



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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Consideration of reports submitted by States parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Rwanda

1. The Committee on the Elimination of Racial Discrimination considered the thirteenth to seventeenth periodic reports of Rwanda, submitted in a single document (CERD/C/RWA/13-17), at its 2082nd and 2083rd meetings (CERD/C/SR.2082 and 2083), held on 8 March 2011. At its 2088th meeting (CERD/C/SR.2088), held on 11 March 2011, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the combined periodic reports submitted by the State party in a single document and the additional information provided orally by the delegation. It welcomes the presence of a high-level delegation from the State party and the resumption of dialogue with the latter after a gap of 11 years. The Committee commends the State party on the quality of its report, which followed the Committee's reporting guidelines, and the delegation's replies to Committee members' questions and comments.

B. Positive aspects

3. The Committee notes with satisfaction that the Constitution adopted in 2003 contains provisions on the prevention of racial discrimination.

4. The Committee welcomes the adoption of several laws aimed at preventing and combating discrimination, including:

* Reissued for technical reasons on 22 April 2016.



- (a) Law No. 33 bis/2003, of 6 September 2003, making the crime of genocide, crimes against humanity and war crimes punishable offences;
- (b) Law No. 13/2009 of 27 May 2009, regulating labour in Rwanda, article 12 of which prohibits any distinction, exclusion or preference based on race, colour, sex or political opinion which would have the effect of destroying or impairing equality of opportunity in employment;
- (c) Law No. 22/2002 of 9 July 2002, containing the General Statute of Public Service;
- (d) Organic Law No. 20/2003, organizing education in Rwanda, which prohibits discrimination in education;
- (e) Law No. 18/2002 of 11 May 2002, regulating the press, which prohibits incitement to commit crimes of a discriminatory nature;
- (f) The new legislation on nationality, which repealed all restrictions on the right to nationality for Rwandans who had been deprived of their nationality between 1 November 1959 and 31 December 1994, and which allows dual nationality;
- (g) Law No. 09/2004 of 27 April 2004, establishing the Code of Ethics for the Judiciary, which compels judges to serve the cause of justice without discrimination, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion or social status.

5. The Committee notes with satisfaction that the State party has established a number of bodies and institutions having the authority to combat discrimination, such as the National Human Rights Commission, the Office of the Ombudsman, the National Commission for Unity and Reconciliation and the National Commission for the Fight against Genocide.

6. The Committee likewise notes with satisfaction that the State party has taken measures to promote unity and reconciliation, social cohesion, tolerance and peace among the various groups, through, for example, the *gacaca* popular courts, the National Dialogue Council, the reconciliation summits (*bakangurambaga*), the *Ingando* camps, the *Itorero* forums and community associations and initiatives, as well as the abolition of national identity cards that revealed the holder's ethnic group.

7. The Committee welcomes the information from the State party to the effect that Rwanda has withdrawn its reservation to article 22 of the Convention.

8. The Committee likewise welcomes the fact that the State party has cooperated fully with the International Criminal Tribunal for Rwanda, as the Committee recommended in its preceding concluding observations, issued in 2000 (CERD/C/304/Add.97, para. 14).

C. Concerns and recommendations

9. The Committee notes the efforts of the State party to promote and achieve national reconciliation and social cohesion among the various groups that make up the population. It also notes that the State party's overall approach, which is marked by the tragic genocide of 1994, seeks to change fundamental perceptions of ethnic divisions in order to achieve national unity. The Committee wonders, however, whether the achievement of reconciliation and national unity might not be to the detriment of the specific characteristics of certain groups, particularly the Batwa.

The Committee invites the State party to take into account, in its efforts to achieve reconciliation, national cohesion and unity, the specific characteristics of each of the

groups that make up the population, including in the implementation of the various mechanisms, plans and programmes, particularly Rwanda Vision 2020, so that reconciliation, cohesion and national unity observe all aspects — including the political, economic, social and cultural aspects — of the human rights of persons belonging to these groups.

10. The Committee takes note of the explanations provided in the report of the State party (CERD/C/RWA/13-17, paras. 5–13) and confirmed by the State party delegation to the effect that the terms Batwa, Bahutu and Batutsi refer not to ethnic groups but to social classes. The report also explains that the population of Rwanda comprises a single ethnic group sharing the same language and the same culture, making it impossible to compile ethnic data on its composition. However, the Committee notes with concern the absence in the State party’s report of any statistical data on the composition of the population or on the number of non-citizens residing in the territory of the State party and their socio-economic status.

In light of its general recommendation No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention, and paragraphs 10 to 12 of its revised guidelines for the preparation of periodic reports (CERD/C/2007/1), the Committee recommends that the State party provide information on the composition of the population and other information from socio-economic studies that will allow the economic, social and cultural situation of the population to be assessed. The Committee also recommends that the State party furnish comprehensive data, disaggregated by sex and national or ethnic origin, on the number of non-citizens living in its territory and on their socio-economic situation, in accordance with the Committee’s general recommendation No. 30 (2005) on discrimination against non-citizens.

11. The Committee regrets the position taken by the State party not to recognize the Batwa as an indigenous people.

The Committee, recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, recommends that the State party review its position on the Batwa community and contemplate recognizing the Batwa as an indigenous people.

12. The Committee is uncertain as to the meaning, scope and content of the notion of “historically marginalized groups” which appears in the State party’s report and which includes the Batwa community, according to information provided by the State party delegation.

The Committee recommends that the State party clarify the notion of “historically marginalized groups” which appears in the State party’s report, so as to enable the members of the Batwa community, among others, to fully enjoy their rights under the Convention.

13. While noting that article 11 of the State party’s Constitution prohibits racial discrimination, the Committee is concerned that this provision is not fully consistent with article 1 of the Convention, given the absence of any wording related to descent or national origin (art. 1).

The Committee recommends that the State party take appropriate steps to ensure that this provision of the Constitution is fully consistent with article 1 of the Convention by including in it the concepts of descent and national origin.

14. While noting the State party’s commitment to combating genocide and revisionism, the Committee is concerned by the fact that the definition of “the ideology of genocide” contained in article 2 of Law No. 18/2008 of 23 July 2008, which makes the ideology of genocide a punishable offence and supplements articles 9, 13 and 33 of the Constitution, is

too broad, and by the fact that intention is not one of the constituent elements of the crime of the ideology of genocide listed in article 3 of the aforementioned law (art. 2).

The Committee recommends that the State party contemplate revising Law No. 18/2008 of 23 July 2008, which makes the ideology of genocide a punishable offence, with a view to making the definition of the term “the ideology of genocide” in article 2 more specific, and to include intention as one of the constituent elements of this crime listed in article 3, and thus to provide all the guarantees of predictability and legal security required of a criminal law and prevent any arbitrary interpretation or application of this law.

15. The Committee notes that the State party’s criminal legislation, in particular the Penal Code, does not cover all the offences punishable by law set out in article 4 of the Convention (art. 4).

Recalling its general recommendations Nos. 1 (1972), 7 (1985) and 15 (1993), according to which the provisions of article 4 of the Convention are of a preventive and obligatory nature, the Committee recommends that the State party include the necessary provisions in its Penal Code so as to give full effect to article 4 of the Convention.

16. The Committee is concerned at reports it has received of the persistence of negative stereotypes where the Batwa are concerned. It is also concerned at the weak impact of the measures taken by the State party to help the Batwa, who continue to suffer from poverty and discrimination in obtaining access to:

- (a) Education, their educational level remaining the lowest and their dropout rate the highest as compared with the rest of the population;
- (b) Adequate housing, given that the destruction of their habitat is not always accompanied by specific proposals for alternative housing;
- (c) Social services;
- (d) Employment (art. 5).

Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party intensify its efforts, in particular by taking special measures, to combat the persistent inequalities between the Batwa and the rest of the population, and also the high level of marginalization and poverty of the Batwa community. To this end, the Committee recommends that the State party:

- (a) **Combat stereotypes and ensure that the Batwa are not victims of discrimination, and that they benefit equally with other population groups from plans and programmes implemented by the State party;**
- (b) **Facilitate and guarantee Batwa children’s access to education without discrimination, in particular by taking steps to cut the high dropout rate, and continue to promote awareness of the importance of education among adults of the Batwa community;**
- (c) **Facilitate access by the Batwa to adequate housing, including by preventing forced evictions without prior consultation and without any offer of alternative housing;**
- (d) **Ensure that the Batwa enjoy effective access to health care and health services;**

(e) Develop training and apprenticeship opportunities for the Batwa with a view to facilitating their integration in the labour market.

The Committee recommends that the State party provide information on this subject in its next periodic report.

17. The Committee takes note with concern of reports brought to its attention that no land was offered to the Batwa after their land was expropriated without prior consultation with them about the construction of parks. According to the same sources, the Batwa have not benefited from the land distribution plan established by the State party, which would have allowed them to retain their traditional lifestyle (art. 5).

The Committee recommends that the State party take all necessary steps, in consultation with and with the agreement of the Batwa, to offer them adequate land, inter alia under the land distribution plan established by the State party, so that they can retain their traditional lifestyle and engage in income-generating activities.

18. While taking note of the information provided by the State party regarding the participation of all groups in political and public life, the Committee is concerned at the lack of specific information on the participation of the Batwa in the public and political life of the State party at both the local and national levels (art. 5).

The Committee recommends that the State party take special measures to encourage and promote the participation of the Batwa in political and public life by such means as awareness campaigns among the rest of the population and training for the Batwa. The Committee recommends that the State party provide information on this subject in its next periodic report.

19. The Committee is concerned at the lack of information on complaints, prosecutions, sanctions and reparations relating to instances of racial discrimination apart from those linked to the 1994 genocide. It is likewise concerned at reports that the Batwa do not receive equal treatment in the courts and that they have difficulty obtaining access to justice in order to defend their rights (arts. 5 and 6).

Referring to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social censure or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee recommends that the State party take all necessary steps to facilitate the access of the Batwa to justice, to disseminate legislation relating to racial discrimination, particularly among the Batwa, and to inform the latter of all the legal remedies available to them and of the possibility of obtaining legal assistance. It further recommends that the State party provide comprehensive information on this subject in its next periodic report.

20. The Committee takes note of the information provided by the State party to the effect that the *gacaca* courts are to cease their functions. It is concerned, however, that certain cases pending in the *gacaca* courts may not be heard with all the guarantees of due process (art. 6).

The Committee recommends that the State party take all necessary steps to ensure that the mechanism established to hear the cases pending in the *gacaca* courts respects all guarantees of due process.

21. While taking note of the State party's efforts to promote tolerance and reconciliation, particularly through the teaching of the history of the genocide, civic

education, the introduction of human rights in school curricula, and awareness campaigns in the various media, the Committee seeks assurances that such promotional activities adequately cover all segments of the population in the State party, including certain “historically marginalized groups” such as the Batwa, who have greater problems gaining access to the media and to education. The Committee also wonders whether human rights education is offered specifically to law enforcement officers, and to police and judicial officers in particular (art. 7).

The Committee recommends that the State party take additional measures to ensure that civic education and efforts to teach, promote and foster awareness of human rights and the Convention cover all segments of the population, in particular the “historically marginalized groups”, whose access to the media is not always guaranteed. The Committee recommends that the State party redouble its efforts to ensure that law enforcement officers receive training in human rights and in the provisions of the Convention in particular.

22. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights treaties to which it is not yet a party, particularly those which have a direct bearing on the question of racial discrimination, such as the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169).

23. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party take into account the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

24. The Committee recommends that the State party establish a suitable schedule and ensure adequate media coverage for the celebration of 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (resolution 64/169, of 18 December 2009).

25. The Committee recommends that, in connection with the preparation of its next periodic report, the State party continue its consultations and pursue further dialogue with civil society organizations working in the field of human rights, especially those working to combat racial discrimination.

26. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties to the Convention (see CERD/SP/45, annex) and endorsed by the General Assembly in its resolution 47/111, of 16 December 1992. In this connection, the Committee draws attention to paragraph 14 of General Assembly resolution 61/148, in which the Assembly strongly urged States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

27. The Committee recommends that the State party’s reports be made available to the public at the time of their submission and that the concluding observations on these reports be publicized in the official languages or national language, as appropriate.

28. Noting that the State party has never submitted a core document, the Committee encourages it to submit one of between 60 and 80 pages in length, in accordance with the

harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.4).

29. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 9, 11, 15 and 19 above.

30. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12, 14, 18 and 20, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

31. The Committee recommends that the State party submit its eighteenth to twentieth periodic reports in a single document of no more than 40 pages by 16 May 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations.
