



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

Distr.: General  
21 May 2012

Original: English

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**Committee against Torture  
Forty-eighth session**

**Summary record (partial)\* of the 1070th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 15 May 2012, at 10 a.m.

*Chairperson:* Mr. Grossman

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Initial report of Rwanda (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) said that public institutions and civil society had participated in the preparation of the State party's initial report. Rwanda had lived through the trauma of genocide in 1994, in which more than 1 million people had perished, and the country's leaders had since put human dignity at the heart of policymaking. The State party had made considerable progress in terms of legislative, administrative and practical measures designed to promote and protect human rights. In particular, the application of local cultural values through such mechanisms as the *gacaca* courts had helped to heal a shattered society.
3. Torture and other forms of cruel, inhuman or degrading treatment were prohibited under the Constitution. The State party had ratified the core international human rights instruments and was considering accession to others, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. Rwanda had abolished the death penalty in 2007 and was working to encourage other States to follow suit. To that end, it had hosted a regional conference on the matter in November 2011.
4. Torture had been criminalized as a stand-alone offence under the new Criminal Code. Pursuant to article 205 of the Code, the offence of torture was punishable by prison terms ranging from 6 months to 5 years. Where torture resulted in the victim being mutilated or left with an incurable disease, with a permanent disability, or led to the loss of use of an organ, prison terms ranged from 10 to 20 years. Where the victim died, the perpetrator was liable to life imprisonment. Perpetrators who were judicial police officers, prosecutors or security officials were liable to the highest penalty under criminal law. According to the legislation of the State party, acts of torture were cross-border offences that came under universal jurisdiction in line with article 5 of the Convention.
5. Under the law, the use of torture to obtain evidence or confessions from either suspects or witnesses was prohibited, and detainees were entitled to a medical examination, access to a lawyer and to contact any persons of their choice. International conventions ratified by the State party took precedence over domestic legislation, as had been demonstrated in a successful Supreme Court challenge to the constitutionality of article 4 of Organic Law No. 31/2007 of 25 July 2007 on life imprisonment, in which the International Covenant on Civil and Political Rights had been invoked.
6. Various institutions, including the Office of the Ombudsman, the National Commission for Human Rights (NCHR), the National Public Prosecution Authority (NPPA) and the police inspectorate, along with the International Committee of the Red Cross (ICRC) and other international and local NGOs, played a role in overseeing the implementation of all international human rights instruments in the State party. The Institute of Legal Practice and Development had been established to ensure that judges, public prosecutor officers, judicial police officers, judicial support personnel and lawyers received continuous training. Centres such as the ISANGE One Stop Centre, which had received an award from the United Nations, had been set up to assist victims of violence, including torture.

7. Claims by some NGOs that acts of torture had been committed in unofficial or incommunicado detention centres were baseless. She dismissed a report, according to which prisoners were denied family visits or access to lawyers and medical services. All prisoners in the State party were covered by health insurance. Responding to allegations that people were afraid to lodge habeas corpus applications before the courts in cases of torture or unlawful detention, she said that various such applications had been registered with courts around the country. Lastly, the State party made every effort to combat impunity. All reported crimes were investigated and the perpetrators brought to justice.

8. **The Chairperson** said that the submission by Rwanda of its initial report was especially significant, in the light of the country's tragic recent history. Noting that international institutions had also failed in Rwanda, he said that the Convention was intended to prevent situations arising that could lead to catastrophes such as the genocide that had taken place in the State party.

9. **Mr. Bruni** (Country Rapporteur) welcomed the participation of civil society and human rights organizations in the preparation of the State party's initial report, but said that various NGOs had reported being excluded from the process. He would like to know if that was true and whether those civil society groups that had been included would also take part in the implementation of the Committee's recommendations. He asked for details of membership of the NCHR, what resources were available to it and how its independence was guaranteed.

10. He asked when the new Criminal Code had become operational and noted that it appeared to contain no definition of torture, as required under article 1 of the Convention. Did the fact that the Convention could automatically be invoked before the courts go some way to compensating for the absence of such a definition? He asked whether the delegation could provide examples of when the Convention had been invoked in court. The minimum penalty for acts of torture of 6 months in prison was too low, given the serious nature of such offences. It also appeared that the Code took no account of the psychological harm suffered by torture victims. He asked how many criminal sanctions, if any, had been imposed on public officials for acts of torture since 2009. He also wished to know which body was responsible for distinguishing between acts of torture committed during the Rwandan genocide, which did not benefit from a statute of limitations, and other acts of torture that, under the previous Criminal Code at least, carried a statute of limitations of 10 years.

11. He would like to know more about the *gacaca* courts, which had apparently been established in 2001 to deal with certain types of crime committed during the Rwandan genocide, including murder, bodily injury and property damage. NGOs had criticized the courts because trials were held without lawyers, and because they were at times characterized by false accusations, intimidation of witnesses, threats to court members and acts of revenge by one group against another. They had also reported that the acquittal rate was only 20 per cent of cases heard and that confessions were given priority over evidence resulting from thorough investigations. Could the delegation comment on those reports? He would like to have details of recent trials by such courts, including the cases heard and sentences handed down. With regard to persons sentenced by *Gacaca* courts to carry out unpaid labour under the Work for General Interest programme, he wished to know how long such sentences could be and in what conditions convicts were held.

12. Turning to the fate of Leon Mugesera, a Rwandan national accused of crimes against humanity related to the Rwandan genocide and extradited by Canada to Rwanda in 2012, he asked the delegation to provide details of the conditions of his detention, the specific charges laid against him, whether he was being held in solitary confinement or had access to a lawyer, and, if it was known, when his trial would be held.

13. Noting that criminal suspects were entitled to be free during the time of investigation, unless the circumstances were exceptional, he said that he would like to know who decided to place such persons in pretrial detention and for what kind of offence. He also wished to know whether any children below the age of 12 were held in detention centres meant for criminal suspects, and how long children were kept in pretrial detention. Information before the Committee suggested that pretrial detention could exceed eight months. He wished to know whether that was true and what measures were being taken to reduce pretrial detention for minors.

14. The Committee had received reports of persons being held in unofficial places of detention. In some cases no charges were laid against them and they were not brought to court. Noting that the head of the delegation had dismissed such reports, he said that Amnesty International had published 18 allegations of torture and ill-treatment inflicted by members of the State party's intelligence service and law enforcement officers in unofficial places of detention. It had also reported 45 cases of torture and ill-treatment inflicted in unofficial and secret detention centres between 2010 and 2011. He asked whether the delegation could provide evidence demonstrating that those allegations were unfounded.

15. Turning to the matter of prison overcrowding, he said that he would like to know what the current occupancy rate of prisons in the State party was and what additional measures it had taken or planned since the submission of its initial report in order to reduce overcrowding. According to reports, about 400 infants under the age of 3 were held with their mothers in poor conditions in overcrowded prisons. He would like to know what was done to keep them separate from other inmates.

16. Noting that the Constitution of the State party guaranteed the right of a subordinate to refuse orders from superiors to commit acts of torture, he asked how that guarantee was enforced and whether the delegation could provide examples of its practical implementation. Welcoming the abolition of the death penalty, he wished to know whether persons sentenced to life imprisonment were monitored by NGOs to ensure that they were not placed in solitary confinement, and how many people were serving life sentences.

17. The fact that the Minister of Internal Security could order the deportation of undesirable foreigners or those who compromised or threatened to compromise public security took no account of the principle of non-refoulement. He asked what mechanisms were in place to assess whether a person was at risk of being subjected to torture if deported. He asked whether a bill allowing for extradition through international cooperation in cases where there was no bilateral extradition agreement between Rwanda and the other State concerned had been passed, and whether the State party considered the Convention to be the legal basis for extradition in respect of offences enumerated under article 4 of the Convention. Lastly, he would like to know whether the Government was prepared to recognize the competence of the Committee to receive and consider individual complaints under article 22 of the Convention, and to sign and ratify the Optional Protocol.

18. **Ms. Sveaass** (Country Rapporteur) said that she would like to know whether training dispensed to staff of the Ministry of Justice, judges and other court staff, prosecutors, police, and medical staff included specific instruction on the Istanbul Protocol. If it did not, she wondered whether consideration would be given to its inclusion in such training programmes in the future. She would also like to have more information on the training role played by the NCHR and the many NGOs listed in the State party's report (CAT/C/RWA/1, para. 85). She asked whether forensic doctors were invited to assess allegations of torture or ill-treatment and, if so, how they subsequently reported their findings. She also requested additional information about work done to protect the rights of women and children at the *Umudugudu* (cell) level and about measures taken to curtail violence against women and children. Did the personnel working at that level receive specialized training? It would be useful if the delegation could explain in greater detail how

the considerable and welcome fall in the number of reported cases of rape in the State party between 2006 and 2009 had been achieved.

19. She expressed concern that the annual registration procedures for NGOs might adversely affect their work, and wondered why such procedures were necessary. She asked for details of the criteria that NGOs had to meet in order to be registered, and for information on reported funding cuts experienced by some NGOs and the closure of others. The Committee had received reports according to which several human rights defenders had been threatened and arrested, and she would like to know what measures the State party was taking to put an end to such incidents. She would appreciate an account of the steps that had been taken to investigate allegations of intimidation and harassment of journalists. It would appear that, under a 2009 media law, all Rwandan journalists had to be authorized by a media council to practise their profession. She asked whether that provision was still in place and if so, what requirements journalists had to fulfil to obtain authorization.

20. She urged the State party to find alternatives to detention for children aged 12 and under who were in conflict with the law. It was also important that the State party should develop a system of juvenile justice for young people aged between 12 and 18 that provided an alternative to ordinary detention. She asked whether the level of prison overcrowding was partly the result of people remaining in prison even when their sentences had been completed. If so, she asked what could be done to prevent that from happening. The Committee would welcome additional information on alternatives to detention for adults. It would be useful to have data on the number of people in detention in the State party. In particular, she asked for details of the charges and sentences received by the alarmingly high number of women who were currently in prison with their young children. She asked whether prison monitoring visits were unannounced, whether the members of visiting delegations were able to speak to inmates in private, and how the delegations were composed. She would welcome details of the regular visits the National Commission for Human Rights made to prisons and the possibilities afforded to NGOs and other civil society organizations to conduct such visits.

21. She requested additional data on the number of police officers who had been disciplined or in any way sanctioned in the wake of investigations of allegations of ill-treatment or torture. It would be useful to know how many such allegations had been brought, how many had been investigated and details of the severity of the sanctions. She commended the State party for having developed apparently strong complaint mechanisms and asked for more details about how they worked. In particular, it would be useful to know how the identity of complainants was kept confidential and what the outcomes of the complaints had been. The Committee had received reports of political prisoners who had been kept in detention for many years and had been subjected to torture and ill-treatment, such as Bernard Ntaganda and Victoire Ingabire, opposition presidential candidates. She asked whether there had been any investigations into those allegations.

22. She requested confirmation that, despite the fact that domestic legislation provided for compensation for victims of torture and ill-treatment at the hands of State agents, no compensation had been awarded in such a case to date. It would appear that if an alleged perpetrator of torture or ill-treatment was not found guilty or did not plead guilty to such charges, the State would not award compensation. She requested additional information on that issue, as it appeared not to be in full compliance with article 14 of the Convention. Given that the State party seemed to place emphasis on material or physical damage, she asked whether there was any provision for compensation for mental pain or suffering, as required under article 1 of the Convention. Nonetheless, she welcomed the details provided on rehabilitation services, including psychological assistance, that were available to people who had suffered owing to the genocide.

23. The Committee had received several reports of individuals who had been charged with obtaining evidence through methods that were explicitly prohibited in domestic legislation, particularly in military courts. The Committee would appreciate further details concerning the investigations being made into those cases and the steps being taken to prevent the use of such methods in the future. A recent report of the United Nations Working Group on Enforced or Involuntary Disappearances referred to 21 persons, including Augustin Cyiza, Vice-President of the Supreme Court, and Léonard Hitimana, a member of the Transitional National Assembly of Rwanda, whose whereabouts were unknown. She asked what investigations were being conducted into the fate of those individuals. Lastly, she asked whether the State party planned to amend its legislation to prohibit corporal punishment as a means of disciplining children.

24. **Mr. Domah** said that the Committee would appreciate updated details of the United Nations Public Service Award prize awarded to the State party in recognition of the success of the Isange one-stop centre for victims of gender-based violence. He commended the State party on the continuing professional development it provided to judges. It would be useful to know which domestic legal instrument contained the definition of torture and to see the exact wording of that definition. He asked what effective legislative, administrative, judicial or other measures had been taken to prevent acts of torture, as required under article 2 of the Convention. It was not sufficient to issue a blanket denial of the NGO reports of torture in security detention facilities, safe houses and incommunicado detention facilities including Camp Kami and Camp Mukamira. The State party should provide specific information disproving those allegations in order to give substance to its denial. He wished to know how the amended legislation on the media would operate, whether the media would be impartial and independent and how such independence would be ensured to enhance press freedom and prevent abuses in future. It would be useful to know whether there was legislation in the State party concerning mutual legal and judicial assistance to address cooperation with other States in that regard.

25. **Ms. Belmir** commended the State party on its efforts to re-establish the rule of law after the genocide. She would welcome additional information on the practical functioning of the *gacaca* system of justice in the State party. While that system had many positive elements, it reportedly imposed heavy penalties based on scant evidence; witnesses were susceptible to corruption and there was a general lack of trust in the system. She would welcome the delegation's comments on reports that the Government took advantage of the ideology of genocide to restrict the activities of political opponents. She urged the State party to review its judicial system, since it appeared not to be independent and people's right to a fair trial was being violated. The Committee had received reports of children being tried in adult courts and of street children being arrested and held together for long periods with adults in deplorable conditions in detention centres, with no legal justification. There were also many children who were heads of households, abandoned children and children who had been adopted illegally. She asked what steps the State party was taking to address those issues and protect the rights of all its children.

26. **Ms. Gaer** said that the progress achieved in Rwanda since the devastating genocide of 1994 was encouraging. The State party's advocacy for the abolition of the death penalty was a praiseworthy example of how a tragedy could be turned into positive action in support of human dignity.

27. According to the delegation, the allegations regarding military detention facilities were fallacious statements by people who knew little about Rwanda. She pointed out, however, that the Committee had received allegations from many sources. There had been specific allegations of routine beatings by interrogators and the use of electric shocks in Kami and Mukamira military camps. The existence of 45 secret detention centres had also been documented. She invited the delegation to respond to those allegations.

28. She asked whether persons held in military detention facilities had access to lawyers, doctors and family members. The report mentioned that individual victims of ill-treatment could have recourse to impartial and competent courts and tribunals. Was that possibility open to persons held in military detention facilities and could the delegation provide any statistical data regarding the number of cases heard?

29. Paragraph 108 of the report presented figures for the number of complaints dealt with by independent human rights institutions, and added that the cases were not related to torture but that torture victims enjoyed the same right of appeal. She asked whether any complaints concerning torture had been received since the submission of the report. She also enquired about complaints dealing with ill-treatment, domestic violence or trafficking. In its concluding observations on Rwanda issued in 2009 (CCPR/C/RWA/CO/3), the Human Rights Committee had expressed regret at the lack of statistics in the State party's reply to the list of issues. She asked whether statistics on matters of interest to the Committee were compiled. With regard to the International Criminal Tribunal for Rwanda, she enquired about the procedure for requesting the extradition of Rwandan nationals from neighbouring countries to stand trial. Had any requests for extradition been rejected?

30. **Mr. Mariño Menéndez** noted that a whole range of different bodies, including representatives of the Judicial Police Inspectorate and the Office of the Ombudsman, inspected conditions in detention centres. He asked whether they were all entitled to visit not only facilities run by the police and the prison authorities but also military prisons and facilities run by the military intelligence service. Document No. 09/08 of 16 June 2008 issued by the Minister of Internal Security contained instructions concerning conditions of detention. The Code of Criminal Procedure contained similar provisions, including the prohibition of solitary confinement. He enquired about the relationship between the legal and ministerial texts.

31. Noting that a bill on extradition was currently before Parliament, he asked whether the principle of non-refoulement was adequately addressed in the text. He expressed concern about the provisions of Act No. 4/2011, pursuant to which immigration officials were entitled to rule on certain aspects of the admission or expulsion of foreigners, including the withdrawal of refugee status. Referring to paragraph 28 of the report, he noted that, according to article 190 of the Constitution, treaties had primacy over organic laws and ordinary laws "except in the case of non-compliance by one of the other parties". He pointed out that human rights treaties were not subject to the principle of reciprocity. In 2010 a Committee of Experts of the International Labour Organization had reported that 352,550 Rwandan children aged between 5 and 17 years were employed. He asked how child labour was regulated and what steps were taken to ensure that children could complete their education.

32. **Mr. Gaye** noted that, according to paragraph 16 of the report, evidence obtained through torture or ill-treatment was inadmissible under Rwandan law. He asked whether that principle had been applied in any legal decisions. According to paragraph 53 of the report, the High Court had jurisdiction to consider applications for the annulment of administrative decisions. He asked whether such applications could be submitted against expulsion orders issued by the Minister of Internal Security against foreigners who, through their presence or conduct, compromised or threatened to compromise tranquillity or public security. If such appeals were permissible, would the expulsion order be suspended?

33. According to paragraph 34 of the report, the maximum duration of detention was 72 hours at the level of the judicial police and 7 days at the level of preliminary inquiries by the public prosecutor. He asked whether there was any provision for oversight of the judicial police investigation and whether public prosecutors could delegate their investigative responsibilities to another body.

34. Referring to the excessive duration of pretrial detention, he asked the delegation whether it could account for the delays in bringing cases to trial. Community service was mentioned as an alternative to imprisonment. Had any other alternatives been contemplated? According to paragraph 110, the Government could participate in the compensation of a victim of torture committed by its agents on the basis of the provisions of the Civil Code. He asked whether the perpetrators of such crimes were prosecuted.

35. **The Chairperson** suggested that the State party should invite the Special Rapporteur on torture to visit Rwanda so that the authorities could take advantage of his expertise. He noted that Rwanda was considering the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance. According to Amnesty International, Sheikh Iddy Abbasi had allegedly been abducted from outside his home in March 2010 and had not been seen since. Robert Ndengeye Urayenzeza had also allegedly disappeared in March 2010. In its concluding observations, the Human Rights Committee had asked Rwanda to provide follow-up information within one year on compliance with its recommendation concerning enforced disappearances. No response had been received within the prescribed period.

36. **Mr. Bruni** said that, according to the report, there was no possibility of derogation from the principle of protection against torture and imprisoned persons enjoyed special protection against torture and ill-treatment. He enquired about the practical measures taken to provide such protection. For instance, was there a centralized system of registration of persons deprived of their liberty and a system of audiovisual surveillance in detention centres, particularly police stations? The Committee had been informed that NGO visits to detainees were permissible in certain cases but that prisoners could be interviewed only in the presence of prison staff. He asked whether that information was correct. He wished to know how members of the National Prison Service, which monitored prison conditions, were selected. How was the Service financed, what measures were taken to guarantee its independence and had any recent programmes been successfully implemented?

37. **Ms. Sveaass** noted that the Sub-Committee on Accreditation of the International Coordinating Committee of National Human Rights Institutions was currently discussing the status of the Rwandan National Human Rights Institution. She asked whether the State party had any plans to provide the Institution with adequate financial and human resources. The Committee had received information about cases of arbitrary detention, especially of vagrants or persons without regular identity documents. She wished to know whether such persons were speedily released. The State party had signed international instruments against trafficking in persons. She would welcome information about practical measures taken to outlaw trafficking.

38. **Ms. Nyirahabimana** (Rwanda) thanked the Committee for its recognition of the progress made by Rwanda since the 1994 genocide. Her Government welcomed constructive criticism and would no doubt benefit greatly from the Committee's expert advice.

*The discussion covered in the summary record ended at noon.*