



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

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Summary record of the 1073rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 16 May 2012, at 3 p.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 3 p.m.

Consideration of the reports submitted by the States parties in accordance with article 19 of the Covenant (agenda item 7) (*continued*)

Initial report of Rwanda (continued) (CAT/C/RWA/1)

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

2. **Ms. Nyirahabimana** (Rwanda) renewed the invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit her country. Responding to questions on the gacaca courts, she explained in the wake of the 1994 genocide, which had claimed over 1 million lives, more than 120,000 people had been arrested and imprisoned in different detention centres in the country. In addition to that number, there were those suspected of crimes but who had not been incarcerated. The country had been devastated, the social fabric destroyed and the authors of the genocide still unpunished. At first, Rwanda had tried them using traditional justice methods, and 6,000 cases had been heard between 1996 and 2001. At that rate, it would have taken over a century to try all the detainees, not to mention those suspected of genocide living freely in the country or abroad. It was therefore decided to use the gacaca courts, which derived from an ancient practice of community members meeting and sitting on the grass to talk and sort out any disagreements. As every member had witnessed the genocide, the whole community had been involved in the process, allowing everyone to have their say in order to obtain a truthful account of the events. It was not only a question of speeding up the justice process, but also encouraging reconciliation and renewing community bonds by restoring trust. The communities themselves had designated from among their members persons of integrity to serve as judges. Persons accused of genocide had been divided into categories. Aside from roughly 10 per cent of suspects who were tried by the traditional justice system on charges of having planned, organized or encouraged the genocide, and of committing acts of sexual violence, the cases of all other accused had been left to the gacaca courts. The gacaca courts had heard 1.5 million cases and had convicted 38,000 persons of genocide. Those found not guilty had been reintegrated into the community. The gacaca courts, having completed the mandate entrusted to them, would be dissolved on 17 June 2012. The Rwandan population viewed their work as highly satisfactory and outcome of their activities as very positive. While the authorities believed that the International Criminal Tribunal for Rwanda played an essential role in the development of international criminal law and that its decisions established important jurisprudence, it could not deal comprehensively with the problem of genocide.

3. The Rwandan National Human Rights Commission had been created in 1999 and granted A status in 2002. The authorities had been somewhat taken aback at recent criticisms of the procedure for appointing its members as it was the same procedure in use when the Commission was granted grade A status. The Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights said in that connection that while the principles governing the appointment procedure were satisfactory, including those that ensured pluralism and representativeness, the fact those principles had not been enshrined in law was problematic. Member appointment was a two-step process: the Government proposed a candidate, who must then be approved by the Senate, which ensured that the constitutional principle of representativeness was upheld. In any event, although the principles that the Subcommittee on Accreditation wished to see enshrined in Rwandan law were already being applied, the authorities were quite prepared to amend the legislation accordingly. The other criticism levelled at the Commission related to its alleged lack of financial independence, in particular the fact that the budget put forward by the Commission was subject to

governmental approval. The Rwandan authorities did not fully understand that reproach; given that the Commission had no independent source of revenue, unless it could depend on a donor, it surely had to be financed by the Government. However, they would take heed of the practices in other countries and wished to be advised on the matter. Once again, the Government was open to finding a satisfactory solution.

4. The NGOs involved had been invited to comment on the report submitted to the Committee. That invitation had been addressed only to a coordinating body, which headed numerous smaller organizations, which explained why some of them felt that they had not been associated with the process. The Government had learnt from the experience and would in future invite each NGO individually, even in the consultation process it would engage in with the relevant parties for implementation of the Committee's recommendations.

5. Regarding the annual registration procedure for NGOs, pursuant to the new legislation, national NGOs once registered, no longer needed to renew their registration, while registration of international NGOs lasted five years. The Rwandan Government considered the NGOs to be outstanding partners; it was very grateful for the role they had played and continued to play in rebuilding the country and greatly appreciated the remarkable work they had achieved in all areas. It keenly reiterated its willingness to cooperate with them and underlined that even if, at times, there were differences of opinion between NGOs and the authorities, the spirit of collaboration that prevailed between both parties would always find common ground.

6. The Government had done everything possible to find missing persons. Some cases dated back to 1992 time when the Government that had perpetrated the genocide had been in power. The Rwandan authorities regularly published reports on the action they were taking to solve the problem. The country had lost so many people, and so many families found themselves reduced to a single member that every life was precious and each disappearance an irreparable loss. Rwandans, owing to their recent history, believed life to be precious and sincerely wanted nobody to go missing. The Government would persevere in its efforts to trace those who had disappeared and would seek the help of the international community to do so.

7. In the face of criticism expressed by the NGOs and members of the media concerning the role of the Media High Council, the authorities had decided, after talks with the relevant parties, to change certain media legislation. The Media High Council would no longer regulate the activities of the media, which had been asked to self-regulate. The media would be closely involved in drafting the media code of ethics Act. Lastly, the Senate was currently examining the access to information bill which, if adopted, would make it much easier to access information held by authorities.

8. **Mr. Rusanganwa** (Rwanda) said that the new Criminal Code, which would come into effect at the end of May 2012, included a definition of torture that took into account all the elements of torture set out in the Convention. Regarding the minimum sentence of a 6-month prison term for commission of an act of torture, the legislator's intention had been to recognize differences in the severity of acts of torture, with prison sentences corresponding to the seriousness of the act committed. For example, not giving water to a detainee for a certain period of time was not as serious an offence as inflicting bodily wounds. However, if it turned out that the minimum punishment was not a sufficient deterrent, it would have to be revised. Moreover, the fact that torture would become a specific offence would help remedy the problem of lack of statistics relating to it. Future Rwandan periodic reports would therefore include precise data on torture prosecutions.

9. Legislation existed to protect people threatened with refoulement or extradition, and a new extradition bill was soon to be adopted by parliament. The procedure allowed the

individual to contest the extradition decision made by the administration and to appeal to the High Court. The decision was then suspended during consideration of that appeal. All guarantees were therefore in place to ensure the necessary protection for people extradited from Rwanda or from another country to Rwanda.

10. Rwanda was one of the countries where women's rights were best protected and significant progress had been made in the area. Notably, the country had many laws in favour of women (the Prevention and Punishment of Gender-based Violence Act, the Female Genital Mutilation Act, the Act on women's access to credit, the Land Tenure Act guaranteeing women the right to own land, and the Inheritance Act). Furthermore, the Poverty Reduction Strategy was aimed particularly at improving the condition of women so as to promote their empowerment.

11. Rwanda had ratified the core international instruments on child protection. The Government had launched a national programme to help orphaned or vulnerable children and had adopted laws for their protection, including a law on child labour and the Observatory on Child's Rights. The authorities placed emphasis on the rights of girls, particularly in education, which was free for everyone up to the age of 12.

12. Human trafficking was not only a crime under the core international instruments ratified by Rwanda, including the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, but also under the new Criminal Code which defined the crime and increased the penalties incurred by perpetrators. Rwanda had begun the process of ratifying the Optional Protocol to the International Covenant on Civil and Political Rights and it would soon be possible for individuals to file complaints in all fields with the Human Rights Committee, including against acts of torture. In his opinion, the Optional Protocol to the Convention against Torture would be signed very soon.

13. **Ms. Gahonzire** (Rwanda) said that her Government had launched, under its Vision 2020 plan, a programme to improve prison conditions and infrastructure. In recent years, three prisons had been shut, two had been built and many had been renovated. The Rwandan authorities envisaged building between seven and nine new correctional centres by 2017. Rwanda now had about 57,000 prisoners, three quarters of them charged with participation in the genocide. Women and men, as well as minors and adults, were imprisoned separately. The prison occupancy rate had greatly reduced and stood at 105 per cent. The previously quoted figure of 149 per cent corresponded to 2003, when the country had had over 120,000 prisoners; furthermore over 60,000 prisoners had since been granted amnesty by the President of the Republic, reducing the occupancy rate to 113 per cent. In 2011, 1,667 persons had been freed on parole. Similarly, the administration had endeavoured to reinforce the skills of prison staff so as to further improve prison conditions. All those efforts had helped satisfy the intentional standards of rehabilitation measures, visits, medical services, training and security, and the authorities were continuing to work on further reducing the prison population.

14. The prevention and detection of torture had been prioritized within the National Police Force and in relevant investigations. Medical examiners had been recruited to that effect, but their number was not yet sufficient. Members of judiciary staff, including prosecutors, had undergone training on how to recognize torture, and information on how to combat it. There were roughly 20 help centres for victims in the country.

15. Community service was implemented through a system of alternative sentencing that allowed convicts to stay at home and work rather than go to prison. This benefited the community and helped to decongest the prisons.

16. The authorities had launched a campaign to combat the phenomenon of domestic violence. The rise in the number of reported cases did not mean that the total number of offences had risen.

17. In June 2011 the International Criminal Tribunal for Rwanda (ICTR) had decided to return a suspect to face trial in Rwanda. The suspect, Mr. Jean Uwinkindi, was being held at the Kigali prison and would appear before a Rwandan court in August 2012. Others, having been charged by the ICTR, were on the run and would be returned to Rwanda for trial once arrested. One Rwandan citizen, Mr. Léon Mugesera, accused of having participated in the genocide, had been extradited from Canada to Rwanda in January 2012. He was being held at the Kigali prison, which met the standards specified by the International Committee of the Red Cross. Additionally, the European Court of Human Rights and the Supreme Court of Norway had recently approved the transfer of two more suspects to Rwanda.

18. Replying to a question on the imprisonment of political opponents, she clarified that Mr. Victoire Ngabire was in good health and eating normally and that the court would return a verdict on his case in July 2012. Mr. Bernard Ntaganda was serving 4 years in prison; he was well and could receive visits. No one was imprisoned secretly in Rwanda, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment was invited to visit the country in order to reassure himself on that score.

19. Rwanda was now the largest supplier of United Nations peacekeepers to Sudan. For their part, members of the Rwandan police lent their support to the Sudanese population as well as victims of the Haitian earthquake. The methods employed in those places to combat the use of torture in community policing were an example to the whole of Africa.

20. **The Chairperson** informed the Rwandan delegation that he would pass on its invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

21. **Mr. Bruni** (Country Rapporteur) thanked the delegation for the wealth of information provided. He commended the fact that all the NGOs would be invited to participate in preparing State party reports and in implementing recommendations. He had been unaware of the existence of the bill defining torture as a stand-alone offence and condemning the resulting mental suffering. Article 205 of the current Criminal Code mentioned only the physical suffering caused by torture. Did the High Court take into account the risk of torture the applicant would face before deciding on his extradition, expulsion or non-refoulement? The delegation might also inform the Committee and other relevant international bodies of the progress of the ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and on the implementation of the provisions set out in article 22 of the Covenant. He would also like to know how many public officials had been sentenced on counts of torture since 2009. As the statutory limitation period for torture did not apply to acts of torture committed during the genocide, he would appreciate clarification on the procedure used and the body authorized to decide whether an act of torture was linked to the genocide or not. He would like more details on the well-documented allegations relating to 18 cases of torture and to know if a list of official detention locations had been drawn up — which would discourage secret detentions — and what punishments would apply when necessary. He welcomed the reduction in the prison population but, according to reliable figures collected through the universal periodic review, the rate of prison overcrowding in 2010 had been 149 per cent rather than 105 per cent. He sought clarification on the situation of the 400 children under 3 living with their mothers in prison in deplorable conditions. He would like more information on the work of the National Prison Service and the correctional service, and to learn whether the programme for improving prison conditions, recently introduced by the National Prison Service, had helped remove the obstacles that had impeded such improvements. He noted the existence of the correctional service as an alternative to imprisonment and would like to know how long the sentence lasted and what

the prisoners lived on, since they received no salary or benefits. Lastly, he would like more detailed information on the mechanisms that allowed individuals to disobey an order given by a superior that involved an act of torture or one perceived as such.

22. **Ms. Sveaass** (Country Rapporteur) asked how many cases would remain unheard when the gacaca courts were dissolved in June 2012. She also wished to know whether it was true that category I cases (the most serious offences) had been transferred to those courts and how many people in that category were awaiting trial. It was important that justice should take its course whatever setbacks were met. She congratulated Rwanda on having focused on combating gender-based violence, and wished to know how many convictions had been handed down by the courts for rape.

23. The Committee had been informed of the concerns expressed by Rwandan civil society, which wanted to be able to act without fear of threats. She would like more information about human rights defenders.

24. She hoped that the investigations into missing persons would succeed. However, she felt that the criminal charge against Mr. Bernard Ntaganda, a political prisoner, was somewhat imprecise; any unjustified deprivation of liberty was a grave mistake. Noting that the former minister Charles Ntakirutinka had been freed in 2012 after having spent 10 years in prison, she would be interested to learn what charge had justified such a long prison sentence. The delegation might also explain whether the complaint mechanisms for ill-treatment or torture had been implemented and, if so, it might describe the procedure the complainant must follow and the support to which they were entitled.

25. The delegation might also say whether the inspection bodies and the National Human Rights Commission were authorized to make unannounced visits to detention centres and interview detainees in private. It would also be interesting to know the reoffending rate of community service participants and whether those convicted of genocide were among them.

26. Quoting from a report drawn up by the Rwandan Ministry of Justice, in cooperation with UNICEF, which alleged that children with very diverse needs, such as juvenile delinquents and children with disabilities, were held in the same centres, she wondered whether children with disabilities who had been placed in the rehabilitation centre for minors, set up in the east of the country, came under juvenile justice or the social security service. She also wished to know if the 400 children living with their mothers in prison were placed in rehabilitation centres or were ensured prison conditions suited to their needs.

27. The current laws appeared to exclude any damages or compensation for psychological or mental suffering. Furthermore, compensation seemingly depended more on the accused person's admission of guilt than the victim's needs. She would have appreciated more details from the delegation on rehabilitation measures directed at the many women who had been victims of rape and sexual violence during the genocide.

28. Regarding the reproaches directed at the Rwandan National Human Rights Commission owing to its lack of independence, the situation would improve should the Commission follow the recommendations of the International Criminal Court and collaborate with Parliament.

29. **Ms. Belmir**, noting that the State party report indicated that acts of torture were subject to a statute of limitations, except in the case of murder or violation of children's rights, asked if the gacaca courts were competent to try the children still awaiting trial who had been placed in detention during the genocide when they were under 18 years of age. She commended the significant progress achieved through those courts but stressed that they needed to overcome many difficulties relating to the defence of the accused, training of judges and the fight against corruption, problems also faced by conventional courts.

Lastly, the delegation might elaborate on what happened to vulnerable persons held in unofficial centres in difficult conditions.

30. **Mr. Gaye** said that the legislative measures regarding the inadmissibility of evidence obtained under torture or other forms of violence were controversial as they appeared not to be applied in practice. He recalled that he had asked the delegation to cite court decisions expressly based on those measures, but had not yet received a reply.

31. Regarding the compensation of the victims of crimes committed by law enforcement officials, it was indicated in paragraph 110 of the report that the Rwandan State might be liable for acts committed by its agents in connection with their duties and “can participate” in the compensation of a victim. He did not consider “can participate” to be very forceful wording. Adding that the State did not appear to be assuming those responsibilities in practice, he sought additional information on how the system actually functioned. Could the State take legal action against the offending agent?

32. **Ms. Gaer** said that Rwanda had proved that it respected its international obligations, a case in point being the 10,000 refugees it had taken in from the Democratic Republic of the Congo. She asked the delegation for the estimated number of people in Rwanda guilty of genocide, how many had not yet been tried and how many were abroad. If 60,000 people had been tried by gacaca courts in the last 6 years at the rate of 12,000 people a year and if 100 years would be needed to try all the suspects, that would amount to 1.2 million people.

33. The delegation having rejected the allegations of incommunicado detention centres, might provide information on the 45 cases reported by Amnesty International and authorize that organization to bring forward its visit to Rwanda. The delegation might indicate the whereabouts of the prisoners that Mr. Bruni had mentioned and clarify the fate of missing persons.

34. **Mr. Mariño Menéndez**, noting the adoption of the Act banning child labour, pointed out that the International Labour Organization (ILO) had reported that 352,000 children between the ages of 6 and 17 had been working in Rwanda in 2010. He wished to know if legislative and humanitarian programmes had been implemented to put an end to child labour and guarantee the application of the new Act by, for one thing, enforcing compulsory education.

35. Rwanda was soon to adopt laws on extradition, refugees, immigration and emigration and possibly on foreigners. The immigration and emigration bill would authorize the Rwandan President to deport a foreigner by administrative decision for security reasons. Could that person appeal to the Supreme Court?

36. Regarding article 190 of the Constitution, “upon their publication in the Official Gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws except in case of the non-compliance of one of the parties”, the principle of reciprocity did not work with regard to international human rights bodies as those bodies protected common, collective interests. How did Rwanda interpret the provisions of article 190?

37. **Mr. Wang Xuexian** asked the delegation to provide written information on the gacaca courts, whose efficiency had intrigued him.

38. **Ms. Nyirahabimana** (Rwanda) said that, under the previous Criminal Code, torture had not been considered a separate offence but an aggravating circumstance. That was no longer the case under the new Criminal Code. Parliament was considering a bill on the system to replace the gacaca courts. Persons who had not yet been tried would be referred to the traditional courts that had already dealt with Category 1 cases.

39. Given the varying degrees of involvement of the perpetrators, Rwanda had chosen not to turn the country into a prison but to introduce categories. As a result, not all the perpetrators had been before the gacaca courts; some had been tried in the traditional courts. The perpetrators of minor offences committed against property had been given light sentences, such as community service. Detailed statistics on the gacaca courts (the number of judges, hearings, etc.) would be forwarded to the Committee, accompanied by documents already transmitted to the Committee on Enforced Disappearance, including Rwanda's latest report on the subject. Investigations into missing persons were ongoing and Rwanda was collaborating to that end with all the relevant parties.

40. The Rwandan Government endeavoured to work with NGOs and facilitate their task, but international standards and domestic procedures concerning entry into the country both had to be respected.

41. With regard to political prisoners, no one was above the law, be it members of political parties, the media or NGOs. The cases referred to were covered by official procedures and the special procedure mandate holder for the relevant NGO had access to the case files. Certain people had recognized their guilt but continued attacking the Government. Genocide denial would never be tolerated. If the two sides did not agree, the situation would be examined by the international community why — not through an independent organ such as the Committee against Torture — so that those cases could be settled once and for all. If it was found that mistakes had been made, the Government would do all it could to correct them. However, the reports on the relevant cases should be compiled by people who had been involved on the ground and were familiar with the situation.

42. **Mr. Rusanganwa** (Rwanda) said that the new Criminal Code contained a definition of torture that took mental suffering into account. Regarding the legal basis for extradition and refoulement, Rwanda acted in accordance with national legislation and the international instruments it had ratified, which prohibited the extradition of someone to a country where they could face the death penalty.

43. Under Rwandan legislation, a superior's order could not be invoked to justify the actions of a subordinate if those actions proved illegal.

44. In Rwanda, the ratification procedure was long. The procedure began when a proposal was presented to the relevant authorities. Once the technical details of the bill had been considered, it was sent to the Council of Ministers, and once approved by the Council, it was submitted to Parliament, which issues legislation authorizing ratification; the President of the Republic could then issue a ratification order. The proposal for ratification of the Optional Protocol to the Convention against Torture, which was currently under examination by the Council of Ministers, would soon be referred to Parliament.

45. Reciprocity was provided for in the Rwandan Constitution only in the case of bilateral treaties between States, which took effect when they were applied by the other party. Reciprocity did not apply to the individual rights guaranteed by the human rights international instruments.

46. Unlike the Convention on the Prevention and Punishment of the Crime of Genocide, which made genocide an imprescriptible offence, the Convention against Torture stipulated no such imprescriptibility, leaving it to each State to impose its own system. It was for Rwanda to decide if acts of torture not committed during genocide were imprescriptible offences.

47. **Ms. Gahonzire** (Rwanda) said that people accused of gender-based violence had received the heaviest sentences, even life imprisonment. The Government had taken measures to prevent that kind of violence: cases were heard in the place where the crime

had been committed and were covered by the media, and the accused received the maximum sentence.

48. The Rwandan justice system stipulated that any person who had committed a crime against the community was required to compensate it, possibly through community service. One could hardly envisage payment for the convicted person, which would be unfair to the victim. However, the convicted person did receive some assistance out of the relevant district budget. An evaluation of community service projects had shown that the system was working satisfactorily. People who had participated in the genocide, without committing a major crime, were sentenced to community service.

49. There were cases of children under 3 accompanying their mothers once they had been convicted. The authorities had taken measures to allow them not be separated from her, and milk and other foods were provided for them thanks to a special programme. On the child's third birthday, the Government contacted the local authorities and the child was placed in the care of relatives. The National Children's Council, under the Ministry of Gender, was responsible for following up those cases.

50. Before October 2009, a department within the Ministry of the Interior had been responsible for prisons. On 14 October 2009, the Government had created an autonomous public institution in charge of prison management with the chief task of ensuring that they conformed to international standards and of combating prison overcrowding. That had been possible because of public funds allocated for the purpose.

51. On 25 July 2011, in order to streamline services, the autonomous public institution in charge of prison management had merged with the community services department and the new body remained under the Ministry of the Interior. The merger had set in motion the modernization of the prison system, better facilities, and improved recruitment and training, which had resulted in professionalization of the prison staff. Thanks to partnerships established with international organizations, the process of modernization was ongoing.

52. Persons who had suffered torture were victims. The Government endeavoured to avoid double victimization by calling on specialists to support them during the investigation. The National Police had shown great progress in this area.

53. The Iwawa centre was not part of the Ministry of the Interior, but of the Ministry for Youth. Young offenders, mostly orphans, were placed there so that they could acquire the skills they needed to live in society.

54. **The Chairperson** thanked the Rwandan delegation for the supplementary information it had provided, which would be of great use in evaluating the country's situation, reminding it that the documents it had offered to share with the Committee must reach it before the end of the week.

55. **Ms. Nyirahabimana** (Rwanda) thanked the Committee members and assured them that their observations would be duly taken into consideration so as to improve the procedures in place and prepare the necessary reforms.

The meeting rose at 6 p.m.