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Human Rights Committee
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Summary record of the 2602nd meeting*
Held at Headquarters, New York, on Wednesday, 18 March 2009, at 10 a.m.

Chairperson: Mr. Iwasawa

Contents

* No summary records were issued for the 2599th to 2601st meetings.

09-27167 (E)

The meeting was called to order at 10.20 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Third periodic report of Rwanda
(CCPR/C/RWA/3; CCPR/C/RWA/Q/3/Rev.1 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Rwanda took places at the Committee table.*

2. **Mr. Nsengimana** (Rwanda) said that his Government's third periodic report (CCPR/C/RWA/3) was in fact a consolidated report covering the years 1992 to the present. Following the 1994 genocide, which by definition had been a radical denial of human rights, Rwanda was determined to establish the rule of law through measures aimed at promoting and protecting human rights, especially civil and political rights.

3. Since the submission of Rwanda's second periodic report, the country had made great strides, legally and institutionally, in ensuring the civil and political rights of its people, including through the adoption in 2003 of a new constitution, which provided for the direct application of international instruments in Rwanda. Because the Committee's concluding observations on Rwanda's second periodic report had not reflected those developments, they had not been taken into account during the drafting of the current report.

4. The Rwandan Patriotic Front, which had ended the genocide in 1994, had also played an active role in establishing the Government of National Unity and, later, the Transitional National Assembly. The political transition had come to an end in 2003 with the adoption of the new Constitution and the advent of democratically elected institutions. The fundamental principles of the new Constitution included the rejection of dictatorship; the creation of a State governed by the rule of law and respect for basic human rights; the suppression of genocide and related ideology; equality among Rwandans and between men and women; and the constant quest for dialogue and consensus.

5. Following the genocide, the Government had created institutions capable of strengthening the rule of law, specifically, democratic, independent institutions representing the three branches of power, and national commissions and specialized State agencies to deal with particular issues. Despite the challenges involved in overcoming the aftermath of the genocide and establishing the rule of law, remarkable progress had been achieved. Rwanda was committed to working towards even more effective compliance with the Covenant.

6. **The Chairperson** invited the delegation to address questions 1-14 on the list of issues (CCPR/C/RWA/Q/3/Rev.1).

7. **Mr. Rusanganwa** (Rwanda), referring to question 1 on the list of issues, said that the right to invoke international treaties before the domestic courts was guaranteed by article 190 of the Constitution. The only exceptions to their precedence over national legislation were the referendum laws and the Constitution itself, which, if found inconsistent with international treaties, must be amended and brought into line with the treaty in question. There were several cases in which the Covenant had been directly applied, including by the Supreme Court (application of arts. 3, 10 and 26 of the Covenant) and the Military Advocate's Department (application of art. 6 of the Covenant). Furthermore, the instruments ratified by Rwanda, including the Covenant, were referred to in the preambles to laws, including organic laws, and were considered by Parliament when adopting new legislation.

8. **Mr. Nsengimana** (Rwanda), referring to question 2 on the list of issues, said that unity and reconciliation were key to achieving stability and sustainable peace in Rwanda. To that end, the Government had adopted a number of measures, such as the inclusion of the concepts of unity and reconciliation in the Constitution; the creation of a National Unity and Reconciliation Commission; the establishment of specialized institutions to ensure respect for human rights, transparency and good governance; the setting up of Gacaca courts; the repatriation of refugees and ex-combatants and the formation of a single army; and transparent elections. In addition, a decision had been taken to exclude any reference to ethnic groups in public administrative documents and instead to emphasize the unifying nature of Rwandan nationality. Finally, poverty reduction mechanisms were an important factor in achieving national unity.

9. Given that the Covenant was directly applicable in Rwanda, the National Unity and Reconciliation Commission could not contradict its provisions. All the rights recognized in the Covenant were thus taken into account in the activities of the Commission, which aimed at reintegrating individuals who had been involved in the genocide, following their trial by the Gacaca courts.

10. Turning to question 3 on the list of issues, he said that the Government of Rwanda had welcomed the establishment, belated though it had been, of the International Criminal Tribunal for Rwanda. It had cooperated fully with the Tribunal with regard to investigations, witness protection, the search for fugitives, capacity-building of judicial staff and traineeships for university students and civil servants. In addition, Rwanda was helping the Tribunal identify needs and potential solutions for the transfer of cases and prisoners in the event that the Tribunal did not complete its work by the end of 2010.

11. **Mr. Rusanganwa** (Rwanda), replying to question 4 on the list of issues, said that the revolt in the Mulindi military detention centre had occurred because measures introduced to combat drug trafficking had been unpopular with the prisoners. The military police had intervened to restore order, killing three prisoners in self-defence and injuring several others. Following an investigation, disciplinary measures had been imposed on the members of the military police who had shot the prisoners and the director of the detention centre had resigned. While the case had now been closed, victims and members of their families were still entitled to seek civil damages through the courts.

12. **Mr. Nsengimana** (Rwanda) noted that the National Human Rights Commission had followed the case closely, and recommended that in future tear gas or rubber bullets should be used in such incidents rather than live ammunition.

13. **Mr. Rusanganwa** (Rwanda), responding to question 5, said that solitary confinement for life was imposed solely on dangerous persons who had committed inhuman crimes which required them to be isolated for the safety of the other prisoners. The imposition of such a sentence was not incompatible with article 7 of the Covenant, since the prisoners in question were guaranteed all of the rights enjoyed by other prisoners under the Constitution.

14. Furthermore, article 5 of the Rwandan draft law on execution of the sentence of life imprisonment stipulated that any persons sentenced to life imprisonment must be afforded decent treatment which ensured respect for their human rights. It also protected such persons against any form of cruelty, torture and inhuman or degrading treatment. Thus, under the draft law, the only difference between prisoners sentenced to solitary confinement for life and all other prisoners was that, in order to maintain prison security and good order, the former were denied regular contact with the latter.

15. Referring to question 6, he said that any police officer or member of the Local Defence Forces who used excessive and illegal force when arresting suspects would be prosecuted to the full extent of the law. For example, article 42 of Act No. 09/2000 stated that the police force should endeavour to carry out its work without the use of firearms and that other equipment, such as truncheons, tear gas and rubber bullets, should be used instead. Any police officer who failed to comply would be liable to prosecution. Furthermore, article 27 of Act No. 02/2004 stated that members of the Local Defence Forces would be held accountable by law for any acts committed during the performance of their duties that did not fall within their competence, while article 79 of Decree No. 155/01 provided for criminal and disciplinary proceedings against members of the national police who abused their authority.

16. In response to question 7, he noted that the Constitution of Rwanda protected the liberty and security of the person from potential violations. Article 18 of the Constitution stated that liberty of the person was guaranteed by the State and that no one could be prosecuted, arrested, detained or convicted except under the conditions specified by the law in force at the time that the act was committed. In that connection, Act No. 13/2004, as amended and supplemented by Act No. 20/2006, had restricted the length of time during which a person could be held by the police or Prosecution Service for the purposes of an investigation. In the case of police custody, an arrest report written by a police officer was valid for only 72 hours from the issuance of the arrest warrant, while a warrant issued by the Prosecution Service was valid for only seven days. The law was strictly observed in that respect and judges were now authorized to release detainees upon the expiry of a given deadline.

17. In addition to such legislative measures, administrative measures had been taken to prevent arbitrary and illegal detention, including the closure of non-official detention centres and stricter inspections of police stations.

18. **Ms. Tumukunde** (Rwanda) said that while the 2007 report of the National Human Rights Commission had documented a few cases of excessive detention in police custody or following acquittal, such cases were not in fact arbitrary detention. Nevertheless, measures had been put in place to ensure that there were no further such cases of excessive detention, including regular inspections of prisoners' files by prison directors and by the Office of the State Prosecutor-General, as well as the immediate dispatch of court judgements to the relevant authorities.

19. **Mr. Nsengimana** (Rwanda), replying to question 8, said that reports of the number of arrests on charges of vagrancy were often exaggerated. However, it should be recalled that vagrancy and begging were offences punishable by articles 284, 285 and 286 of the Criminal Code of Rwanda.

20. The Kigali authorities were working in conjunction with the national police to arrest vagrants and beggars for reasons of security. The prosecution of offenders followed judicial procedures, while minor offenders were either returned to their family homes or sent to rehabilitation centres. In that connection, he noted that a national policy for orphans and other vulnerable children had been in place since 2003. Under that policy, the Government had adopted a strategic plan for street children which established various mechanisms for their social integration. Furthermore, since vagrancy and begging were often caused by poverty, the Government had adopted several economic support measures, such as the project on highly labour-intensive work mentioned in the report. Gainful employment was the best solution to the problem of vagrancy and begging.

21. **Mr. Rusanganwa** (Rwanda), responding to question 9, said that, in the wake of the 1994 genocide in Rwanda, some 120,000 persons had been detained pending examination of their cases by the competent courts. In order to avoid a situation whereby those persons risked being in detention for longer than any custodial sentence that might be imposed upon conviction, on 1 January 2003 the Office of the President of the Republic had issued a communiqué asking for the provisional release, subject to the laws in force, of detainees who had confessed to participating in the genocide and who risked finding themselves in such a situation. That appeal had been made every year since 2003, with the result that a total of more than 59,000 detainees had been released to date.

22. The Gacaca courts had been established to speed up genocide trials in compensation for the slowness of the regular court system due to the limited number of courts and the difficulties of gathering evidence. The third amendment to Organic Law No. 16/2004 had increased the scope and number of Gacaca courts, while the introduction of community service into the Gacaca process, pursuant to Presidential Order No. 17/03/2003, had helped to further ease overcrowding in prisons, thereby facilitating a successful conclusion to the reconciliation process.

23. **Mr. Nsengimana** (Rwanda) said that the situation in Rwanda was very particular, given that a large proportion of the population had been directly involved in the genocide. The Gacaca courts had been set up not only to expedite the process of judging but also with a view to reconciliation, but that did not mean impunity for offenders. Those courts had allowed a million people to be tried in four years, thereby lowering the number of people in prison and increasing the number of those able to contribute, through productive activity, to the national economy.

24. Responding to question 10 on the list of issues, he stressed that none of the basic rights provided for in article 137 (7) of the Constitution were affected by a state of siege or emergency; all other rights could indeed be curtailed in such a situation, but only within limits laid down by law. In a state of emergency, all rights to be suspended must be stipulated, and even then individuals could avail themselves of effective remedies. On the issue of discrimination against women (question 11), he said that a number of legislative provisions that did so discriminate were being reviewed with a view to their abrogation.

25. **Ms. Tumukunde** (Rwanda) said that the National Human Rights Commission was part of the review team, which was headed by the Ministry of Gender and Family Promotion. Much had already been achieved in that area during the Commission's 10 years of work, particularly in the civil and political spheres, where women currently enjoyed almost equal rights with

men. A few aspects of the Family Code and the Criminal Code were currently being reviewed, particularly to ensure that men and women were treated equally in cases of adultery; by the end of the review process, all the necessary conditions for full gender equality should be in place.

26. Turning to question 12, she said that the Ministry of Gender and Family Promotion and the Human Rights Commission were constitutional entities and, as such, received a part of the Government's budget. However, owing to the state of the country's finances, that still left a shortfall; additional funding was provided by relevant international and bilateral organizations. As for criteria for election to the National Women's Council, they were open, ensuring representation from grass roots up to national level. The Council had been successful in all aspects of its work, particularly in advancing women's economic and social rights.

27. **Mr. Rusanganwa** (Rwanda), taking up question 13, said that rape was a punishable offence under the Criminal Code, an amended version of which was currently before Parliament, as was a special law against trafficking in human beings, particularly children. In addition, a new law had been adopted to punish gender-based violence. Under those new provisions, the severity of the punishment handed down depended on several factors, and could be doubled in some circumstances. Rape of a minor, for instance, was punishable by between 10 years' imprisonment and life imprisonment, in place of the death penalty, which had been abolished. Rape cases were given priority in terms of investigations, medical treatment and judicial hearings. At national level and in each police station, special units had been established to respond with maximum efficiency and care to all reported cases of rape, and in particular to address and counteract the risks of HIV/AIDS.

28. **Mr. Nsengimana** (Rwanda), referring to question 14, said that sexual violence was one of the practices that had been rife during the genocide. The Government had accordingly taken special measures to provide victims with a prompt police response and access to medical treatment and judicial services, with the support of the United Nations Development Fund for Women. The strategy had been very successful, particularly in deterring potential perpetrators of such violence. Victims also benefited from NGO counselling services. Moreover, a special unit had been set up at national level to develop and implement programmes and policies to protect and assist victims and witnesses and to plan, carry out and monitor all the related activities.

29. **Ms. Wedgwood**, expressing appreciation that Rwanda had, after so many years, submitted a report, stressed that frequent reporting was a means whereby the Committee and each State party could together improve compliance with the provisions of the Covenant, whose purpose was to inspire action on the ground. Rwanda had been subject to the most awful horrors but now must strive to put the trauma behind it and build the future. It was therefore not enough to enact legislation; concrete measures must be taken, and they must be reported on. The Committee needed empirical information; it wished to know what was being done in practice, not just at the formal level. The reference made, in the response to question 1 in the list of issues, to article 190 of the Constitution did not advance the matter, in the absence of procedural safeguards in the Gacaca courts, guaranteed legal representation or fact-finding activities. Without effective freedom of expression, article 19 of the Covenant remained a dead letter, while article 7 was meaningless if prison conditions were bad. The Committee would appreciate information about reported cases of large numbers of children detained in a warehouse, of women becoming pregnant while in prison and of prisoners held for long periods of time in solitary confinement without the possibility of a single visit. She regretted that the delegation did not include persons with direct responsibility for operations on the ground.

30. With regard to question 3 on the list of issues, information reaching the Committee suggested that there were problems that affected the independence of the International Criminal Tribunal for Rwanda. For instance, pursuant to the Tribunal's termination strategy and at the urging of the Government, a growing number of cases before the Tribunal were being transferred to national courts in Rwanda. She requested further information on efforts to ensure that such transferred defendants benefited from the same procedural protections they would have had in the Tribunal. In addition, information had reached the Committee that tens of thousands of alleged collaborators had been killed by security services in various regions of the country and that there had been

few, if any, investigations or prosecutions in such alleged cases of excessive force.

31. Turning to questions 4 and 6, she noted that there had been reports of extrajudicial, summary and arbitrary executions by security services, problems that the Government was duty bound to investigate. Information had reached the Committee that certain persons, such as Leonard Hitimana, a former Member of Parliament for the MDR party, Lieutenant Colonel Augustin Cyiza, a former Vice-President of the Supreme Court, Jean-Marie Vianney, a shopkeeper, and Damien Musayidizi, a former Secretary of the Ministry of Defence, had disappeared, without any evidence of investigation on the part of the Government. Such incidents must be investigated in the context of the Covenant obligation relating to the right to life and the prohibition of extrajudicial executions. She requested more information on Government efforts to deal with such cases and other disappearances.

32. With regard to questions 7, 8 and 9, she asked for more information concerning the protection of Covenant rights in cases of detention, in particular lengthy pre-trial detentions and the warehousing of street children and migrants, practices that exposed unconvicted persons to extreme conditions, including the mixing in prisons of convicted and unconvicted persons.

33. Finally, turning to question 10, she urged the Government to review carefully the Committee's general comment No. 29 on article 4, in particular paragraphs 13 to 16, which dealt with rights, even beyond those specified in the Covenant, during a state of siege. She noted that the Committee had heard that there had been changes in the Gacaca courts that even further weakened the protection of Covenant rights. In that connection she urged the State party to review general comment No. 32 on article 24, especially paragraph 24 on customary law courts.

34. **Mr. Amor** welcomed the report, but noted that it was rather formal and offered a relatively limited number of facts, in particular information on the State party's practice in implementing the Covenant. While commending the State party for having established the National Unity and Reconciliation Commission, he requested more information on the participation of non-Government entities, i.e. civil society, in that body. It was not clear from the report, in particular paragraph 6, what exactly the Government meant by "civil society" and the degree to which it was formally involved in the enormous recovery process. He noted also that the Gacaca courts posed certain problems, for all their usefulness in reducing the backlog of cases, as they had allegedly been used on occasion to settle local accounts on the basis of rather slender evidence. There had also been reports of the use of excessive force by security services, sometimes resulting in detainees being shot for simply resisting arrest. He asked whether there had been any investigations or prosecutions in such cases.

35. Addressing specifically question 8 on the list of issues, he requested more information on who exactly were considered vagrants. Noting that many people in marginal and vulnerable groups were apparently detained beyond the reach of non-governmental organizations and legal counsel, he reminded the State party that criminalizing vagrancy, begging and prostitution led to treatments that violated the Covenant. Such lifestyles were the result of poverty, which was not a crime. He requested more information on the numbers of such vulnerable people and the treatment they received.

36. **Ms. Majodina** expressed some surprise that the National Human Rights Commission had not submitted an independent report on the Government's compliance with its Covenant obligations but had instead joined the Government delegation. With regard to question 5 on the list of issues, she noted that the Constitution and other legislation prohibited torture but allowed life imprisonment in solitary confinement. The Committee had, in its general comment No. 20 on article 7, ruled that prolonged solitary confinement was excessively cruel and violated article 7 of the Covenant. It was furthermore not clear from the report or the responses what the criteria were for imposing life imprisonment in solitary confinement in certain cases of genocide.

37. Turning to question 11, she welcomed the high participation of women in Parliament but asked for more information on the review to be conducted by the National Human Rights Commission into laws disadvantaging women, in particular articles 206, 213 and 354 of the Family Code, which discriminated against women in the family, at work and in court.

38. Finally, she requested more information on the issues raised in question 11, in particular whether the Government provided adequate budgetary support for efforts to integrate gender equity and gender

mainstreaming in a sustainable manner. She asked specifically about gender focal points and the institutional framework for gender mainstreaming.

The meeting rose at 1 p.m.