the breakdown of contact and relationships, as well as exacerbating the traumas that had so recently affected the lives of all Rwandans. The impact of witnessing the brutal murder of parent or sibling would have long lasting effects upon the lives of all. In the immediate post-genocide period, the reality of the vast number of orphaned children, displaced children, and those with no known relative motivated many agencies to set up support programmes in an attempt to reunify these children with family.

Thus one of the significant problems to emerge out of the 1994 conflict was a change in the structure and composition of the family, with CHHs forming as a direct result of the genocide, which changed the shape of the nation. Furthermore many women, widowed and raped during the genocide, would be found to have contracted HIV/AIDS. The extreme poverty and lack of resources, coupled with the huge task of rebuilding the nation, meant that there was no means of providing long-term healthcare for these women. Thus the double attack of conflict and AIDS, like two horsemen of the apocalypse, wreaked havoc on the children of Rwanda, as their carers (often their one remaining parent), slowly died, leaving them to be absorbed by extended family, to orphanages or to remain as a unit – the creation of CHHs. The high rate of HIV infection among the adult population continues to contribute to growing numbers of children living in households without adult support. The government's campaign of "One child, one family", as a subsequent response to the urgent need for foster families, has meant that many people have already given a home to orphans or vulnerable children.⁹

The establishment of CHHs occurs due to several factors, one being the lack of extended family able to care for the children. Whereas there may be relatives able to

⁴ Many children were incorporated into orphanages although more recently centres with village style homes and carers have been established, which have been successful in avoiding the institutionalisation inherent in orphanage life, and also have been more effective in preventing opportunities for abuse of children

⁵ UN-HABITAT Features, *After the Genocide, Property Rights for Rwandan Women*, p.1, www.unhabitat.org

⁶ Agency for Cooperation and Research in Development (ACORD), March 2001, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*, p.3,

⁷ UNICEF, www.unicef.org/childfamily/index_244543.html

⁸ Nyiramilimo, O, op.cit., p.1,

⁹ 35% of families -unremunerated as yet but the government plans to provide financial help for these families.

take *one child* from the family, the desire of the siblings to stay together may be so strong that they would prefer to look after themselves. Otherwise it may be that the family is not prepared to take in any children, either because of a lack of resources, or perhaps due to the stigma of AIDS, if the children or parent were infected. Other catalysts might include ethnic group, the children involved being from a mixed marriage, allegations of genocidal acts against the family or children, or a parent may be in jail. Distance may be a barrier if the extended family lives far away, as costs and the uncertainty of beginning a new life in another province are prohibitive, especially as the family may be suffering from great hardship and will be unable to help. Equally, the need to protect land or dwellings, owned by the late parents, from unscrupulous relatives or neighbours may oblige the children to remain on the land and in the house.

The assumption is usually made that CHHs will consist of members of the same family, brothers and sisters, who live under one roof, in one dwelling. In fact, although that is *often* the case, there are other compositions that exist, which are still headed by a “child”, but where the relationship between the members is very different. The interpretation of the word “headed” is understood as “being the responsible member of the household - the one who takes decisions”. The majority of these households comprise brothers and sisters, and the eldest tends to be the head of the household. There are instances when a younger child takes responsibility instead, usually when there is a lack of maturity on the part of the eldest, or for example, where the eldest is a drug addict and unable to care for the others.¹⁰ However this can cause friction between the family members, and internal conflicts are common. Children may have opinions about how to manage day-to-day, and quibbles about their specific chores such as fetching water, sweeping etc. Older children sometimes find it hard to have authority over younger siblings, and girls in particular have this problem with younger brothers.¹¹

However in recent studies of groupings in Rwanda, it was found that whilst most households were made up of siblings, some consisted of siblings plus a parent or grandparent. The eldest child remains head of the household, as the adult is unable to take responsibility or care due to illness, usually AIDS. Therefore the child head is caring for the terminally sick adult, as well as other siblings.

Households can be composed of siblings and extended family members such as half-brothers and sisters, cousins, and uncles or aunts (who are still legally children), who may have joined the household in the hope of a better chance of survival.

In some cases, older siblings may themselves have babies or infants despite not being of adult age, leaving the household to care with two generations of children in effect. Certain households may include a person who is not kin at all – maybe a friend who needs a home, or occasionally, a non-related adult who has been brought in to support young children in a household as a housekeeper.¹²

In the same way, the perception of “household” may vary across cultures and societies. If we define the concept of “household” as those who share the same shelter, how do we incorporate those who may not always sleep in that dwelling, who leave for short or prolonged periods, perhaps to find work, or to attend secondary school? Is it more accurate to describe the household as being composed of all

¹⁰ M. MacLellan, Interviews, Kigali 2004

¹¹ ACORD, op. cit., p.4

¹² This household had been headed by the eldest sister, but after her marriage she asked a friend to care for the younger siblings in return for food and shelter. Interview, M.MacLellan, Kigali, 2004

members who eat from the same pot? Since the extended family network in Sub-Saharan Africa is fundamental to strong societal structures, care of children has often been the role of other adults as well as the parents, and the system of dwellings within compounds demonstrates a broadening of the circle of influence and care of family. Is it not appropriate to consider all groups sharing shelter and food, where there is an element of the division of tasks and roles, as a “household” in this way? If so, then we can identify a form of CHH within refugee camps, for example, where unparented children may group together independently, or be encouraged to do so. Similarly, groups of street children may function as if in a CHH, as there exists a defined hierarchy of members, an identification of roles with the inclusion of a prime decision maker in the group.

In addition, attempts at defining CHHs are complicated by the different age parameters of a child and adult. The UN definition of a child states: -

*“a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*¹³

The UN General Assembly defines youth as

*“...those persons falling between the ages of 15 and 24 years inclusive”*¹⁴

The Rwandan government has defined a “vulnerable child” as a person less than 18 years exposed to conditions which do not permit him/her to fulfil her/his fundamental rights for her/his harmonious development. Many CHHs in Rwanda originating due to the conflict almost 11 years ago, are still being considered child headed by some organisations, despite the heads now being over 20 years of age in some cases.

However since many Rwandans state that the legal age of an adult is 20 and over, and one is a “youth” up to 35 years of age, clearly the statistics for CHHs will include those headed by what we may then term adolescents or youths.¹⁵ Consequently, he or she would be considered eligible for assistance from government and NGO programmes. Criticism has also been made that this upper limit of 35 years has led to the sidelining of the opinions of those under 18.¹⁶

It might even be the case, as acknowledged by some interviewees, that Rwandan traditions in society contend that until a person is married, he or she is still considered a “child”.¹⁷

The issue of legal age remains important, in particular with regards to age requirements for assistance or inclusion in programmes. The psycho-social effects of the trauma experienced by the majority of Rwandan children, whether as a result of the genocide, or of witnessing the slow deaths of a parent or grandparent from AIDS, will also impact upon the emotional and psychological ability of the child to cope with everyday survival, rendering them even more vulnerable in some cases. Consequently it may be disadvantageous to identify a CHH solely by the legal age of the head. It must not be forgotten that over 84% of children have experienced death in the family, 52% have lost a mother, 62% a father and 76% have lost siblings. Furthermore, over 95% are said to have directly witnessed violence, almost 70% have witnessed someone being killed, and 31% have witnessed rape and sexual violence. According to the UN, overall, 20% of all children are severely traumatised, a figure

¹³ UN Declaration on the Rights of a Child, Article 1 of the Convention, www.unicef.org/crc

¹⁴ UN General Assembly, www.un.org/esa/socdev/unyin/qanda.html

¹⁵ M. MacLellan, Interviews Kigali, 2004

¹⁶ Save the Children, April 2004. *Rwanda 10 Years On*, p.2

¹⁷ M. MacLellan, Interviews, Kigali, 2004

which may be conservative.¹⁸ Thus the inclusion by some agencies of the older “youth” heads in these cases is reasonable and just.

Male heads often marry early and leave the home, whereas female heads often feel that they are obliged to stay to look after the others, though many do marry and set up a new home with the husband.¹⁹ Perhaps the desire to move away or the sheer effort of having had so much responsibility in the past causes them to “find an excuse to leave”, abdicating day to day responsibility to the next child, instead of the couple taking joint responsibility for the existing household.

Therefore it is essential to recognise that CHHs are increasingly part of the structure of societies in Sub-Saharan Africa, due to the devastating effects of conflict and AIDS, and that this forces us to accept a re-conceptualisation of family and household, as well as a change to the understanding of “kinship”. Legally acknowledging all children, related or unrelated, in a household, as being part of one unit would announce a new form of “family” typology. Similarly, dependence on community and neighbours can be interpreted as introducing new and alternative forms of kinship, especially in the case of Rwanda, where everyone has suffered a loss of relatives. It is dependent however on a specific community’s dynamics and to a certain extent ethnic grouping. These new groupings could extend and benefit parentless children in CHHs, or groups such as street children, who might be able to be rehomed if they can group together and function “officially” with the possibility of claiming the assistance available from government or NGOs.

RIGHTS

Clearly the vulnerability of the CHH is immense – among the weakest in society, children exist without many of the rights that they are promised by governments and international bodies. The Rwandan government has ratified the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which comprises the formal obligations for the rights and responsibilities of the child, the four overriding principles being: -

- The best interest of the child
- The principle of non- discrimination
- The principle of the right to survival and development
- The principle of participation of the child in the actions and decisions that concern him/her²⁰

The Rwandan constitution states that all citizens are equal, that the family is the natural basis of life, and that parents have the right and obligation to raise their children.²¹

During the meeting of Rwanda’s second periodic report at the Commission on the Rights of the Child in May 2004, Valerie Nyriahabineza stated that children should enjoy all fundamental rights and freedoms, and that they should live in an

¹⁸ UN, June 2000, www.un.org/special-rep/children-armed-conflict/English/Rwanda.html

¹⁹ M. MacLellan, Interviews, Lower Kimisagara, Kigali, 2004

²⁰ MINALOC, 2003, *National Policy for Orphans and Vulnerable Children*, p.6,

²¹ Article 24, Constitution, MINALOC, op.cit.,p.6

environment where this was respected and upheld.²² The government has determined to include children in their programmes and to support laws protecting them so that their rights can be regained. Fundamental to this objective is the implementation of the country's National Policy for Orphans and Other Vulnerable Children, presented in 2003, which proposes a cross-ministry approach to establishing projects and programmes to protect the vulnerable and to improve their welfare.²³ Included in this group are children in CHHs, fostered children, street children, children in centres, children in conflict with the law, children with disabilities, affected by armed conflict, sexually exploited or abused, working children, those affected or infected by HIV/AIDS, infants with mothers in prison, children in very poor households, refugee and displaced children, children of single mothers, and those married before their majority. The specific objectives for CHHs are to ensure that livelihoods are maintained and to establish systems of community based care and protection for these households.²⁴

Whilst the genocide of 1994 violated the rights of all citizens, it also set in motion systemic rights abuses for children, with the consequence that traditional social safety nets can no longer be trusted to care for and protect them.²⁵ Already suffering from the loss of parents, maybe in violent circumstances, children in CHHs have to survive alone. Therefore the problems of day-to-day living are compounded by the subsequent emotional distress that they may suffer. The issue of re-integration into that community where such violence may have been wrought against their family, or where they themselves may have perpetrated violence, is fraught with difficulties. Often attempts at reconciliation are espoused on the surface, but the underlying bonds of trust may take generations to restore. Aside from the physical and practical obstacles to overcome - food, shelter etc. there is the problem that vulnerable children are considered "unseen" by some communities, who do not really acknowledge their existence for many reasons. Most of the families in these communities are very poor and are struggling themselves. Furthermore they may already be looking after other children as well as their own, and merely focussing on survival and care for their household is enough of a challenge.²⁶ Often dismissed as those with no right within society, children in CHHs feel that they are voiceless, unable to play a part in society as a whole, and believe that they are powerless to change their fate. They feel excluded from the community which neither acknowledges nor fulfils their need for love, sanctuary and recognition. Any contributions that they wish to make will be ignored, as their status in society does not allow them the privilege of participation. In many cases they continue to live on the edge of communities, which contradicts the phrase often used to describe them - "community dependent" children. That dependence can be unwelcome and attempts to build a cohesive society from such a base are fraught with difficulties. Even for harmonious communities, the problem of security is a significant one for these households, whose members are physically unable to prevent violent infringements on the property, or indeed assaults on the children themselves. In particular, girls in the household are especially vulnerable to

²² Commission of Rights of child, Rwanda 2nd periodic report, 2004, www.ohchr.org

²³ MINALOC, *National Policy for Orphans and Vulnerable Children*, 2003,p.2

²⁴ MINALOC, *op.cit.*, p.14

²⁵ Human Rights Watch, March 2003, *Lasting Wound-Consequences for Genocide and War for Rwanda's Children*, Vol. 15, No.6 (A), p.77

²⁶ It is estimated that over 36% of families care for children other than their own-UNICEF www.unicef.org/childfamily/index_244543.html

abuse and sexual assault by members of the community, and feel powerless to act against it. There have been cases where men wait by the water points until girls come to fetch water and then rape them.²⁷ The lack of advocates for such households consigns them to a life on the edge of society, where their defencelessness in the face of inequality and abuse in society will render them powerless to change the course of their lives, without considerable input from agencies and government, coupled with a change of heart on the part of hostile or uncaring members of their society.

Rights to property in Rwanda are extremely contentious since it is the most densely populated country in Africa, and therefore available land is scarce. In the first years after the genocide, a number of CHHs were sheltering under plastic sheeting for a considerable time. Whilst the majority returned to their family homes, this was often not without its own difficulties- for vulnerable children, returning to the former home after a time in a refugee camp or elsewhere was psychologically traumatic and there may be very little left in the home. In some cases, whilst families were in exile in neighbouring countries over longer periods of time, old returnees may have reclaimed land which was, in some cases, owned by their family before leaving many years earlier, and consequently these children will be landless.²⁸ Many disputes over land and property ownership have occurred within families and with neighbours. Children are often turned out of their homes by relatives. After the genocide, women, whose husbands had died, returned to their properties, but were unable to claim houses and land that had belonged to the family since Rwandan law only allowed for inheritance to pass through the male line.

*“In our culture we are part of the property. We women are owned by the families. And if you look at our judicial system, 99 percent of cases are land and property disputes”.*²⁹

This gender-based discrimination has also become a major concern for CHHs, since the majority of heads of household are female. Acknowledgment of the problem of inheritance has subsequently caused there to be a change in the law, and in 2000 the Rwanda National Assembly passed an act allowing women to be considered as head of the household in law, and in addition the act recognises a girl's right to inherit her parents' property. The government also acknowledges that this law will set a precedent for future legislation that is gender sensitive, which is particularly appropriate in a country which has the highest proportion of female representatives in government in the world.³⁰ There have been problems in implementing this in practice, however, as some families are opposed to the change in tradition, and also the reality of everyday life is such that women and girls are unable to avail themselves of such laws, in particular if there is a need for financial resources for court cases. Although a law introduced in 2001 states that children should have legal assistance and a guardian who can speak for them in court, this is widely unknown and the reality is that children rarely feel able to take people to court for such abuses. In order to acquire land and assets, male members of the extended family may enter into marriages with girl heads of households, who feel that they have no option but to consent, in the hope that the prospect may be preferable to attempting to survive and

²⁷ ACORD, op.cit.,p.3

²⁸ Those returning after the RPF victory from 30 years of exile in countries such as Uganda and Tanzania

²⁹ Inyumba, A., former Minister of Gender, Family and Social Affairs in Rwanda, date unknown, quoted in UN-HABITAT, *After the Genocide, Property Rights for Rwanda Women*, www.unhabitat.org

³⁰ Muganza, A, Minister of Gender and Women in Development, General Assembly on Women, 2000

cope with younger members of the family alone.³¹ This form of exploitation is by no means rare and is but one example of the many forms of abuse that are suffered by those in CHHs. In some areas, Byumba in particular, the continuing practice of polygamy has led to conflict within the extended family over property.³² There may be conflict with neighbours over the assets of the family, and in some cases, CHHs that are being assisted by an agency, an NGO, or the government, have experienced hostility and jealousy by some neighbours, who do not qualify for such assistance and may themselves be struggling to survive.³³

The government is attempting to provide land by the resettlement of people within its “Imidugudu” or villagisation programme, which aims to move many Rwandans into these villages. Whilst the main aim was to find homes for genocide survivors left homeless and for old returnees, it was also with the purpose of improving the system of land distribution and management. “Imidugudu” consist of a village-grouped settlement which aims to encourage the establishment of development centres in rural areas and break with traditional scattered housing. Benefits will include improved land utilisation and the provision of basic services.³⁴ The government believes that since farms and huts on the hills have been destroyed over the years of conflict by infractions (especially cross border), riots, and looting, this is the only long-term solution for Rwanda, stating that its goal is for “all Rwandans to live in Imidugudu in urban or rural settings”.³⁵ There has been an attempt to give consideration in the first instance to the more vulnerable groups in society, but the programme has been unpopular in some parts, as people are loath to leave their home areas. In spite of the government’s preference for any movement to be voluntary, it can be a source of concern for some CHHs, for whom the fear of being forcibly moved to a new area is a valid one in the absence of any real alternative.³⁶

Since merely surviving is the focus of these vulnerable children, education can be extremely low in their priorities, especially for the head of the household. Whilst child heads are keen for siblings to attend school, when they are able to afford it or when there is assistance from government or programmes by NGOs, the priority for the head of the household is to generate income, grow crops or to do work around the home, perhaps caring for younger children. The Rwandan government would like to believe that all children can achieve their full potential, as advocated in the Convention for the Rights of the Child, and to this end has made primary education free and compulsory from ages 7 to 12. With enrolment levels at primary school higher than pre-genocide levels (97%), this may be interpreted as an encouraging success.³⁷ However the dropout rate is very high, due to the supplementary costs of paying a relatively small amount to enrol, the purchase of uniforms, school supplies, and contributions towards the upkeep of the school and teachers’ expenses. In addition there is a need to work at home or earn some money which also encourages

³¹ Usually traditional marriages, as age for legal marriage is 21.

³² MINALOC & UNICEF, 2001, *Struggling to Survive: Orphan and community dependent children in Rwanda*, p.110.

³³ Luzze, F., 2002, *Survival in Child-Headed Households*, World Vision, p.51, & WV/UNICEF, 1998, *Qualitative Needs Assessment of Child Headed Households in Rwanda*, Kigali:World Vision,.

³⁴ Hajabakigu, P., MINITERE, 1999, *Rwanda: -IRIN Focus on Villagisation*
www.reliefweb.int/rw/rwb.nsf/db900SID/ACOS-64BTE6?OpenDocument

³⁵ Ngaboyisonga,M, Rwandan official, 2004, quoted in Global IDP, *Rwanda Villagisation Policy*,
www.db.idproject.org/Sites

³⁶ M MacLellan, Interviews, Kigali, Nov. 2004

³⁷ Save the Children, op.cit. , p.3

dropout.³⁸ Equally it has been reported that children were being kept at home because there was not enough food for them to take to school. The Ministry of Education has implemented a programme to provide children with one school meal a day to encourage them to attend.³⁹ Enrolment, then, whilst representative of a commitment to education, does not always indicate children's participation in school. Few Rwandan children attend secondary schools which are mainly residential, but the government has indicated that this level of education will also be free. Whilst having some children attending a residential school may relieve the pressure on the household during term time, costs for board and food are relatively expensive, and the conditions in which the boarders live are very poor. Schools at both primary and secondary levels suffer problems of large classes, few teachers, who themselves are often under-qualified, lack of resources or money from the budget - as occurred in Rwanda in November 2004, when funding for education ran out before the end of the school year leading to an early end of term.⁴⁰ The government has admitted that overcrowding will continue, as there are no resources to build more schools. There have been difficulties with the dispersal of funds, confusion over who is eligible for various schemes of assistance offered by government, and often the lack of payments to the schools involved. Students have been sent home because their tuition was not paid, even though the government has asked the head teacher to keep the children at school, but the schools cannot afford to feed them. Children have also been arbitrarily left off lists.⁴¹ The FARG, (Fond d'Assistance aux Rescapés du Génocide) aims to provide assistance for education, health and housing to the most needy genocide survivors including children, but a lack of awareness on the part of children about this help and assistance offered on NGO programmes, means that they do not avail themselves of such assistance. Whilst many such organisations implement programmes to support education of vulnerable children, it may be that these have a fixed age limit at which households can be helped, which might prevent their inclusion on the programme.⁴² The government is also providing free catch up classes for children who had been obliged to leave school to care for younger brothers or sisters, and sometimes 18 year olds are attending primary school classes for that purpose.⁴³ It is clear that efforts are being made to address the problem of providing education for all, but there is a need to do more to prevent further increases in dropout rates. However, when asked about their ambitions for the future, some children who attend school, express desires to become judges, doctors, and journalists, often abroad.⁴⁴ How realistic are those aims in the current climate in Rwanda? Yet the future for Rwanda will be built on weak foundations if its children are deprived of educational opportunities, as well as nutrition, health, and protection.⁴⁵

The need to generate an income is inevitably one of the most urgent requirements for the household, and whilst many are able to cultivate crops on a small scale, income

³⁸ U.S. Dept. of Labour, *Rwanda – Government Policies and Programs to Eliminate the worst forms of Child Labour*, www.dol.gov/ilab/media/reports/iclp/tda2003/rwanda.htm

³⁹ Nyirahabineza, V., Meeting of 2nd Periodic Report of Committee on the Rights of the Child, May 2004, Geneva

⁴⁰ M.MacLellan, Interview Kigali Nov 2004

⁴¹ Human Rights Watch, op.cit. p53

⁴² M.MacLellan, Interviews, Kigali 2004

⁴³ Nyirahabineza, V., Meeting of 2nd Periodic Report of Committee on the Rights of the Child, May 2004, Geneva; M.MacLellan, Interviews, Kigali 2004

⁴⁴ M.MacLellan, Interviews Kigali-Rurale, November, 2004

⁴⁵ Save the Children, op.cit, p.3

generation is often on a casual basis of trading, odd jobs, labouring, and in the case of female heads, frequently sex work. Prostitution exacerbates health risks, and increases AIDS infection rates, reducing the household to even worse circumstances. Girls heading households are especially vulnerable, with reports of them trading sex for siblings' school fees.⁴⁶ With one study estimating that 80% of girl heads had been sexually abused, it is unsurprising that sex trade as a survival mechanism was an incorporated and accepted part of rural society.⁴⁷ Girls feel that were they to complain, they would have no one to defend them, which would result in further ostracism in the community.⁴⁸ These issues underline the gender discrimination that exists within livelihood rights. The International Labour Organisation has estimated that 41% of Rwandan children aged between 10 and 14 are working, with those in CHHs or street children especially vulnerable. Work is usually in the informal sector, as Rwandan law states that the minimum age for employment is 16 years, although exceptions can be made for those between 14 and 16 dependent upon the circumstances. UNICEF estimates that there are roughly 1 million children who are vulnerable to being exploited, and estimates that 2100 child prostitutes are active in the country.⁴⁹ Such commercial sexual exploitation of children is a significant problem, which also occurs with child domestic workers on a large scale. The latter are also often forced to work long hours for little pay, are badly treated and prevented from attending school.

Whereas many children in CHHs in rural areas are able to engage in cultivation, the size of the land they work is often less than one hectare, and in one survey, 25% of households targeted had no land at all, forcing them into working as labourers. Revenue from cultivation per family is low – often little more than 1000 FRw- just over a pound a month.⁵⁰

Work is often paid at a lower rate, as the children may be younger than the legal minimum age. There is a high risk of work being exploitative, and working conditions poor. Child labour is a reality and there are not the resources to oppose the situation within the relevant government departments- there is an acknowledgement that child labour laws are not effectively enforced in the country and therefore in the case of child labour a wide inconsistency between the rights recognised by law and practice.⁵¹ Government initiatives have been implemented to enable child heads to take part in some income-generating activities as well as attending school.

Programmes by agencies and NGOs have provided vocational training for many child heads, and have assisted with credit schemes, loans and grants for the purchase of basic materials to enable them to start an income-generating activity, for example the manufacture of banana bark cards, basket work, carpentry and welding. Such activities can have a significant impact upon the household, in improving nutritional status and welfare, and in meeting the expenses of education, health and rental costs. Yet all this is far from the ideal of childhood, and is a travesty of the Rights of the Child as advocated by the UN and the countries which have ratified it.

⁴⁶ Human Rights Watch op.cit., p.48

⁴⁷ World Vision/ UNICEF, op.cit., p5-6

⁴⁸ ibid

⁴⁹ UNICEF 2004, www.unicef.org/childfamily/index_244543.html

⁵⁰ ACORD, op.cit., p.2

⁵¹ Convention on the Rights of the Child, *At What Age?*, at www.right-to-education.org/content/age/rwanda.html accessed February 9, 2005, p.2

The health of children in CHHs is frequently poor – the lack of affordable nutritious food coupled with an inaccessibility to healthcare when needed, results in poor health, lowering of immune systems and continuous vulnerability to infection. As illness and weakness take hold they are less productive, and so are even less able to afford healthcare, and often health problems have a physical and emotional effect on the whole household. Furthermore, the children often have nobody to turn to when they have these problems. Whilst the government has improved access to many basic services in the past ten years, it is clear that little headway has been made with regard to healthcare. Costs remain out of reach of the majority of the population, and utilisation rates are lower than in 1995.⁵² In Kigali, a local hospital is prepared to treat street children, but it is clear that it is not widely used. Moreover there is little evidence of assessment for HIV/AIDS within these vulnerable communities, and the availability of anti-retroviral drugs is limited or non-existent. The mental health of children at risk is also of concern, but despite an acknowledgement that some children and adults are suffering psychologically from the events of a decade ago, there remain few opportunities for diagnosis and treatment. The government has cooperated with some NGOs in establishing rehabilitation programmes for children who had suffered sexual violence during the genocide, although on a very small scale- one trauma counsellor for each hospital does not begin to address the widespread sexual violence suffered in Rwanda. Recommendations have been made for counsellors in schools, but the government, whilst acknowledging the need, is unable to afford such services. Neither has the government enough funding for the provision of anti-retroviral drugs for children who have contracted HIV through rape.⁵³ A lack of documentation, registration at birth or any other proof of citizenship is an obstacle to accessing healthcare, and many children are unaware of rights or unable to act as agents in accessing those rights to healthcare. Under Rwandan law people are not legally allowed to marry until the age of 21– if there are serious grounds permission can be granted to marry younger but as a consequence many women enter into traditional marriage as opposed to a legal marriage, and their rights are then diminished in a court of law. Children of traditional marriages are considered illegitimate, which in turn hinders their prospects for legal recognition and causes further difficulties when attempting to acquire assistance.

This lack of legal recognition is both a physical and emotional hindrance to children in CHHs. As minors, they are often unable to claim or register for assistance, and the lack of an adult advocate is a major disadvantage. This role can be taken on by an adult representative of an NGO if the family is included in a programme, a social worker, or even community leader. Such a person might claim assistance, benefits, inclusion on programmes etc. for children who otherwise would be exempt from such help. There is, however, a need for the government or agency involved to acknowledge the responsible and accept his or her authority. Sloth-Nielsen has extensively examined the situation in South Africa with regard to the rights of CHHs within the legal framework. Here, legislation has been implemented to allow an adult or “mentor” to be an advocate or claimant for CHHs, but also to allow in some cases for the child head herself or himself to be considered legally responsible to claim for

⁵² Save the Children, op.cit.,p.3

⁵³ Nyirahabineza, V., Meeting of 2nd Periodic Report of Committee on the Rights of the Child, May 2004, Geneva

the purposes of benefits, grants and assistance.⁵⁴ The result is that whilst for some it has been successful, there are many others who have not been able to benefit from the change. In those areas where the child is not able to claim, there must be an adult willing to fulfil that role. In some cases there will be no-one that the children feel able to nominate - in recent interviews in Rwanda, when children were asked who they would go to if they had a problem, some had no-one to turn to, and so would be even further disadvantaged in attempting to receive some help.⁵⁵ Finding an adult who can be trusted may be difficult due to hostility in the community, stigma over AIDS or continued ill feeling after the genocide.⁵⁶ Efforts by the government to help CHHs are also only reaching a relatively small proportion of the extremely vulnerable. The sheer numbers of such children make any legislation difficult to work countrywide. Whilst the government attempts to conform to the demands of the UN Convention for the Rights of the Child, which it has ratified, in effect the majority of children will not be affected by such edicts, which are agreed in a seemingly different world to the existence of those in CHHs.

NGOs and agencies in Rwanda are attempting to inform members of CHHs of their rights, and advocate for them in some cases. Agencies may, for example send a representative to speak on a child's behalf in court cases regarding property rights, and some NGOs inform and train children both to represent themselves and train other children to do the same.⁵⁷ There is a lack of knowledge of new laws at community and official level, which hampers any complaint that a child might have, and children simply believe that they cannot fight laws until they are adults. Whilst the law stipulates that the state should provide legal assistance for children in court, there is no complementary legislation to oblige officials to actively intervene in the majority of cases which never reach the courts.

In Rwanda the preponderance of NGOs working in the country means that there is a variety of programmes in place to help the vulnerable. Organisations give vocational training and financial assistance to members of CHHs to erect their own dwellings, and to help others with the construction of their homes.⁵⁸ Several NGOs run child sponsorship programmes, which provide food and assist with school fees. However, child heads of households admit that the food does not go far enough, and often they are obliged to embark upon income generation schemes to earn money for extras they might need. Many organisations aim to provide homes for CHHs, some by buying land and property for a family, allowing them to live in it and to grow food on a small piece of ground, and keeping it in trust for them until they reach adulthood. These homes are sometimes within a sheltered "compound" which might house several families, but with the security of an external wall for protection. One NGO has included in this basic scheme a "traditional" family, with two parents, in order to provide CHHs with a model family from which they can learn and understand the dynamics of what is perceived as an "ideal" family.⁵⁹ For this generation of Rwandan children, such families are indeed few, and it is questionable whether the characteristic two parent and children model will ever be the norm again in Rwanda.

⁵⁴ Sloth-Nielsen, J., 2004, *Realising the rights of children growing up in child headed households*, UWC, p.37

⁵⁵ M.MacLellan, Interviews Kigali, November 2004

⁵⁶ Children whose parents are in jail for genocide crimes are frequently ostracised in the community

⁵⁷ Examples are Moucecour, RwandaWomen Network, CARE Rwanda

⁵⁸ Moucecour, M.MacLellan, interview Kigali 2004

⁵⁹ M.MacLellan, Interviews, Inkuru Nziza, Lower Kimisigara village, Kigali, 2004

In Rwanda and other countries in Sub-Saharan Africa where HIV/AIDS and conflict have served to weaken and destroy societal structures, the typology of “family” needs to be redefined, as the standard nuclear family as the model exists less and less, but there should be a new recognition, both legal and societal, of these different family structures. In addition there is a need to acknowledge the different constructions that may exist within child headed households. Such an acknowledgment would have a far-reaching impact upon legislation and the rights of the CHH – if in Rwanda child heads were able to act as the legal representative of the family, in order to access assistance such as grants or benefits, as well as education, healthcare or legal assistance, then that would decrease their vulnerability, and enable them to improve their lot by claiming what is rightfully theirs. In order for that to be possible, however, it will necessitate a relaxing of the rules regarding proof of citizenship, as there may be no record of registration at birth, identity cards may be lost, and costs for legal proof are prohibitive, as in South Africa, where the Department for Home Affairs has stated that it will consider other forms of identification– for example baptism certificate, confirmation of the child’s details from the school register, affidavits by a close relative, a social worker’s report or a school report or clinic card.⁶⁰ One of the basic rights as defined in the Convention on the Rights of the Child is that a child has a right to an identity, and for many children in Rwanda the lack of official acknowledgement of their existence could be reversed by the integration and institutionalisation of CHHs within a legal and societal framework.

In Rwanda the basic rights of protection, shelter, food, education, health care, and freedom from violence and exploitation are missing in practice, at grass roots level, whilst the government attempts to act justly in favour of the vulnerable by supporting International Conventions and legislating for the benefit of the vulnerable.

Along with UNICEF, the government has implemented a child protection project aimed at deprived families, to strengthen the capacity for the children to recognise and contribute to the realisation of their rights. UNICEF has funded a rights based approach to programming in three provinces at all levels of community and family. They have discovered that it is important to involve and empower families, communities and local authorities from the beginning so that the efforts and progress made for child protection will be sustained.⁶¹ Why has the Rwandan government not been able to improve the rights of these vulnerable children and in particular CHHs, especially since 10 years have passed since the genocide and despite its ratification of the Convention of the Rights of the Child? The answer is resources and priorities. Post genocide, the task of rebuilding a broken nation was enormous, continued conflict on the border, the involvement in the war in DRC, all of these took resources away from issues such as rights. When asked why rights have not been a priority for programmes, aid agencies have responded by saying that the most urgent needs were the basic survival of the people – food, clothing and shelter. Perhaps rights are a luxury when merely staying alive is a challenge.

However the state is still faced with challenges, and recommendations have been made that above all the government should include children as a priority when designing new national plans. These must include an attempt to formalise and recognise all types of child headed households, adapting legal frameworks to

⁶⁰ Sloth Nielsen J., *op.cit.* p.26

⁶¹ UNICEF, www.unicef.org/childfamily

compensate for the lack of adult responsibility, ensuring that all citizens are aware of their rights and are able to avail themselves of assistance from all possible sources. Only in these ways can the marginalized and exploited have an equal role in society.

BIBLIOGRAPHY

MINALOC, 2003, *National Policy for Orphans and Vulnerable Children*, Kigali

MINALOC & UNICEF, 2001, *Struggling to Survive: Orphans and Community Dependent Children in Rwanda*, Kigali

Agency for Cooperation and Research in Development (ACORD), March 2001, *Research into the Living Conditions of Children who are Heads of Households in Rwanda*

Save the Children, April 2004. *Rwanda 10 Years On*

World Vision/UNICEF, 1998, *Qualitative Needs Assessment of child headed households in Rwanda*, Kigali: World Vision

Luzze, F., 2002, *Survival in Child-Headed Households: A Study on the Impact of WV Support on Coping Strategies in Child-headed Households in Kakuuto County, Rakai District, Uganda*, WV/UK

Sloth-Nielsen, J., 2004, *Realising the rights of children growing up in child headed households*, UWC

INKURU-NZIZA, 2003, *Integration des Orphelins KIGALI-RWANDA*, Report, Kigali

Tear Fund & Inkuru Nziza, 2003, *AIDS/WAR Orphans Intergration Report*, Kigali

Human Rights Watch, March 2003, *Lasting Wounds-Consequences for Genocide and War for Rwanda's Children*, Vol. 15, No.6 (A),

IDASA & Thandanani Children's Foundation, 2004, *Child-headed Households, Pietermaritzburg, KwaZulu-Natal from Monitoring Child Socio-Economic Rights in South Africa: Achievements and Challenges*, p. 18-27, www.idasa.org.za/index.

UNICEF, www.unicef.org/childfamily/index_244543.html

UN Declaration on the Rights of a Child, the Convention,
<http://www.unicef.org/crc>

UN General Assembly, www.un.org/esa/socdev/unyin/qanda.html
UN, June 2000, www.un.org/special-rep/children-armed-conflict/English/Rwanda.html

Committee on the Rights of the Child, Rwanda 2nd periodic report, 2004,
www.ohchr.org

UN-HABITAT, *After the Genocide, Property Rights for Rwanda Women*,
www.unhabitat.org

MINITERE, 1999, *Rwanda:-IRIN Focus on Villagisation*
www.reliefweb.int/rw/rwb.nsf/db900SID/ACOS-64BTE6?OpenDocument

Global IDP, *Rwanda Villagisation Policy*, www.db.idproject.org/Sites

U.S. Dept. of Labour, *Rwanda – Government Policies and Programs to Eliminate the worst forms of Child Labour*,
www.dol.gov/ilab/media/reports/iclp/tda2003/rwanda.htm

Nyirahabineza, V., Meeting of 2nd Periodic Report of Committee on the Convention of the Rights of the Child, May 2004, Geneva

Convention on the Rights of the Child, *At What Age?* at www.right-to-education.org/content/age/rwanda.html