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Held at Headquarters, New York,
on Tuesday, 30 March 1982, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Rwanda (continued) (CCPR/C/1/Add.54)

1. At the invitation of the Chairman, Mr. Nsengiyumva (Rwanda) took a place at the Committee table.
2. Mr. TARNOPOLSKY said that he agreed with Mr. Graefrath that it was not the purpose of the Committee to condemn States parties or to impose its will on them. Pursuant to article 40 (2) of the Covenant, reports from States parties were to be submitted to the Committee for consideration; consideration by the Committee was also entailed under article 41 of the Covenant and articles 1 and 5 of the Optional Protocol. Such consideration should not be interpreted as supervision; it meant that the Committee received material and formulated its views on the basis of such material. The end result of such consideration was clearly that every State party had something to learn from every other.
3. The Committee had adopted general guidelines regarding the form and contents of reports so as to ensure that reports were presented in a uniform manner, thus enabling the Committee and States parties to obtain a complete picture of the situation in each State as regards the implementation of the rights referred to in the Covenant. In his view, the brevity of Rwanda's initial report (CCPR/C/1/Add.54) did not meet the Committee's guidelines in that connexion. It was unlikely that the Covenant could have much effect where people did not know of its existence. Even in a developing country, it should not be difficult to inform the bar and law schools of the contents of the Covenant so as to ensure that at least the main State authorities had knowledge of it.
4. Article 7 (1) of the Constitution of Rwanda provided that the National Revolutionary Movement for Development was "the sole political formation outside which no political activity may be exercised." Articles 19, 21 and 22 of the Covenant permitted certain limitations on freedom of expression, assembly and association; freedom of political opinion could not be so restricted. Moreover, it was a requirement of the Covenant that such restrictions should be provided by law. The Government of Rwanda should elucidate how the terms of article 7 (1) of its Constitution could be reconciled with those articles of the Covenant.
5. Article 42 (2) of the Constitution provided that, "in the case of inability to express his will, the President of the Republic shall be replaced by the Secretary-General of the National Revolutionary Movement for Development," thus indicating the direct involvement of the Movement in the government of the country. Article 7 (2) of the Constitution provided that the Movement was to be governed by its statutes. The statutes of the Movement were therefore an essential element in judging whether article 25 of the Covenant was being fulfilled. Those statutes had not, however, been made available to the Committee.

(Mr. Tarnopolsky)

6. The report contained nothing specific on the status of women in Rwanda. It was important that information should be provided on the role of women in practice, so that it might be ascertained what measures, other than purely legislative ones, were being taken to improve their situation.

7. He wished to associate himself with the views of members on compliance with articles 4, 6, 7 and 10. The issues of solitary confinement and family contact arose in connexion with article 7. While it was true that every society recognized the need for solitary confinement in appropriate circumstances, questions arose regarding the length and conditions of such confinement. Physical conditions were relevant to the issue of cruel, inhuman or degrading treatment or punishment. Article 23 of the Covenant clearly stipulated that the family was the natural and fundamental group unit of society. A convict could not expect the same access to his family as he could if he were not confined, but regular and frequent contact was nevertheless essential if the family was to be preserved as the fundamental group of society. Unreasonable restrictions on such contact would contravene article 7 of the Covenant. He would like to have further information from Rwanda on the issues of solitary confinement and family contact.

8. In connexion with article 8 of the Covenant, no information had been provided on the issue of forced labour. The Committee would like to know the circumstances in which forced or compulsory labour might be imposed.

9. He would also like to know how the restriction contained in article 7 (4) of the Constitution could be reconciled with articles 14 and 16 of the Covenant on the issue of equality before the law.

10. Article 83 of the Constitution listed courts of common jurisdiction but made no reference to the State Security Court. It might therefore be inferred that the Constitution was not comprehensive. He would like to know whether there were other provisions of an emergency nature which were not contained in the Constitution. It had been the practice of the Committee to limit its use of information from sources other than States members. Occasionally, however, it had resorted to information from outside sources as in the cases of Chile, Iran, Czechoslovakia, Romania, Mali and the United Republic of Tanzania. His information in regard to the State Security Court had been received from the International League for Human Rights. He would like to receive information from the Government of Rwanda regarding the existence of the State Security Court and the nature of its operations.

11. Articles 21 and 95 of the Constitution stipulated that the right to circulate freely might be restricted in certain circumstances. He would like to know how those two articles were implemented. In particular, in relation to article 95, he would like to know whether there were aliens within the territory of Rwanda who were not permitted to move freely and, if so, what the applicable laws were.

12. The extent to which a State exercised its right under the Covenant to limit various fundamental freedoms was a reflection of the true scope of those freedoms in a society. Articles 18, 19, 20 and 22 of the Constitution were relevant to

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(Mr. Tarnopolsky)

articles 17, 18, 19, 21 and 22 of the Covenant. There was, however, no indication as to how the rights set forth in those articles of the Covenant were guaranteed in practice. Indeed, article 18 of the Constitution provided for limitations on those freedoms in certain circumstances. He would like to know what kinds of acts could lead to an individual being convicted of sedition and whether criticism of public figures could be construed as defamation. It was impossible for the Committee to determine the real scope of the freedoms guaranteed by the Covenant if it was not informed regarding the nature and extent of the limitations which might be imposed not only by law but also in practice.

13. Article 9 of the Constitution implied certain limitations on the right to vote; in the light of article 25 of the Covenant he would like further information regarding individuals who might be excluded and the conditions under which such exclusion might take place.

14. The report contained no reference to minorities in Rwanda but statistics indicated that there was at least one significant minority group, namely, the Tutsi, who might comprise as much as 15 per cent of the population. He would like to have information on the protection of the right of ethnic and religious minorities to practice their own cultures, languages and religions.

15. Mr. HANGA said that, because of their economic situation, developing countries often had difficulties in implementing the Covenant. Without the necessary economic and social foundation, civil and political rights could not play their rightful role. He wished, therefore, to approach the questions arising from Rwanda's report in both a legal and a historical context. The third paragraph of the report explained that the mass media could not play an effective role because of the limited facilities available. The implementation of other civil and political rights might similarly be hampered by other problems, and the Committee would greatly benefit from information on those points.

16. He requested clarification on the relationship between the Constitution and the Covenant: did the Covenant have the force of a constitution or of national legislation? With regard to article 3 of the Covenant, he wondered whether, given Rwanda's historical traditions, there was now real equality between men and women. If there was difficulty in implementing article 3, those historical traditions might provide an explanation for it.

17. Referring to article 25 of the Constitution, which corresponded to article 23 of the Covenant, he asked whether the State took effective measures to ensure the equality of rights and responsibilities of spouses in marriage as well as at the time of divorce, and whether there were provisions protecting the children in cases of divorce.

18. Referring to the country's historical development and the difficulties encountered, he asked whether there were provisions in Rwandese legislation giving all citizens the right to hold public office.

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(Mr. Hanga)

19. Article 30 of the Covenant obliged all States parties to prohibit war propaganda. Was there a Rwandese law to that end, and if not, did the people have a peace-loving tradition which was evident in their daily lives?
20. Furthermore, he wished to know whether a law could be declared unconstitutional, and if so, what judicial measures were available to citizens in that regard. He would welcome information on the irremovability of judges in Rwanda. He also wondered whether the Labour Code contained provisions on labour jurisdiction; for example, whether there were special proceedings for labour disputes?
21. If Rwanda did indeed have problems with the implementation of the Covenant, he was sure that its fruitful dialogue with the Committee would produce good results and highlight the Committee's role as one of co-operation and promotion of civil and political rights throughout the world.
22. Mr. PRADO VALLEJO said that the Committee could be very useful to Rwanda, which, judging from its report, had some difficulty in explaining its human rights situation. The report was extremely brief and did not provide adequate information. For example, what was the importance of the two Covenants vis-à-vis the country's legislation? Were they included in domestic legislation, could judges apply them and could citizens bring cases under them? Such information was important in order to give an idea of the scope of human rights legislation in Rwanda. He would also appreciate clarification as to the meaning of the words "permitted", "guaranteed" and "defined by law" as used throughout the Constitution.
23. It was not clear if there was a division of power between the Executive and the Judiciary. Under article 40 of the Constitution, the President of the National Revolutionary Movement for Development was the only candidate for the office of President of the Republic, but that implied that there was no political plurality. Furthermore, it was unclear how the judiciary could be independent when judges were appointed by the President.
24. Rwanda had been a State party to the Covenant for four years and should have been able to provide more information in line with the Committee's guidelines. He agreed in general with comments made by other members of the Committee. With regard to the question of whether there were political prisoners, the fifth paragraph of the report referred to "convictions of a political character"; it would therefore appear that there were political prisoners. He also wondered as to the scope of such convictions.
25. Article 82 of the Constitution provided that judges were appointed and dismissed by the President on nomination of the Minister of Justice; that again raised the question of the independence of the judiciary, which was essential in the struggle to defend human rights.
26. Article 88 of the Constitution provided that judicial hearings were public except when it was decided that open hearings would threaten public order or morality. How, in those circumstances, could individuals be guaranteed the right to express dissenting opinions, and how did the Rwandese Government interpret "public order"?

27. Mr. JANCA said that, although Rwanda was a relatively new member of the international community, through its activity on the international scene, it had acquired a considerable reputation. It was an active member of the Organization of African Unity and of the non-aligned movement. By its energetic role within the United Nations, it had proved its sincere dedication to the objectives of the Organization, among which the promotion of human rights and fundamental freedoms had a very important place.

28. Rwanda's devotion to the cause of human rights had been expressed in its Constitution, notably in the preamble and in Chapter II. It was therefore regrettable that the Rwandese Government had not submitted a much fuller report. Because of the lack of information supplied, it was hardly possible to consider the situation in respect of implementation of the Covenant. It might, however, be possible to take the relevant provisions of the Constitution as a point of departure for an open dialogue between members of the Committee and the Government of Rwanda. A whole chapter of the Constitution was devoted to ensuring respect for most of the civil and political rights enshrined in the Covenant, but because of the general manner in which the relevant constitutional provisions were formulated, much additional information was necessary. The Committee also needed information about the observance and protection of some of the rights and freedoms not included in the Constitution, such as the right to life and the rights of minority groups.

29. The provisions of the Constitution were not explicit with respect to the relationship between international treaties and domestic law, and particularly to the effect of the Covenant within the Rwandese legal system. Article 44 (8) of the Constitution, which dealt with the problems of conclusion and ratification of international treaties, provided no specific answer to that question. In that connexion, he wondered whether Rwandese courts could take decisions based directly on the Covenant or whether such decisions had to be based on the corresponding internal legislation.

30. Article 16 of the Constitution enumerated some grounds on the basis of which discrimination was prohibited, but they were somewhat narrower than those provided for in articles 2 and 22 of the Covenant. He wondered whether there were other laws which prohibited discrimination.

31. With regard to article 3 of the Covenant, he asked whether a noticeable number of women had acquired economic independence, how many women were involved in the political life of the country and what were the number and percentage of women represented in legislative, judicial and other State organs. To what extent did they participate in the educational, medical and other professions of particular importance to society? Such information would be very helpful in gaining a fuller picture of the effect in Rwanda of specific provisions of the Covenant. Additional information was also indispensable with respect to article 14 of the Covenant, particularly concerning the minimum guarantees provided to persons charged with a criminal offence. He would welcome a more thorough explanation of article 13 of the Constitution with respect to cases where "measures of security" could be applied.

(Mr. Janca)

32. With regard to article 25 and other articles of the Covenant, he said that it would be very useful for members of the Committee to learn more about institutions and State organs in Rwanda which conducted public affairs, particularly with regard to their composition, election, competence and powers.

33. Referring to article 27 of the Covenant, he requested information on ethnic, religious and linguistic minorities in Rwanda. It would be interesting to find out the number, kind and size of minority groups, whether school was held in their languages and what kind of legal guarantees were provided for the development of their cultural life.

34. Mr. BOUZIRI expressed his gratitude to the Rwandese Government for dispatching a delegation to establish a dialogue with the Committee.

35. Everyone was agreed that the report was very short. He rejected the notion, however, that it was short because it came from a developing country in Africa. It was unacceptable to suppose that developing countries submitted short reports on civil and political rights because it would be awkward for them, given their socio-economic situation, to write longer ones. A number of industrially advanced and well-armed countries were still very unprogressive in their domestic policies and continued to permit discrimination and repression of various kinds. Rwanda might be concerned with different civil and political rights from some other countries, but the Committee's membership was selected specifically to reflect the different social, legal and political systems in existence around the world.

36. To his mind, the problem with the Rwandese report lay with the administrative system which the country had inherited from its former colonial Power. Many African countries had inherited similar systems from the Powers which had pauperized them. A cursory reading of the Constitution and the legislative material made available to the Committee immediately indicated that there was ample protection of civil and political rights in Rwanda. The problem was evidently that a bureaucrat had been too lazy to follow the Committee's guidelines and supply the necessary information.

37. Some members of the Committee had commented on the fact that the rights established under the Covenant could be exercised in Rwanda only "in the forms provided for by law". He had no objection to such a stipulation, since it was universally applied, provided that the limitations imposed by the law were not such as to prevent the exercise of a right in conformity with the Covenant. Since Rwanda had chosen to accede to the Covenant, it was clearly trying to apply the provisions of the Covenant in good faith. The Covenant did not outlaw one-party political systems any more than it outlawed monarchies and, indeed, the Committee contained members from both kinds of political system. His concern was less with the theoretical system prevailing in a country than with how it functioned in practice. He wondered, for example, whether in Rwanda the man was regarded as the head of the family, or the woman, or both; what rights women enjoyed in the event of divorce; and whether the law discriminated between men and women in such matters as adultery.

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(Mr. Bouziri)

38. Article 80 of the Constitution indicated that, if the President of the Republic ceased to exercise his functions for whatever reason, the National Development Council would be dissolved. He wondered why such provision had been made. He asked for information on the status of the Tutsi minority, whether there were laws to protect them, and whether they spoke the same language as the remainder of the population. When elections took place under the Rwandese political system, how did citizens exercise their free choice? Did they have a choice of candidates? And in view of the constitutional abolition of the monarchy, he wondered whether it was legally possible for a Rwandese citizen - without seeking to overthrow the régime - to express pro-monarchist views.

39. Mr. ERMACORA, responding to Mr. Graefrath's view of how the Committee should interpret its mandate under the Covenant, said he understood the "consideration" of reports to mean consideration of the human rights situation in each reporting country in order to see whether it met with the requirements of the Covenant; the Committee could make general observations in that regard without contravening article 2, paragraph 7, of the Charter. Furthermore, he believed that the Committee could look for its information not only to the reports submitted by States parties but to other sources as well, since the Covenant placed no restriction upon the sources of information the Committee was entitled to use.

40. He wondered what practical effects were caused by article 7 (3) of the Constitution, under which every Rwandese was a birthright member of the National Revolutionary Movement for Development. He wondered also what exactly the relationship was between article 13 of the Constitution and article 14 of the Covenant, since it was not immediately clear whether the two were compatible.

41. Article 33 of the Constitution specified that the judicial branch would assure respect for "the people's rights": he wondered whether that was sufficient basis for an individual to seek to defend his rights before the law in accordance with the Covenant.

42. He understood that under recent legislation agricultural workers had been excluded from some of the benefits conferred under the Labour Code. He would like an explanation for that exclusion in the light of article 22 of the Covenant and, more particularly, Rwanda's accession to ILO Convention No. 11.

43. The Committee should be informed whether the State Security Court could pass the death sentence; if so, on whom such sentences had been passed; and how many such sentences had actually been carried out.

44. He would also like to know whether Rwandese legislation contained any provision corresponding to article 27 of the Covenant.

45. Finally, he pointed out that according to article 4 of the Constitution the "national language" of the country was Kinyarwanda, while the "official languages" were Kinyarwanda and French. He asked what the significance of the distinction might be.

46. Mr. DIEYE commented that the Committee always seemed to discuss reports from developing countries, especially countries in Africa, in the abstract, paying little heed to the actual conditions prevailing in those countries. Obviously, a country acceding to the Covenant had to respect the requirements thereof, but to discuss a country's theoretical compliance with the Covenant in isolation from its circumstances was to turn the consideration of reports into an academic exercise, which was not the purpose of the Committee.

47. Inasmuch as civil and political rights could not be divorced from economic, social and cultural rights, it would perhaps have been better for all those rights to be covered by a single international instrument. That might have prevented the over-emphasis on civil and political rights and the under-emphasis on economic, social and cultural rights.

48. In many countries, the vast majority of the population did not understand the system of international law. The Committee should bear that factor in mind in adopting a new approach in respect of the developing countries. It was clear that they needed assistance from the Committee. It was equally clear that, although Rwanda wished to co-operate with the Committee, the succinct report it had submitted failed to give a comprehensive picture of the human rights situation.

49. Such being the case, a question-and-answer session was a purely academic exercise that did little to help the Committee to achieve its objectives. In creating a mechanism of assistance, the Committee had to initiate a genuine direct dialogue, instead of engaging in simple monologues. The submission of an unduly short report suggested that there was some underlying problem. The Committee had to appreciate the nature of the problem and seek appropriate solutions by, inter alia, devising a new formula for co-operation and assistance.

50. The CHAIRMAN said he hoped that Mr. Dieye would submit concrete proposals concerning the new methodology of assistance to developing countries.

51. Mr. AL DOURI said that, under article 40 of the Covenant, States parties were under an obligation to submit reports on the measures they had adopted which gave effect to the rights recognized therein and on the progress made in the enjoyment of those rights. In considering the reports, the Committee had to start with that provision of the Covenant. He found it regrettable that the report submitted by Rwanda did not reflect compliance with that provision. Equally regrettable was the fact that the guidelines for the submission of such reports had not been followed.

52. It was true that the Government of Rwanda had made available to the Committee the text of the Constitution of 1978. However, the information to be gleaned from that Constitution was not always adequate to supplement the lack of information in the report submitted. Reference was made in the Constitution to national unity. It would be interesting to know what political or racial minorities, if any, existed in Rwanda, how their existence affected the concept of national unity and what were the after-effects of the internal disturbances of recent years.

53. The status of women in a society was often a barometer of progress in that society. Information should be given on the role of Rwandese women in the political, social and economic spheres

(Mr. Al Douri)

54. It was stated in the Constitution that there could be restrictions on certain public freedoms for reasons of public order or State security. The precise implications of those restrictions should be clarified. He wished to know whether everyone had the right to freedom of thought, conscience and religion and the right to hold opinions without interference. Another important question was how the right to hold opinions without interference was reconciled with the concept of a one-party State.

55. The Constitution also referred to cases in which persons could be denied the right to vote or to be elected to certain bodies. The question was whether political factors could be used to justify such restrictions. In sum, he wanted the assurance that the rights referred to in article 25 of the Covenant were guaranteed.

56. One major objective of the Committee was to serve as a forum for the promotion and protection of the rights referred to in the Covenant. He urged all countries, including the developing countries, to co-operate with the Committee in that process. He hoped that all Governments would realize that the attainment of economic, social and cultural rights largely depended on the enjoyment of civil and political rights and that they would accord to their reports to the Committee the importance they deserved.

The meeting rose at 6:05 p.m.