

**Human Rights Committee**

**Concluding observations on the fourth periodic report of  
Rwanda**

1. The Committee considered the fourth periodic report of Rwanda (CCPR/C/RWA/4) at its 3250th and 3251st meetings (CCPR/C/SR.3250 and 3251), held on 17 March 2016 and 18 March 2016. At its 3260th meeting, held on 24 March 2016, it adopted the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the fourth periodic report of Rwanda, albeit somewhat late, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken by the State party during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/RWA/Q/4/Add.1) to the list of issues (CCPR/C/RWA/Q/4), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

**B. Positive aspects**

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

(a) The adoption on 14 December 2011 of Law N°54/2011 relating to the rights and protection of the child;

(b) The adoption on 8 February 2013 of Law No. 4/2013 on access to information;

(c) The establishment since 2009 of Isange One Stop Centres for victims of gender-based violence, and the adoption on July 2011 of a National Policy to fight Gender-Based Violence;

(d) The adoption in October 2014 of a Legal Aid Policy and a Justice for Children Policy and the placement in 2014 of Access to Justice Officers in all the districts of the State party.

4. The Committee welcomes the accession of the State party to the Optional Protocol to the Convention against Torture, on 30 June 2015.

## **C. Principal matters of concern and recommendations**

### **Status and applicability of the Covenant**

5. The Committee notes with regret that the status of the Covenant in the domestic legal order has changed following the 2015 amendments to the State Party's Constitution, which establishes the supremacy of the Constitution and organic laws over international treaty law. It takes note, however, of the examples provided by the State party where the provisions of the Covenant have been invoked in national courts and that the State party is considering ratifying the First Optional Protocol to the Covenant (art. 2).

**6. Recalling its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the Committee reminds the State party of its obligation to ensure that domestic law, and in particular organic laws, are consistent with the provisions of the Covenant. The State party should also make vigorous efforts to raise awareness about the Covenant and its direct applicability in domestic law among judges, lawyers and prosecutors. The Committee also recommends the State party to ratify the First Optional Protocol to the Covenant, which establishes an individual complaint mechanism.**

### **Withdrawal of the Declaration accepting the competence of the African Court on Human and Peoples' Rights to receive cases**

7. The Committee takes note with concern of the State party's withdrawal, for review, of the Declaration accepting the competence of the African Court on Human and Peoples' Rights to receive cases from individuals and from non-governmental organizations (NGOs) with observer status.

**8. The Committee invites the State party to consider making the Declaration accepting the competence of the African Court on Human and Peoples' Rights to receive cases from individuals and NGOs once again, with a view to providing supplementary protection for the rights enshrined in the Covenant at the regional level.**

### **National human rights institution**

9. While noting that the new Law n° 19/2013 on the National Commission for Human Rights reaffirms the independence and financial autonomy of the Commission, the Committee remains concerned that members are selected by a committee appointed by the President, which could compromise their independence. The Committee is also concerned at information that the Commission is not perceived as an independent body (art. 2).

**10. The State party should ensure that the selection and appointment process of the members of the National Commission for Human Rights enjoys full transparency and independence, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Commission should also fully comply with its mandate and enhance its role in the protection of human rights.**

### **Non-discrimination and equality between men and women**

11. The Committee welcomes that a new Family Code, which will remove the remaining legal provisions that discriminate against women, will soon be transmitted by

Parliament for promulgation. It is concerned, however, by information that women's legal rights to land and inheritance are undermined by the continuation of traditional discriminatory practices in rural areas, and by reports on the large proportion of unregistered marriages (art. 3).

**12. The State party should:**

**(a) Expedite the review of its domestic legislation and repeal or amend provisions that are inconsistent with the Covenant;**

**(b) Step up its efforts to combat stereotypes on the role of women in the family and in society, including by increasing awareness raising measures in rural areas;**

**(c) Take appropriate measures to ensure that marriages are registered.**

13. While welcoming the high representation of women in decision-making positions in the public sector, the Committee is concerned at the lack of information on the representation of women in the private sector (art. 3).

**14. The State party should take the necessary measures to encourage the participation of women in decision-making positions in the private sector. It should also redouble its efforts to close the wage gap between men and women and combat vertical and horizontal segregation in employment.**

**Violence against women and children**

15. While welcoming the various efforts made to combat gender-based violence, the Committee notes with concern that Law No. 59/2008 on Prevention and Punishment of Gender-Based Violence criminalizes the victims' refusal to testify with regard to the violence they suffered and national legislation applies more lenient penalties to conjugal rape than to general rape. It is also concerned about the lack of statistical data provided that could be used to assess the prevalence of sexual and physical violence against women and children (arts. 3, 6 and 7).

**16. The State party should:**

**(a) Make the necessary legislative amendments in order to apply the same penalties to all types of rape and repeal the provision that criminalizes the victim's refusal to testify;**

**(b) Ensure that cases of domestic and sexual violence are thoroughly investigated, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately compensated;**

**(c) Guarantee the issuance of protection orders in order to ensure the safety of victims;**

**(d) Step up its efforts to guarantee the availability of a sufficient number of Isange one stop centres and support services in all parts of the country.**

**Termination of pregnancy**

17. The Committee notes that the 2012 amendment to the Penal Code expanded the exceptions for legal abortion. Nevertheless, the Committee remains concerned at the burdensome requirements for seeking permission to undergo abortion, namely, a court order recognising rape, forced marriage or incest and the permission of two doctors in the case of jeopardy to the health of the pregnant women or the foetus. The Committee is concerned that pregnant women are therefore led to seek clandestine abortion services that put their lives and health at risk. In this regard, the Committee regrets the lack of data

provided with regard to the number of legal abortions actually authorized. It also regrets the lack of information regarding the content of the draft Bill on reproductive health, which reportedly would further limit legal abortion only to cases where the pregnancy may seriously threaten the mother's life, as certified by three doctors (arts. 3, 6, 7 and 17).

**18. The State party should:**

**(a) Ensure that women are not denied medical services necessary to protect their lives and health;**

**(b) Review its legislation to ensure that women are not prompted by legal obstacles to resort to clandestine abortions that put their lives and health at risk and guarantee that the provisions on termination of pregnancy of the draft Bill on reproductive health are in full compliance with the Covenant;**

**(c) Ensure access for women and adolescent girls to reproductive health services throughout the country, particularly in the rural areas, and increase education and awareness-raising programmes on the importance of using contraceptives and on sexual and reproductive rights and choices.**

**Unlawful detention and allegations of torture and ill-treatment**

19. While noting the State party's denial of unlawful detention practices, the Committee remains concerned at information on several instances of individuals held unlawfully by military and police in unofficial detention centres, sometimes incommunicado and, in certain cases, before they were transferred to official places of detention. It is also concerned at allegations that torture and ill-treatment has been practised in these places as a means to elicit confessions. The Committee regrets the lack of information on measures taken to investigate these allegations and the absence of statistical data provided on investigations, prosecutions and convictions related to cases of torture and ill-treatment. It is further concerned at the maximum period of police custody before presenting the detainee to the judge, which may not be in compliance with the Covenant (arts. 7, 9 and 14).

**20. The State party should:**

**(a) Make the necessary legislative amendments to ensure that the normal maximum period of detention before a suspect is brought before a judge is 48 hours;**

**(b) Ensure that all persons deprived of their liberty are only detained in official places of detention and are provided in practice with all legal safeguards;**

**(c) Ensure that allegations of unlawful detention or torture and ill-treatment are promptly investigated and that the perpetrators are brought to justice;**

**(d) Guarantee that persons who have been victims of unlawful detention or torture and ill-treatment have an effective right to a remedy and redress.**

**Right to life**

21. While taking note of the State party's statement that all cases of alleged disappearances or killings reported to the police are duly investigated, the Committee remains concerned that the disappearances of political figures mentioned in the previous concluding observations (CCPR/C/RWA/CO/3, para. 12) are still unresolved and that other political dissidents have in the meantime disappeared or been killed in Rwanda and abroad (arts. 6 and 9).

**22. The State party should systematically undertake prompt, impartial and effective investigations of reported cases of extrajudicial executions, enforced disappearances and murders, including any possible complicity in these acts by members of the police and security forces, and identify the perpetrators with a view to bringing them to justice. The State party should also take all necessary measures to prevent cases of disappearances and executions, establish the truth of the circumstances and the fate of the victims and provide full reparation to victims and their families.**

#### **Past human rights violations**

23. Recalling its previous concluding observations (CCPR/C/RWA/CO/3, para. 13), the Committee regrets not having received information on accountability for past human rights violations reportedly committed by the Rwandan Patriotic Front in 1994. While noting that the State party opposes the findings of the 2010 United Nations Report of the Mapping Exercise in the Democratic Republic of Congo (DRC), which concluded that in 1996 the Rwandan army carried out systematic and widespread attacks against Hutus in DRC, the Committee is concerned at the lack of information on measures taken to investigate these allegations (arts. 2, 6 and 7).

**24. The State party should investigate all allegations of human rights violations reportedly committed within its territory or by its State officials abroad and ensure that no serious human rights violation perpetrated in the past goes unpunished and that all victims or members of their families receive full reparation.**

#### **Cooperation with armed groups**

25. The Committee takes note of the State party's position (Annex 109, S/2014/42) contesting the findings of the Group of Experts on the DRC, which established that the disbanded armed group "Mouvement du 23 mars (M23)", responsible for various human rights abuses in 2013 in the DRC, received support from soldiers of the Rwanda army and from individuals who recruited men and children in the State party for M23. The Committee is concerned, however, at the lack of information on measures taken to open an official investigation on the findings of the Group of Experts and on their supplementary responses to the State party's position (Annex 110, S/2014/42) (arts. 2, 6 and 7).

**26. The State party should undertake prompt, impartial and effective investigations into the reported cooperation with M23 of members of the Rwandan army and other persons within its jurisdiction with a view to bring those responsible to justice or extradite them to the DRC. It should also ensure that children who have been recruited in the State party to be used in hostilities for M23 receive adequate assistance and reintegration.**

#### **Criminalisation and detention of persons on the grounds of vagrancy**

27. Recalling its previous concluding observations (CCPR/C/RWA/CO/3, para. 16), the Committee remains concerned that the Penal Code still provides for the crimes of vagrancy and begging, even if they are not applied in practice. The Committee is also concerned that homeless people and beggars continue to be detained without charge and without judicial oversight in Gikondo Rehabilitation Transit Centre, allegedly in extremely harsh conditions, and children in street situation are transferred to other rehabilitation centres (arts. 2, 7, 9, 10, 14 and 24).

**28. The State party should take the necessary legislative and other measures to abolish the crimes of vagrancy and begging and to put an end to the involuntary detention of homeless people, beggars and other members of vulnerable groups in transit or rehabilitation centres. The State party should take the necessary measures**

**to provide alternatives to the institutionalization of children in street situation, including their placement in family-based settings.**

#### **Asylum seekers and immigration detention**

29. The Committee notes that the State party has granted *prima facie* refugee status to over 70,000 refugees from Burundi and that it is committed to uphold its international obligations on protection of refugees. The Committee is concerned, however, about the final status of these refugees. It also notes with concern that, under the new 2014 Refugee Law, the appeal against a rejected refugee claim is not brought before an independent authority and that asylum seekers are not granted free legal aid. The Committee is also concerned that foreigners awaiting deportation are detained in prisons (arts. 7, 9, 10 and 13).

**30. The State party should honour its commitment and respect the principle of non-refoulement by ensuring that refugees and asylum seekers, including from Burundi, are not deported to a country where there are substantial grounds for believing there is a real risk of irreparable harm, such as that set out in articles 6 and 7 of the Covenant. It should also consider amending the Refugee Law with a view to establishing an independent appeal mechanism and providing for free legal aid for asylum seekers where the interests of justice so require. The State party should ensure that detention pending deportation is only applied if reasonably necessary and proportionate, after due consideration of less invasive means, and for the shortest possible period of time, and that individuals detained for immigration-related reasons are held in facilities specifically designed for that purpose.**

#### **Prison conditions**

31. While noting the efforts made by the State party to reduce overcrowding, the Committee reiterates its concern regarding the persistence of poor conditions in detention facilities. It is also concerned at the excessive use of pre-trial detention for prolonged periods of time (art. 10).

**32. The State party should continue its efforts to address overcrowding in police and military detention facilities and prisons, including through increased resort to alternative forms of detention. It should also improve detention conditions in all premises and continue its efforts to guarantee the separation of pre-trial detainees and convicted prisoners.**

#### **Independence of the judiciary, fair trial and military courts**

33. The Committee is concerned at reports on the unlawful interference of government officials with the judiciary and notes that the appointment procedure of judges of the Supreme Court and the Presidents of the main courts could expose them to political pressure. While noting the closure of Gacaca courts in 2012, the Committee remains concerned at reports about inability to reopen cases decided by Gacaca courts which may involve miscarriage of justice. The Committee further notes with concern that military courts are competent to try civilians in certain circumstances (art.14).

**34. The State party should take the necessary legislative and other measures to ensure that:**

**(a) Judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration respects at all times the principles of presumption of innocence and equality of arms;**

**(b) Judicial appointments are made according to objective criteria of competence and independence and that the High Council of the Judiciary participates effectively in such decisions;**

**(c) Cases of miscarriages of justice in Gacaca courts can be challenged through a procedure meeting the requirements of article 14 of the Covenant;**

**(d) Military courts are prevented from exercising jurisdiction over civilians.**

#### **Interception of communications**

35. The Committee is concerned that Law No 60/2013 regulating the interception of communications permits the interception of communications without prior authorization of a judge (art. 17).

**36. The State party should take the necessary legislative and other measures to ensure that any interference with the right to privacy complies with the principles of legality, proportionality and necessity. It should also ensure that the interception of communications and use of data take place on the basis of specific and legitimate objectives and that the categories of circumstances in which such interference may be authorized and the categories of persons likely to be intercepted are set out in detail. It should also ensure the effectiveness and independence of a monitoring system for interception, in particular by making provision for the judiciary to take part in the authorization and monitoring of the interception.**

#### **Freedom of thought, conscience and religion**

37. The Committee is concerned about the restrictions placed on the enjoyment of freedom of conscience and religion of Jehovah's witnesses for refusing to sing the national anthem, attending religious ceremonies of another faith in schools, or taking an oath holding the national flag (arts. 2, 18, 23, 24, 26 and 27).

**38. The State party should guarantee in practice the freedom of thought, conscience and religion and refrain from actions that may restrict this right beyond the narrow restrictions permitted in article 18 of the Covenant.**

#### **Freedom of expression**

39. While noting that the 2013 amended version of the genocide ideology law introduced a more precise definition of the offence, the Committee remains concerned at the vague definition of other related crimes, such as the crimes of separatism, which are susceptible of abuse and the chilling effect they may have on freedom of expression. The Committee notes with concern that opposition politicians, journalists and human rights defenders have been prosecuted on these charges and have been subjected to other acts of intimidation. While noting the ongoing process to de-criminalize defamation, the Committee expresses concern at the crime of insult as well (arts. 9, 14 and 19).

**40. The State party should undertake the necessary legislative measures to ensure that any restrictions on the exercise of freedom of expression comply with the strict requirements set out in the Covenant. It should also refrain from prosecuting politicians, journalists and human rights defenders as a means of discouraging them from freely expressing their opinions and take immediate action to investigate attacks against them and to provide them with effective protection. The State party should also consider decriminalizing defamation and the crime of insult and ensure that hate crimes and crimes against State security are defined in a precise and narrow manner.**

### **Freedom of peaceful assembly and association**

41. The Committee notes with concern that assemblies in public places and demonstrations of political parties are subject to prior authorization in domestic law. It is further concerned by information that congress meetings of political parties and spontaneous peaceful demonstrations have not been authorized or allowed for reasons that appear to be unrelated with justifications listed in article 21 of the Covenant. The Committee is also concerned that Law No. 04/2012 and Law No. 05/2012 contain onerous obligations on the registration of national and international NGOs respectively, and international NGOs are requested to provide evidence of funding for the entire period for which they seek registration, leading many of them to seek registration for short periods. The Committee also notes with concern the invasive role the Rwanda Governance Board has exercised in the determination of the leadership of certain NGOs (arts. 19, 21 and 22).

**42. The State party should undertake the necessary legislative amendments and other measures to ensure that all individuals and political parties fully enjoy in practice their rights to freedom of expression, peaceful assembly and association, including by guaranteeing that any restrictions on the exercise of such rights comply with the strict requirements set out in the Covenant. The State party should also refrain from interfering with the internal functioning of NGOs and political parties.**

### **Child registration**

43. The Committee is concerned about the proportion of children that are not registered, particularly among immigrants, refugees and asylum seekers. It is also concerned at reports indicating that the penalties and fees for late registration could have a deterrent effect on registration (arts. 16 and 24).

**44. The State party should take the necessary measures to identify children lacking birth registration, particularly among immigrants, asylum seekers and in refugee camps, and ensure their retroactive birth registration and the waiver of court fees for late registration. It should continue to mount awareness-raising campaigns concerning birth registration.**

### **2015 referendum process**

45. The Committee is concerned at the procedural defects reported during the December 2015 referendum process, which led to the Constitutional amendment protecting the President from prosecution in relation to treason and serious and deliberate violations of the Constitution if legal proceedings were not initiated while he or she was in office (art. 2, 14 and 25).

**46. The State party should take the necessary legislative and other measures to ensure that referenda and elections be held as a result of a transparent, inclusive, informed, and accountable process, in line with article 25 of the Covenant. It should also guarantee that heads of State are fully accountable for crimes constituting violations of the Covenant. The Committee recalls its General Comment No. 31, in which it indicated that “the failure to bring to justice perpetrators of such violations could, in and of itself, give rise to a separate breach of the Covenant”.**

### **Rights of indigenous peoples**

47. While noting the State party’s policy to recognize some vulnerable populations, such as the Batwa, under the category of “historically marginalized groups”, the Committee is

concerned that this classification is insufficient to ensure that such groups are recognized as indigenous and benefit from the protection of their right to enjoy their culture in community. The Committee remains concerned (CCPR/C/RWA/CO/3, para. 22) at the continuing discrimination of Batwa in all areas and their limited participation in public affairs (arts. 26 and 27).

**48. The State party should take the necessary steps to guarantee the recognition of minorities and indigenous peoples and ensure the effective legal protection of indigenous peoples' rights to their ancestral lands and natural resources. It should also ensure access to effective remedies for members of indigenous groups for any violations of their rights. The State party should strengthen its programmes to promote equal opportunity and access to services for the Batwa community and increase their participation in decision-making processes and decisions that affect them.**

#### **D. Dissemination of information relating to the Covenant**

49. The State party should widely disseminate the Covenant, its fourth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the other official language of the State party.

50. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations made by the Committee in paragraphs 16 (violence against women and children), 20 (unlawful detention and allegations of torture and ill-treatment), 32 (prison conditions) and 40 (freedom of expression) above.

51. The Committee requests the State party to submit its next periodic report by 31 March 2019 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.