



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the 1599th meeting

Held at the Palais Wilson, Geneva, on Friday, 24 November 2017, at 3 p.m.

Chair: Mr. Modvig

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The meeting was called to order at 3.05 p.m.

Consideration of reports by States parties under article 19 of the Convention

(continued)

Second periodic report of Rwanda (continued) (CAT/C/RWA/2; CAT/C/RWA/Q/2 and CAT/C/RWA/Q/2/Add.1)

1. *At the invitation of the Chair, the delegation of Rwanda took places at the Committee table.*
2. **Mr. Busingye** (Rwanda), replying to questions raised in the first half of the dialogue (CAT/C/SR.1596), said that his Government had no intention of competing with NGOs for the Committee's trust: it had voluntarily ratified the Convention against Torture and its Optional Protocol and had a record of fighting for the rights of Rwandans when others had looked the other way. Naturally, progress remained to be made; hence the Government's continued engagement with the Committee. Regarding the Human Rights Watch report, the Committee might find it of interest to refer to external reports on the working methods of such NGOs.
3. The penalty for torture ranged from six months' to life imprisonment. The law applied equally to accomplices and perpetrators of torture, and if the perpetrator was acting in an official capacity, he or she was liable to the maximum penalty. The range of prison time meant that the penalty might not be commensurate with the seriousness of the offence in some situations, and so the relevant provisions were among those to be amended in the draft Penal Code currently before Parliament. Persons sentenced to life imprisonment with special provisions were not eligible for a pardon or parole until they had served at least 20 years. That provision would also be reviewed as the Government had been advised that the penalty could amount to torture within the meaning of the Convention. Sexual torture had been made a stand-alone offence to deal with the specificities of gender-based violence, but was not treated differently from other forms of torture.
4. There were no examples of cases where the Convention had been invoked by the courts; however, the Convention and the Optional Protocol had been almost entirely incorporated into national legislation through the Constitution, Penal Code and Code of Criminal Procedure, so the Government was satisfied that the provisions of the Convention were applied. Nevertheless, the hope was that, after additional training, judges would begin to cite the Convention specifically. Prosecutors had discretion to act in the public interest while preserving the presumption of innocence. If victims were dissatisfied with a prosecutor's decision, they were free to bring the case to a judge directly. Thus, prosecutorial discretion did not give prosecutors licence to violate the Convention.
5. Adults could be held in police custody for up to five days without possibility of extension and minors for up to 72 hours, which Rwanda recognized was not in line with international standards. The system was under constant review as Rwanda aspired to meet those standards. Persons arrested on suspicion of committing a terrorist act were held at the nearest police station. The 48-hour period had been set for logistical and processing reasons, but custody generally did not exceed 10 hours.
6. Civilians could be detained in military facilities if they were accomplices to an offence committed by military personnel. The Code of Criminal Procedure applied to both civilians and the military. There were no unofficial places of deprivation of liberty in Rwanda, and interrogations were conducted in accordance with the law and all safeguards were applied. Military facilities kept registers of detainees, which were audited. The Government took all its legal obligations seriously; any deviation would be unacceptable.
7. The presence of a lawyer was guaranteed from the time of arrest through to the trial. All safeguards were in place with regard to the interrogation of pretrial detainees. Interrogations could go ahead without a lawyer present only if the detainee consented. No cases were considered politically sensitive — there was no such category of cases — so all persons had an equal right to legal assistance. Moreover, it was not government practice to carry out reprisals or to detain or silence opponents. The legal aid system was developing rapidly: three legal aid lawyers had been recruited per district and a bill on the topic was

being drafted. The only eligibility criterion was the ability to prove indigence. The impact of the provision of legal aid had not been measured per se, but there had been an increase in requests for it.

8. To the best of his knowledge, all those arrested following the security operation in Musanze and Rubavu in 2014 had been processed and accounted for in accordance with established procedure; he could not confirm whether some had been denied access to a lawyer.

9. There were no explicit provisions regarding medical examinations for detainees; however, in practice, medical services were provided in places of detention. The Government would consider amending the law with a view to integrating the practice into law and policy. If an allegation of torture was made, the burden of proof rested on the alleged victim, who had to apply to the courts for a ruling on the merits of the allegations. The Government would, nonetheless, take under advisement the Committee's recommendations to provide medical examinations and to shift the burden of proof.

10. Articles 97 and 98 of the Code of Criminal Procedure clearly delineated pretrial detention and did not provide for automaticity or derogation. The law provided for habeas corpus, but the remedy was not included in the disaggregated data habitually collected, a point that he would put forward for the purposes of future statistical analysis. Data on detention conditions would be provided; however, it would be helpful if the Committee could clarify what it meant when it requested a breakdown of the figures by "place of origin".

11. Transit centres were not places of detention and had been designed to address specific challenges tied to the country's history. The Government had chosen to allocate resources for their use as temporary accommodation for persons who used drugs or exhibited other anti-social behaviour. The centres had a 70 per cent success rate in rehabilitating such persons. The mandate of the National Rehabilitation Service was to reform, provide an education or job skills, and integrate the persons placed in transit centres. Juveniles held in the centres were not interrogated; they were simply assessed to determine the best course of action for their rehabilitation.

12. The Government regretted the suspension of the visit by the Subcommittee on Prevention of Torture, which was inconsistent with the spirit of dialogue envisaged by the Optional Protocol. The Government hoped that its future relationship with the Subcommittee would be characterized by a spirit of mutual respect, trust and cooperation. Concerning the cases reported by the Working Group on Enforced or Involuntary Disappearances, the Government was working on a response to the Working Group; in the interim, it should be noted that all disappearance cases brought to the attention of the authorities were fully investigated.

13. Regarding the cases involving members of the Rwanda Defence Force, he would appreciate further details of the accusations against them.

14. As far as the Government was aware, there were no undue delays in the processing of asylum applications. Article 619 of the revised Penal Code applied to foreign nationals in conflict with the law, not to refugees. Allegations of the expulsion of Burundian refugees were simply untrue; and it was hard to believe that anyone would refuse to move to the refugee camps, as they were some of the best run in that part of the continent. There were currently slightly more than 8,100 Burundian refugees in the country. Any acts of torture committed in the camps would be subject to the same laws as elsewhere in the country. Rwanda had not received any extradition requests for persons suspected of committing torture. All extradition requests were reviewed in the light of international obligations, including the ban on returning a person to a place where they faced a risk of torture, and were ultimately adjudicated by the High Court.

15. Efforts to combat human trafficking included training for law enforcement personnel and other officials, as well as regular awareness-raising campaigns. The allegations that children were being recruited as soldiers or were victims of sexual exploitation with the knowledge of the military at Mahama refugee camp had been thoroughly examined and found to be unsubstantiated.

16. Regarding the question raised about the alleged failure by the Rwandan Human Rights Commission and the Office of the Ombudsman to act on allegations of torture, he wished to stress that both were independent public institutions, established by law, with clearly defined mandates.

17. Regarding the hierarchy of norms, international treaties continued to be ranked below the Constitution and above domestic legislation. However, in an effort to avoid continually re-opening the Constitution, amendments to it were now adopted through organic laws, which had primacy over international instruments. The judiciary met the highest standard of independence and impartiality and was not subject to any political pressure whatsoever. Members of the judiciary received regular training, including on the Istanbul Protocol, though the impact of the training had yet to be evaluated. He would convey to the authorities the need to train prison medical staff in the application of the Istanbul Protocol.

18. Information on the number of minors in detention would be provided to the Committee in writing. The maximum duration of pretrial detention for juveniles was 72 hours when the alleged offence carried a sentence of a minimum of five years' deprivation of liberty. Minors were always separated from adults in detention. There was a juvenile rehabilitation centre in Nyagatare, where young offenders could continue their education while in detention. The period of rehabilitation was decided by the courts according to the gravity of the offence committed. Female and male prisoners were detained in separate facilities; there were two prisons for women only. Mothers imprisoned with their children were provided with nursery facilities.

19. The disciplinary measures that could be taken in prisons included isolation for up to 15 days on the basis of an instruction issued by the Commissioner General of the Rwanda Correctional Service. Disciplinary measures did not, however, include corporal punishment. Detainees could lodge complaints of torture or ill-treatment by prison officers with a judge or other legal officer without fear of reprisals. There were no cases of illegal or arbitrary detention in Rwanda; detention could only be ordered through a judicial process. With regard to redress, victims of torture had the right to file a civil action. Confessions obtained through torture could not be used as evidence. The delegation was not in a position to comment on the alleged cases of torture mentioned by the Committee, since one of the cases was still sub judice. Civilians would only be brought before military courts if they had been involved in incidents with military personnel who could not be tried in civilian courts.

20. Specific training on the provisions of the Convention was provided to police officers, the military and prison staff. The impact of that training had not yet been assessed but the Committee's suggestion to do so would be taken into account. There were currently 1,344 men and 368 women working in prisons, all of whom received training on the treatment of prisoners and on the rights of detainees, in addition to their regular training. Prison staff underwent continuous training and performance reviews to ensure that they had the requisite skills to communicate with vulnerable prisoners. The Government was committed to increasing the number of prison staff to ensure that all prisons were staffed at full capacity. Medical staff were present in every prison, and serious health issues were always referred to the nearest district hospital. Any allegations of torture were investigated, medical examinations would be ordered if necessary, and appropriate measures would be taken in accordance with the law. All necessary safeguards were in place to prevent torture and ill-treatment in military detention facilities.

21. A bill had been prepared on the establishment of a national preventive mechanism and could be shared with the Committee, but it was available in Kinyarwanda only. The Committee's general guidance on the bill would be appreciated. The national preventive mechanism would be fully compliant with the requirements of the Optional Protocol with regard to its independence, budget and resources. It would have access to all detention facilities in Rwanda.

22. The Government of Rwanda maintained an open policy towards refugees, wherever they came from. Those arrested from the Mahama refugee camp had been detained on suspicion of drug dealing. Of the 27 individuals taken into police custody, 24 had been

released with a warning, one had been charged and brought before the district court, and two remained in custody. Of those two, one was requesting family unification in Uganda, and the other did not wish to return to the camp for fear of a threat to his personal security. They would remain in custody pending measures by the Office of the United Nations High Commissioner for Refugees. There was no record of any threats against human rights defenders in Rwanda.

23. The Gacaca courts had been one of the most successful mechanisms for the transition of justice, and had helped to establish truth, justice, responsibility, accountability and reconciliation. There had been no complaints regarding the judgments of the Gacaca courts but any person who felt so inclined could appeal to have their case reviewed by the ordinary courts. Any complaints raised regarding the execution of a sentence handed down by the Gacaca courts were immediately followed up and resolved. Regarding the case of Victoire Ingabire Umuhoya, she had been prosecuted and found guilty of several offences relating to genocide and terrorism. There were no political prisoners in Rwanda.

24. The requirement for judicial authorization for abortion had been rescinded by Parliament. Statistics on maternal mortality would be sent to the Committee in writing.

25. With regard to the registration of NGOs, the Rwanda Governance Board was mandated to register and grant legal personality to local NGOs and faith-based organizations and to monitor their operations and compliance with the law. Over the past decade, civil society activity had expanded exponentially. The Government acknowledged the key role that civil society organizations could play in implementing a variety of social programmes throughout the country, and was therefore committed to enhancing dialogue and cooperation with them.

26. Acknowledging the Government's delay in reporting to the Committee, he said that lack of resources and severe capacity restraints were being addressed and every effort would be made to ensure the timely submission of reports and responses in future. There had been gaps in the dissemination of treaty body recommendations owing to lack of capacity and resources. Every effort would, however, be made to broaden dissemination and translate the Committee's concluding observations into several local languages. An update on the implementation of the Committee's previous recommendations would be provided in writing.

27. **Mr. Touzé** (Country Rapporteur) said he wished to express his disappointment that the State party seemed to employ a strategy of evasion and denial. Having withdrawn from the African Court on Human and Peoples' Rights and cut short the visit of the Subcommittee on Prevention of Torture, the State party did not seem willing to apply the checks and balances required to ensure compliance with international instruments. Whenever questions arose regarding the application of the international provisions to which the State was party, the Government found reasons not to answer. The blanket denial of such issues as secret detention had enabled the delegation to avoid answering the Committee's questions. Such a propensity to sweep serious issues under the carpet was a cause of considerable frustration to the Committee. He sincerely hoped that the remainder of the Committee's meeting time with the delegation would give rise to a genuine dialogue.

28. He could not see what prevented the delegation from commenting on the specific cases on which he had requested further information, as definitive judgments had been passed on all of them. On a separate point, he would appreciate further information on the legal basis on which persons whose behaviour was deemed to be "deviant" could be held at transit centres, and he wished to know what measures had been taken to improve the conditions in such centres. More generally, it was unclear which nationalities were represented among detainees in the State party. He would appreciate statistics on the number of persons held in pretrial detention, which seemed to be a major cause of overcrowding in the State party. With regard to legal aid, more specific information on the law that was currently under preparation would be helpful.

29. **Ms. Belmir** (Country Rapporteur) said that she would be grateful for an explanation of the rationale behind the changes recently made to the status of the Convention and other international human rights instruments in the domestic legal order. In addition, she would appreciate clarification regarding the criteria that a person had to meet in order to qualify

for legal aid. It was possible that some potential recipients would be unable to prove their eligibility.

30. It would be helpful if the delegation could comment on the veracity of the allegations of torture and ill-treatment recently reported by Human Rights Watch and indicate to what extent the training activities organized by the State party had reduced the prevalence of torture and ill-treatment. The Committee was pleased to learn that there were no illegal places of detention in the State party. She would appreciate clarification on the use of solitary confinement as a punishment in places of detention. She also wished to know whether the condition that compensation could be awarded to victims only if the perpetrator admitted to the offence was applicable to cases of torture.

31. **Mr. Hani** said that he wished to commend the State party for its decision to adopt Swahili as an official language alongside English, French and Kinyarwanda. He would encourage the State party to ensure that any documentation submitted to the Committee was in either English or French.

32. He would urge the State party to renew its cooperation with the Subcommittee on Prevention of Torture and to ensure the widest possible dissemination of the Committee's concluding observations on the report under consideration. He would be grateful if the delegation could comment on the fact that some of the recommendations made in the Committee's concluding observations on the State party's initial report (CAT/C/RWA/CO/1) had not yet been implemented. One example was the Committee's recommendation that the State party should review its legislation with a view to removing the condition that compensation could be awarded in cases of torture or ill-treatment only if the perpetrator admitted to the offence. Another was its recommendation that the State party should consider making the declarations envisaged under articles 21 and 22 of the Convention in order to recognize the competence of the Committee to receive and consider communications.

33. He would be grateful for information on any plans to improve the collection of data relating to torture and ill-treatment. He wished to stress that the various safeguards in place to protect persons held in rehabilitation centres should also apply to persons held in transit centres. In that connection, he wondered what measures had been taken to ensure that transit centres fulfilled their intended purpose.

34. **Mr. Bruni** said that the Committee would appreciate a copy, in either English or French, of the draft law on the establishment of a national preventive mechanism.

35. **Ms. Gaer** said that she wished to know whether the United Nations Department of Peacekeeping Operations had ever rejected any Rwandan peacekeepers for alleged involvement in acts of torture or ill-treatment, whether a judge had ever ordered an investigation in response to an allegation of forced confession and whether ex officio investigations were routinely conducted in response to allegations of torture. It would be helpful if the delegation could indicate whether official investigations had been opened in connection with the various allegations made regarding secret detention in military camps. In the light of the judgment recently rendered by the African Court on Human and Peoples' Rights, she would be grateful for clarification regarding the legal basis on which Victoire Ingabire Umuhiza had been convicted, the specific charges that had been brought against her and the State party's characterization of those charges as apolitical. She wondered whether medical evidence had ever served as the basis on which an investigation had been launched into the torture or ill-treatment of a prisoner.

36. **The Chair** said that he wished to know whether any NGOs had ever been refused permission to register in the country, whether the registration of an NGO had ever been revoked and on what grounds the registration of an NGO could be revoked.

The meeting was suspended at 4.55 p.m. and resumed at 5.20 p.m.

37. **Mr. Busingye** (Rwanda) said that his delegation was fully committed to cooperating with the Committee. He had not yet seen a copy of the judgment referred to by Ms. Gaer, which, he understood, had been issued that day by the African Court on Human and Peoples' Rights; he was therefore not in a position to comment on it. It was important to recall that the Court itself had decided that Rwanda could withdraw the declaration it had

made under article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, authorizing the Court to receive petitions directly from individuals and NGOs. At the time, Rwanda had not envisaged that, as a consequence of its declaration, individuals who were guilty of genocide but who had escaped justice would be able to bring an action against the country before the Court. Because the Court did not have the authority to bring those individuals to justice, Rwanda had considered it necessary to issue a reservation regarding its declaration and the persons who would be allowed to access the Court. It stood by its decision to withdraw; in no way was it shirking its responsibilities. The case of Victoire Ingabire Umuhoza and the withdrawal by Rwanda of its declaration were in no way related.

38. He wanted to make clear that it was the Subcommittee on Prevention of Torture that had decided to terminate its visit to Rwanda; the decision had not been made by his Government, which remained committed to complying with its obligations under the Convention and the Optional Protocol.

39. Although the disaggregated statistics provided had perhaps not satisfied the Committee, the delegation deemed it better to supply what was available than to supply nothing at all. The current approach to statistics met the Government's needs, allowing it to take the measures necessary for the proper administration of the country. However, he acknowledged that, for the broader international community, such statistics might appear inadequate. Bearing that in mind, the Government would seek to improve the software being used so that the requisite statistical information could be obtained.

40. He wished to underscore that the delegation stood by the replies it had given the Committee on the subject of places of secret detention and persons held in secret detention. That said, the Government would not hesitate to investigate any violations of the law or of the Convention in that respect. A number of cases referred to by the Committee, including that of Joel Mutabazi, were the subject of appeals to the Supreme Court.

41. The turbulent history of the country had produced a generation of young people who had experienced disruption in their lives, including family break-ups; as a result, many of those young people had engaged in criminal behaviour. Rather than incarcerating them, however, the Government had decided to invest in their rehabilitation; through a nationwide system of services established by law, individuals were taught job skills and weaned off drugs with help from psychosocial and medical professionals. Although deprivation of liberty was one aspect of the national rehabilitation system, the Government was of the view that rehabilitation offered a better option than incarceration. As he had already mentioned, the system had a high success rate. Nonetheless, efforts would be made to address aspects of the system which were not compliant with domestic or international law.

42. He would hazard an educated guess that close to 99 per cent of the prisoners in the country's penitentiary system were Rwandan. In order to minimize the possibility of injustices, the Government closely monitored overcrowding related to pretrial detention; in fact, less than one quarter of the country's detainees were in pretrial detention.

43. The need to determine who was entitled to legal aid had given rise to the national policy requiring proof of indigence before such aid could be granted. He invited the Committee to study the policy and would welcome any comments it might wish to share.

44. He would like to believe that the various training courses offered to prison staff had led to a decrease in torture in prisons, but because no studies had yet been conducted on the matter, he could not make a definitive statement. He acknowledged that there might have been abuses of disciplinary measures such as the isolation of prisoners for longer than the permitted period, but any such abuses were illegal and anyone applying them was liable to be punished.

45. The draft document on the national preventive mechanism would be made available to the Committee in English. The Government would also verify the Rwanda Correctional Service regulations and ensure they were made available too.

46. The dialogue with the Committee had been very helpful and would provide an excellent basis for making improvements to Rwandan practices and legislation.

The meeting rose at 6.05 p.m.