



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

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Summary record of the 2082nd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 8 March 2011, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.30 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Combined thirteenth to seventeenth periodic reports of Rwanda (CERD/C/RWA/13-17; CERD/C/RWA/Q/13-17)

1. *At the invitation of the Chairperson, the delegation of Rwanda took places at the Committee table.*
2. **Mr. Karugarama** (Rwanda) thanked the Committee for having allowed the State party to submit all five of its outstanding periodic reports in one document and was pleased that the oral consideration of its reports coincided with the celebration of International Women's Day. In that connection, the policies which had been put in place in Rwanda to combat discrimination against women meant that women now comprised 56 per cent of parliamentarians, and 38 per cent of Cabinet members, while 50 per cent of Supreme Court judges were women.
3. Rwanda attached great importance to the work of United Nations human rights bodies. On 24 January 2011, it had presented its national report (A/HRC/WG.6/10/RWA/1) to the Working Group on the Universal Periodic Review, and had submitted a number of reports, consideration of which was pending, to other treaty bodies. The State party had also ratified practically all the core human rights instruments as well as their protocols, withdrawn all its reservations to provisions of major international instruments, including to article 22 of the Convention, and had set up a special permanent task force on treaty body reporting, which had helped it to clear the backlog of nearly two decades in its reporting obligations. Moreover, it had invited the United Nations Independent Expert on minority issues, Ms. Gay McDougall, to visit the country from 31 January to 8 February 2011. In that regard, he observed that all special procedures mandate holders were welcome to visit Rwanda at any time to assess the situation at first hand. It was regrettable that unresearched and often inflammatory reports on the situation in the country were written by persons insulated in their offices.
4. The combined thirteenth to seventeenth periodic reports of Rwanda (CERD/C/RWA/13/17) had been submitted in 2009 and covered the years 1998 to 2008. However, as the list of issues (CERD/C/RWA/Q/13-17) was not limited to that period, the delegation wished to provide the Committee with information on the period ending December 2010.
5. With regard to the ethnic composition of the Rwandan population, the terms Batwa, Bahutu and Batutsi did not refer to distinct ethnic groups but to social classes based on occupation, namely hunters, farmers and cattle-breeders, respectively. Indeed, members of those three groups had belonged to the same clan from time immemorial and shared the same language and culture. Any claims to the contrary were peddled by opportunists who exploited that falsehood to advance their individual agendas. Indeed, since the Batwa, Bahutu and Batutsi had intermarried for centuries, the children offspring of such intermarriages or their descendants could hardly be labelled as belonging to one or the other group. Moreover, it had always been possible to move from one social class to the other or change from one occupation to another, which might explain the small Batwa population of 30,000. Radical measures were being taken to resolve the problem of the marginalization of the Batwa, through the "one cow-one family" programme and other initiatives to foster the economic empowerment of disadvantaged persons; they were also guaranteed free access to education, health care and housing.
6. As to the reintegration of refugees and returnees, former combatants had been reintegrated in the national army, and refugees and returnees had been reintegrated in their

communities. At the end of 2010, nearly 3.41 million persons had been repatriated and were all fully resettled.

7. To date, the *gacaca* courts had tried about 1.5 million cases; some 30 per cent had resulted in acquittals and others in custodial sentences. Most of those sentenced had been released on compassionate grounds, particularly the sick, the elderly, children and women, while others were serving community work of general interest. The outcome was that former perpetrators now lived side by side with genocide survivors in the countryside without any revenge killings. Mixed clubs of former genocide perpetrators and survivors had been formed across the country to foster national unity and reconciliation. The *Gacaca* system had been an excellent vehicle in the reconciliation process, for it enabled survivors to know the truth, perpetrators to seek forgiveness, and survivors to forgive.

8. The measures the Government of Rwanda had adopted to combat racial discrimination and ensure equality had included the establishment of universal mutual health insurance, with a 92 per cent coverage rate and free for the marginalized; a reasonable budget allocation for legal aid programmes; the establishment of local mediation committees for settling most legal or quasi-legal disputes and prevent them from degenerating into conflicts; the establishment in 30 districts in the country of Justice Bureaux, which provided free legal aid to local communities and vulnerable persons, providing information and education on the promotion and protection of human rights. In addition, a civic education programme had been adopted to foster consensus and prevent new conflicts. Pursuant to a provision of the Constitution, national public debates were organized every year to provide a forum for examination of the issues and challenges facing Rwandan society. Lastly, he hoped that the Committee would recognize the good things Rwanda had done and help it to address areas in which it had not done well.

9. **Mr. Ewomsan** (Country Rapporteur), welcoming the high-level Rwandan delegation, commended the State party's periodic report, submitted 10 years after its preceding report, a major delay that the Rwandan authorities attributed to difficulties bound up with the aftermath of the 1994 genocide. Having been the theatre of one of the most heinous atrocities of the twentieth century, Rwanda had now passed to the reconstruction stage. As a result, the country case was a perfect example for the Committee to examine, the genocide having been sparked primarily by racial and ethnic hatred, as the State party itself had recognized in its report (CERD/C/RWA/13-17, para. 8). He commended the efforts made to create a human rights culture, heal old wounds and foster reconciliation in Rwandan society.

10. With reference to paragraph 4 of the report, he would welcome information on the main civil society organizations that had participated in the public presentation of the report. On the demographic situation and ethnic composition of the population, he wished to know when the last census had been conducted. While the State party maintained that the fact that Rwandans spoke the same language confirmed their belonging to the same ethnic group, the Batwa still constituted a marginalized minority group and were a victim of persistent traditional stereotypes. He would be grateful for more information on them.

11. With regard to the progressive development plan, "Vision 2020" (CERD/C/RWA/13-17, para. 154), a road map towards the kind of society Rwanda aspired to be, he asked what measures the State party envisaged to ensure that the Batwa, who had the highest poverty rates in the country and faced major barriers to their access to social services, would be included in development programmes. There was consistent information that many Batwa had been displaced by logging projects and deforestation and had been neither compensated nor relocated. Nor had they been consulted on the main land-planning policies adopted without regard to their cultural traditions. He would like to learn what measures the State party planned to take to protect the Batwa against discrimination and facilitate their access to social services and participation in public affairs.

12. At the institutional level, the Human Rights Committee had emphasized the Government's efforts to advance reconciliation and establish the rule of law. According to the United Nations Development Assistance Framework, Rwanda was one of the top performers in Africa and an example of successful post-conflict reconstruction. The Rwandan National Human Rights Commission had been granted category A status in 2001, but the Committee on the Rights of the Child had noted with concern that the Commission did not have the human and material resources needed to carry out its mandate. He would be grateful for information on any capacity-building measures the State party had taken with regard to the Commission and on the status of the National Unity and Reconciliation Commission's work.

13. With regard to legislation, the country had made progress, with incorporation of the conventions into Rwandan positive law and the primacy of the international instruments it had ratified over domestic law. Rwanda had also ratified eight of the main international human rights instruments, except International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169). Since the Human Rights Committee had expressed concern at Rwanda's non-recognition of minorities and indigenous peoples, it would be interesting to learn whether the State party envisaged changing its position, and adopting special measures to protect the rights of members of the Batwa community, which other African countries recognized as an indigenous community.

14. He noted that the Constitution of 2003, amended in 2009, prohibited racial discrimination but did not take into consideration all the aspects of the definition under article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, particularly as regards discrimination based on descent or national origin. The State party was encouraged to ensure that all the elements of that definition of racial discrimination were taken into account in national legislation.

15. The Government's approach to the prevention of racial discrimination seemed highly influenced by its efforts to combat genocide, and article 13 of the Constitution prohibited and made punishable the ideology, revisionism, negationism, and trivialization of genocide. The adoption of the Genocide Ideology Act in 2008 was indeed commendable, in the given light of the magnitude of the genocide and the number of victims it had claimed, estimated at one million. And yet, the definition of genocide ideology under that Act might be too broad and risked being abused for purposes other than punishment of perpetrators of the genocide. The Special Rapporteur on the situation of human rights defenders was of the opinion that the Act in question might even limit any opposition to the Government and restrict the full exercise of the right of freedom of expression. It would be interesting to know whether the State party envisaged revising the Act so as to clarify the definition. He also wished to know whether it could confirm or refute claims that the Act had been used to ban certain human rights defence organizations, including the League for the Promotion and Defence of Human Rights in Rwanda, accused of being a vector of genocide ideology and sectarianism.

16. With regard to the administration of justice, he noted that the Government had opted for the traditional community justice system, the *gacaca*, which meant "justice on the grass", for trying alleged perpetrators of the genocide. Those courts had heard many cases and had been instrumental in reducing prison overcrowding and facilitating the population's participation in the justice system by authorizing them to testify for or against those accused of genocide. The Human Rights Committee had deemed that the *gacaca* courts did not comply with the fundamental principles of the right to a fair trial, particularly as regards the judges' impartiality and the protection of the rights of the accused. The State party might wish to comment on the matter. He would also like to know to what extent the

authorities found that that traditional mechanism created conditions conducive to the genuine reconciliation of all Rwandans.

17. On the issue of refugees, he noted that many Rwandan refugees had returned to Rwanda, which was an important step towards civil peace. All the same, he would welcome information on their exact number and status. The delegation might also comment on reports that the Government had pressured neighbouring countries to ensure the forced return of refugees to Rwanda, and that more than 1,700 Rwandans who had been living in the Nakivale and Kyata camps in Uganda had been forcibly returned to Rwanda on 14 and 15 July 2010 with the assistance of the Rwandan police.

18. Lastly, he explained that the questions other Committee members would raise were intended to help Rwanda to advance towards implementation of the Convention with a view to a successful reconciliation process, that respected human rights in all its economic, political, social and cultural dimensions.

19. **Mr. Avtonomov** welcomed the fact that Rwandan women participated in the country's political and public affairs at all levels, that the political situation had become stable and that the State party had achieved considerable economic progress. Although, according to the delegation, the Hutu, Tutsi and Batwa did not constitute ethnic groups, the periodic report did state that "The nature of genocide was arranged in a way that members of one ethnic group (the Tutsi) were killed by the members of another group (the Hutu)" (ibid., para. 58). Was the inference that those groups had been considered to be ethnic communities in the past, but no longer were?

20. Noting that the *gacaca* courts had been set up in 2001 to try crimes committed during and after the genocide and should have been abolished by 2010, he would like to know whether their experience of reconciliation processes had been positive and whether they could be used to resolve conflicts that were not genocide-related.

21. He was under the impression that Rwanda had gone from being a predominantly French-speaking country to more or less an English-speaking one. He wondered whether that created any problems for Rwandans who were used to speaking French and wished to continue to do so.

22. **Mr. Murillo Martínez** asked what major challenges the country still faced in rebuilding the social fabric of its society. Noting that the State party's evident optimism about the future, including its determination to considerably increase by 2020 average capita per income, which had been \$541 in 2010, he wondered what economic forecasts had implied to the Rwandan authorities that so large an increase could be achieved in so short a time.

23. **Mr. Diaconu** said that he took note of the State party's explanation that the Hutu and Tutsi did not constitute ethnic groups in Rwanda but were social constructs which had been imposed by the colonizers and had remained embedded ever since. However, the periodic report under consideration made frequent references to the Tutsi and the genocide they had been subjected to, but made scant reference to the Hutu. He welcomed the adoption of a law prohibiting restricted marriage on the basis of ethnicity, as past restrictions had prevented the Hutu from marrying outside their group, a form of descent-based discrimination.

24. He would like to know whether the State party envisaged recognizing the Batwa — a group driven out of the forests that had been its traditional home, and one of the most marginalized communities in Rwanda — as an indigenous people. He also wondered whether Rwanda planned to sign the United Nations Declaration on the Rights of Indigenous Peoples or to take special measures in favour of the Batwa.

25. He noted that reconciliation was the prime concern of the Government. Regarding the statement that ethnic groups did not exist in Rwanda, social stratification was not necessarily based on ethnic origin, but could also be based on occupation, since Rwandan society consisted of hunters, fishermen and farmers, with the latter accounting for 80 per cent of the population. Reconciliation efforts should therefore focus on ensuring that all three groups were on an equal footing within society, were represented in the State's national and local bodies and had equal access to employment, education and health services.

26. **Mr. de Gouttes** said that, although there was only one ethnic group in Rwanda since all Rwandans shared the same language and culture, it remained that the Tutsi and Hutu, who belonged to different clans on the basis of their occupation, had been involved in a number of violent confrontations in the past. He hoped that the country would never again be the stage for such conflicts.

27. He would appreciate additional information on the *gacaca* courts, which had clearly facilitated reconciliation between the perpetrators and survivors of the genocide. Aware of the traditional justice system's many merits, offering as it did a solution to the problem of the overcrowding in prisons, helping to end ceaseless repression and serving as a mode of settlement preferred by the population but also of its drawbacks, including the risk of corruption, some flouting of defence rights, and the risk that secondary accessories to the genocide might receive more severe penalties than the major actors tried by the International Criminal Tribunal for Rwanda, he asked whether it was true that survivors felt no desire for revenge, and whether indeed no violent act had been carried out against the perpetrators of past acts of violence once the latter had been released and back in civilian life.

28. **Ms. Dah** said that the 1994 genocide had been an unspeakable horror in Africa and that the Government's subsequent efforts at recovery, reconstruction and reconciliation and the adoption of universal human rights values were nothing if not admirable. With further reference to the *gacaca* courts tasked with speeding up trials of persons suspected of participating in the genocide, she wondered whether the Government planned to authorize them to hear other types of cases and, if so, to ensure that they functioned in keeping with the precepts of international humanitarian law.

29. As women comprised 56 per cent of Parliament, it would be interesting to learn what legislative advances they had been responsible for, what wide-ranging laws they had adopted and in what areas, and whether they had ensured that action was taken to bridge the gaps in several areas pointed out by the Committee on the Elimination of Discrimination against Women.

30. Welcoming Rwanda's efforts to improve the economic situation within the framework of its development plan (Vision 2020), she wished to know whether the Government held any statistics on health, education and employment that would help to identify the most marginalized groups and, if so, what special measures it planned to implement in their favour.

31. **Mr. Peter** commended the State party for providing nine compulsory years of education free of charge and for the Government's programme, conducted jointly with Uruguay, to provide each student with a laptop. He noted with satisfaction the role that women played in Rwandan society; in addition to exercising political responsibilities, they also occupied a number of high-level positions, including in the diplomatic service as ambassadors.

32. The Government never lost its focus, and its determination was evident in the visible improvements made to infrastructure over the months. He would like to know whether the State party planned to ratify the ILO Convention concerning Indigenous and Tribal Peoples

in Independent Countries (No. 169) and to make the declaration under article 14 of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any one of the rights under the Convention.

33. **Mr. Prosper** said that the situation in Rwanda in the aftermath of the genocide had been disastrous: the political regime had collapsed; intellectuals capable of taking the reins of power in the country had become the prime target of extremists; and boys of military age had not been spared extermination. Furthermore, expatriates and humanitarian workers had been the target of Hutu extremists in the Democratic Republic of the Congo (formerly Zaire), who later formed the Forces Démocratiques de Libération du Rwanda (FDLR) and continued to foment unrest during their cross-border incursions. The delegation might indicate to what extent all those incidents, particularly the actions of the extremist terrorist groups, had influenced the State party's policy on implementation of reconciliation and reintegration programmes and its determination not to address ethnic issues.

34. **The Chairperson**, speaking in his personal capacity, asked the delegation whether it thought the national reconciliation process was coming full circle and whether the wounds from the 1994 genocide had been healed. He would also like to know what measures the State party was taking to protect the forest peoples, who were being pressured to make way for deforestation and agriculture.

35. **Mr. Lindgren Alves** said that the Committee should exceptionally refrain from insisting on data on ethnicity or race from the State party, in the light of the Government's major efforts to put an end to the traditional distinction made between the Hutu, Tutsi and Twa. Moreover, the Rwandan Constitution expressly guaranteed the equality of all citizens and prohibited discrimination, based among other things, on ethnic origin or clans.

36. **Mr. Saidou** asked what the Government was doing to combat racial stereotypes and prejudices, which often fuelled racial hatred in Africa as elsewhere. He also wished to know what human and financial resources were allocated to the National Human Rights Commission.

37. **Ms. Kayitesi** (Rwanda), speaking in her capacity as representative of the National Human Rights Commission, said that the Commission had been established in 1999 in accordance with the Paris Principles. It had seven permanent commissioners, who were elected for a four-year period renewable for one further term. The Commission endeavoured to include a particular component on the Convention in each of its training programmes and to disseminate its provisions in the national language, Kinyarwanda. The Commission also conducted an information campaign on the legal provisions concerning punishment for acts of genocide, the aim being to raise public awareness of all the discriminatory practices linked to ethnic origin that had led to the Rwandan genocide.

38. The National Human Rights Commission helped the National Unity and Reconciliation Commission to implement the policy of reconciliation and national unity, particularly with a view to fostering a culture of peace. It also worked with the National Commission of Demobilization and Reintegration to raise human rights awareness among former militiamen who had returned to Rwanda. The Convention was one of the international human rights instruments examined in the context of awareness-raising activities.

39. The National Human Rights Commission ensured that vulnerable groups such as persons living with HIV/AIDS and persons with disabilities were taken into account in all public policies and programmes, and provided training in defence of the rights of those vulnerable groups. It also closely monitored the process for the reintegration of the Twa, who had always been marginalized in Rwandan society. The findings of a local investigation conducted by the Commission in January 2001, as follow-up to a complaint

lodged by an association on the housing problems the Twa faced, had indicated that the Government had done its utmost to provide housing for that group, which had not been subject to any eviction without first being guaranteed alternative housing. Also, those housed elsewhere were sometimes invited to help build their homes, all materials being provided by the Government. Overall, by the end of 2011, all members of the most vulnerable population groups were expected to have a roof over their heads.

40. The Commission was lobbying the Government to develop a national plan of action against racism, racial discrimination, xenophobia and related intolerance, in accordance with the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001. The Commission also participated in the drafting of a human rights plan of action, which was expected to include a chapter on follow-up to the implementation of the Convention. Lastly, the Commission assisted the relevant Rwandan authorities with the drafting of the country's periodic reports to be submitted to United Nations treaty bodies. In 2010, it had prepared a pamphlet clearly setting out the progress made in the submission of documents to the treaty bodies.

41. **Mr. Karugarama** (Rwanda) reiterated that Rwandans had been sharing the same culture, language and territory since time immemorial and urged the Committee to refrain from referring to the supposed ethnic differences that had so markedly divided the Rwandan people.

42. **The Chairperson** announced that the Rwandan delegation would answer the Committee's questions at the following meeting.

The meeting rose at 1.05 p.m.