



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

RWANDA

1. The Human Rights Committee considered the third periodic report of Rwanda (CCPR/C/RWA/3) at its 2602nd, 2603rd and 2604th meetings, on 18 and 19 March 2009 (CCPR/C/SR.2602, 2603 and 2604). It adopted the following concluding observations at its 2618th meeting (CCPR/C/SR.2618), on 30 March 2009.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Rwanda and the opportunity thus afforded for it to resume its dialogue with the State party, while regretting that the report was submitted more than 15 years late. The Committee invites the State party to respect the schedule it has established for the submission of reports. It is grateful for the information provided by the State party on its legislation, including in its written replies to the list of issues (CCPR/C/RWA/Q/3/Rev.1 and Add.1).

3. The Committee notes that the State party is still in a period of reconstruction following the genocide of 1994 and the tragic events that ensued. While acknowledging the progress achieved, it expresses its concern about the instability of the current situation in regard to reconciliation within Rwandan society.

B. Positive aspects

4. The Committee notes the efforts made by the State party to advance reconciliation in society and establish the rule of law in Rwanda, particularly the adoption of a new Constitution in 2003.
5. The Committee welcomes the abolition of the death penalty in the State party and its ratification of the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.
6. The Committee welcomes the progress made in implementing article 3 of the Covenant, particularly in respect of the representation of women in Parliament and the invocation of this article by the Supreme Court. The Committee calls on the State party to redouble its efforts to further promote the participation of women in public life and in the private sector.

C. Principal subjects of concern and recommendations

7. The Committee regrets that the report of the State party and its written replies to the list of issues transmitted to it do not contain detailed factual information or statistics that would enable it to assess how far the rights set out in the Covenant are respected in the State party. The Committee considers such data to be essential for monitoring implementation of the Covenant.

The State party should provide fuller information, including through relevant statistics, regarding the implementation of its laws and administrative provisions in the various fields covered by the Covenant.

8. The Committee notes that, according to the report of the State party, the Covenant takes precedence over domestic law and can be invoked before the domestic courts. The Committee notes, however, that the Covenant is not made sufficiently well known for it to be regularly invoked before the courts and authorities of the State (art. 2 of the Covenant).

The State party should take steps to make the Covenant known to all the population and mainly to judges and law enforcement officials. The State party should include in its next periodic report detailed examples of the application of the Covenant by the domestic courts.

9. While noting that equality between men and women is enshrined in the Constitution of Rwanda, the Committee notes with concern that discrimination against women exists in several fields, particularly under the Civil Code and also under the Family Code, which recognizes the husband to be the head of the conjugal union (arts. 3 and 26 of the Covenant).

In the context of the proposed revision of the Civil Code and the Family Code, the State party should take measures to remove provisions that place women in a situation of inferiority.

10. The Committee notes that the number of girls entering secondary and higher education is less than the number of boys, in particular because of the persistence of traditional attitudes towards the role of women in society (arts. 3 and 26 of the Covenant).

The State party should redouble its efforts to guarantee girls and boys equal access to all forms and levels of education. The State party should also take steps to raise the awareness of families in that regard.

11. The Committee is concerned about reports of domestic violence in Rwanda and at the inadequacy of the measures taken by the public authorities in that regard, particularly in relation to criminal proceedings and the care of victims (arts. 3 and 7 of the Covenant).

The State party should initiate a policy of prosecution and punishment of domestic violence, in particular by providing the police with clear guidelines to that end. The State party should also develop the appropriate legal instruments and step up its efforts to raise the awareness of the police and of the population at large in order to combat this phenomenon.

12. The Committee is concerned at reported cases of enforced disappearances and summary or arbitrary executions in Rwanda and about the impunity apparently enjoyed by the police forces responsible for such violations. The Committee is concerned at the lack of information from the State party regarding the disappearance of Mr. Augustin Cyiza, former president of the Court of Cassation, and Mr. Leonard Hitimana, a member of Parliament belonging to the Mouvement démocratique républicain (Democratic Republican Movement) (MDR) party (arts. 6, 7 and 9 of the Covenant).

The State party should ensure that all allegations of such violations are investigated by an independent authority and that those responsible for such acts are prosecuted and duly punished. The victims or their families should have an effective remedy, including adequate compensation, in accordance with article 2 of the Covenant.

13. The Committee remains concerned at the large number of persons, including women and children, reported to have been killed from 1994 onwards in the course of operations by the Rwandan Patriotic Army, and at the limited number of cases reported to have resulted in prosecution and punishment by the Rwandan courts (art. 6 of the Covenant).

The State party should take steps to ensure that such acts are investigated by an independent authority and that those responsible are prosecuted and duly punished.

14. While welcoming the abolition of the death penalty in 2007, the Committee notes with concern that it has been replaced by life imprisonment in solitary confinement, treatment which is contrary to article 7 of the Covenant.

The State party should put an end to the sentence of solitary confinement and ensure that persons sentenced to life imprisonment benefit from the safeguards of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

15. The Committee is concerned at reports of appalling prison conditions, particularly as regards hygiene, access to health care and food. It is also concerned about the fact that there appears to be no guarantee that detained children will be held separately from adults, and accused from convicted persons (art. 10 of the Covenant).

The State party should, as a matter of urgency, adopt effective measures against overcrowding in detention centres and ensure conditions of detention that respect the dignity of prisoners, in accordance with article 10 of the Covenant. It should put in place a system to segregate accused persons from convicted persons and minors from other prisoners. The State party should, in particular, take steps to ensure that all the United Nations Standard Minimum Rules for the Treatment of Prisoners are respected.

16. The Committee is concerned about reports that the Kigali authorities often arrest persons belonging to vulnerable groups, such as street children, beggars and sex workers, on the grounds of vagrancy. Such persons are reported to be held in detention without any charges being brought against them and in very poor material conditions (art. 9 of the Covenant).

The State party should take steps to ensure that no one is detained arbitrarily, in particular for reasons essentially of poverty, and to abolish the offence of vagrancy from the criminal legislation.

17. While acknowledging the serious problems confronting the State party, the Committee notes with concern that the *gacaca* system of justice does not operate in accordance with the basic rules pertaining to the right to a fair trial, particularly with regard to the impartiality of judges and protection of the rights of the accused. The lack of legal training for judges and reports of corruption continue to be causes of concern to the Committee, as do exercise of the rights of defence and respect for the principle of equality of arms, in particular in cases where sentences of up to 30 years' imprisonment may be handed down (art. 14 of the Covenant).

The State party should ensure that all tribunals and courts in Rwanda operate in accordance with the principles set out in article 14 of the Covenant and paragraph 24 of the Committee's general comment No. 32 (2007), on the right to equality before courts and tribunals and to a fair trial. According to that general comment, courts based on customary law cannot hand down binding judgments recognized by the State, unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters, meet the basic requirements of fair trial and other relevant guarantees of the Covenant, and their judgements are validated by State courts in light of the guarantees set out in the Covenant and can if necessary be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the Covenant. These principles are notwithstanding the general obligation of the State to protect the rights under the Covenant of any persons affected by the operation of customary courts.

18. The Committee is concerned about the very limited number of lawyers in Rwanda who provide legal assistance to detained persons regarded as very poor (art. 14 of the Covenant).

The State party should take steps to ensure free legal assistance for those who do not have the means to pay for the assistance of a defence lawyer, in accordance with article 14, paragraph 3 (d), of the Covenant.

19. While taking note that sexual relations between consenting adults of the same sex are not an offence under criminal law, the Committee is concerned that the draft legislation would alter that situation (arts. 17 and 26 of the Covenant).

The State party should ensure that any reform of its criminal law is in full conformity with articles 17 and 26 of the Covenant.

20. While taking note of the State party's explanations with regard to the role of the press in the 1994 events, the Committee notes with concern reports that journalists who have criticized the Government are currently subjected to intimidation or to acts of aggression by the State party authorities and that some have been charged with "divisionism". International press agencies are reported to have been threatened with losing their licences because they employ certain journalists (art. 19 of the Covenant).

The State party should guarantee freedom of expression for the press and the media, as well as for all citizens. It should make sure that any restriction on the exercise of their activities is compatible with the provisions of article 19, paragraph 3, of the Covenant and cease to punish acts of so-called "divisionism". The State party should also conduct investigations into the above-mentioned acts of intimidation or aggression and punish their perpetrators.

21. The Committee finds cause for concern in the reported obstacles to the registration and freedom of action of human rights NGOs and opposition political parties (arts. 19, 22, 25 and 26 of the Covenant).

The State party should take the necessary steps to enable national human rights NGOs to operate without hindrance. It should treat all political parties on an equal footing and offer them equal opportunities to pursue their legitimate activities, in accordance with the provisions of articles 25 and 26 of the Covenant.

22. Notwithstanding the information provided by the State party, the Committee is concerned about the non-recognition of the existence of minorities and indigenous peoples in Rwanda, as well as reports that members of the Batwa community are victims of marginalization and discrimination (art. 27 of the Covenant).

The State party should take steps to ensure that members of the Batwa community are protected against discrimination in every field, that they are provided with effective remedies in that regard and that they take part in public affairs.

23. The State party should widely disseminate the text of its third periodic report, the written responses it has provided to the list of issues drawn up by the Committee and the present concluding observations, in particular by publishing them on the Government's website and placing copies in all public libraries.

24. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the follow-up action it has taken on the recommendations contained in paragraphs 12, 13, 14 and 17 above.

25. The Committee requests the State party to include in its fourth periodic report, due to be submitted by 10 April 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its fourth periodic report, to consult civil society and NGOs operating in the country.
