

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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Thirty-Sixth Ordinary Session

23 November – 7 December 2004, in Dakar, Senegal

Consideration of Reports submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights

Concluding Observations and Recommendations on the Second Periodic Report of the Republic of Rwanda

I- Introduction

1. The Republic of Rwanda (Rwanda) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified the same on 15 July 1983. Rwanda presented its initial Report in March 1991 in Banjul, The Gambia, at the 9th Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission) and in March 2000 presented its 1st Periodic Report during the 27th Ordinary Session, held in May 2000, in Algiers, Algeria.
2. The present Periodic Report was submitted to the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) in May 2004, in conformity with Article 62 of the African Charter.

3. The present Concluding Observations are drawn from the presentation of the 2nd Periodic Report of Rwanda, which was considered during the 36th Ordinary Session of the African Commission, held from the 23 November to 7 December 2004 in Dakar, Senegal.
4. The Report was presented by a Delegation led by Her Excellency Mrs. Edda Mukabagwuiza, Minister of Justice of Rwanda.
5. The present Concluding Observations give an account of the positive aspects identified in the Report as well as the factors restricting the enjoyment of the rights guaranteed by the African Charter.
6. These Concluding Observations also outline the concerns drawn from the contents of the Report, and the recommendations formulated in this context by the African Commission.
7. The African Commission notes with satisfaction the frank and constructive dialogue it had with the Delegation during the presentation of the Report. The African Commission accordingly expresses its gratitude to Madam the Minister of Justice and to her Delegation for having provided detailed responses and information on the questions posed and on the requests for clarification from its Members.

II- Positive Aspects

The African Commission :

8. Congratulates Rwanda for having presented its 2nd Periodic Report in conformity with Article 62 of the African Charter. This Report, which covers the period up to 2002, is upto date and contains annexure that

take into account the developments which took place from the date on which the Report was submitted.

9. Expresses its satisfaction to the Government of Rwanda for the efforts deployed to implement the rights and liberties enshrined in and guaranteed by the African Charter. In this context, the African Commission notes that Rwanda has:

- Adopted in June 2003, a democratic Constitution and organised electoral consultations and held general elections which put an end to the transition period;
- Ratified several regional and international human rights instruments and is striving to implement them;
- put in place legal and regulatory measures as well as judicial and institutional mechanisms for the promotion and protection of human rights, notably a Ministry responsible for the Promotion of Human Rights and a National Human Rights Commission;
- Adopted, in collaboration with neighbouring States, specialised United Nations Agencies and Non Governmental Organisations (NGOs), measures allowing the return of refugees or displaced persons to their original places of residence;
- Enacted legislations and put in place mechanisms for better representation/participation of women in national decision making positions;

- Deployed significant efforts for dealing with the problem of genocide and support for its victims;
- Deployed efforts for the eradication of poverty and for the general improvement of the situation of Rwandan populations, in particular that of women and children;
- Taken significant measures for the strengthening of and the independence of the judiciary; and
- Adopted concrete measures, in association with civil society actors, for the return of peace and the security of individuals and their property.

III- Factors Restricting the Enjoyment of the Rights Guaranteed in the African Charter

10. Despite the laudable efforts currently being deployed by the Government Authorities, the limited resources in Rwanda preclude the adequate implementation of the rights and liberties stipulated in and guaranteed by the African Charter.

11. The low level of education and the persistence of illiteracy in Rwanda, despite the efforts being made by the Government, constitute a major handicap in the knowledge and enjoyment of their rights and responsibilities by the populations, in accordance with the relevant instruments ratified by Rwanda, in particular the African Charter.

12. The African Commission notes that the consequences of the genocide that took place in Rwanda in 1994 are still felt and constitute a factor

that is likely to delay social healing and national reconciliation in Rwanda.

13. Furthermore, certain harmful traditional practices still persist, as well as social and sociological hang-ups contribute to the violation of human rights in Rwanda;

IV- Areas of Concern

While recognising the efforts of Rwanda to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned that:

14. The large number of persons accused of having participated in the genocide and awaiting judgement by the *gacaca* courts is a matter of concern in terms of the respect for the right to a fair trial. Furthermore, the Report does not sufficiently deal with the existing relations between the *gacaca* courts and the International Criminal Tribunal for Rwanda (ICTR) on the judicial treatment of the consequences of the 1994 genocide.
15. The existence of indigenous populations, notably the *batwa* populations and the eventual discrimination against these populations who are often marginalised and are victims of social exclusion is not adequately dealt with in the Report.
16. The rights of women and children are not adequately protected and legal and judicial assistance, notably for vulnerable groups and individuals, minorities or indigents, is not properly guaranteed.
17. Discrimination against women constitutes a major source of concern in the context of the Rwandan women's emancipation. Also, Rwandan

women still remain largely uneducated and most often are marginalised in terms of access to public services and to leadership roles in public affairs. The same is true in terms of access by women heads of household to land and to the exercise of independent income generating activities.

18. The persistence of harmful traditional practices against women in particular, remains a matter of concern in spite of significant efforts deployed in this regard by the Government Authorities in collaboration with Human Rights NGOs. Besides, the rate of school enrolment is still very low in Rwanda.
19. The existence of a large number of street children in Rwanda constitutes a factor of major concern, which has to be dealt with urgently, in accordance with the relevant provisions of the African Charter and the African Charter on the Rights and Welfare of the Child.
20. The Report does not give accurate information on the measures being taken by the Government Authorities to implement the anti-corruption policy in Rwanda;
21. The situation of prisons and places of detention are quite worrying in view of the large number of detainees, notably those accused of having participated in the genocide who have spent years behind bars and who the traditional courts known as the *gacaca* have not been able to sentence rapidly.
22. The Report does not adequately detail the efforts made by the Government Authorities to put an end to impunity, notably with

regard to activities contrary to human rights that implicate personalities who had held responsible positions during the transition period.

23. Individuals affected by HIV/AIDS do not receive adequate medical care.

24. The measures taken by the State to facilitate the return of refugees and displaced persons to their original places of residence appear to be insufficient, notably in view of the number of persons concerned in the re-insertion exercise.

V- Recommendations

The African Commission recommends that the Government of Rwanda should:

25. Pursue its efforts in the area of democratisation and the implementation of the rule of law, stability and peace in Rwanda and in the sub-region.

26. Pursue efforts to deal with the genocide hearings/trials in accordance with the standards which are compatible with the right to a fair trial.

27. Pursue efforts for the effective implementation of the African Charter by ensuring the integration of the gender perspective in all related programmes, structures and activities.

28. Set up and implement adequate measures to guarantee the specific protection of the rights of individuals infected by HIV/AIDS,

particularly women and children, and the access to adequate medical care.

29. Implement and ensure the follow-up of measures in the protection of the identity and cultural rights of Rwandan indigenous populations, notably their rights to freedom of association and expression, in conformity with national legislation.

30. Ensure greater involvement of NGOs and other stakeholders in the implementation process of regional and international instruments to which Rwanda is signatory, in particular the African Charter.

31. Ensure, without prejudice to the current policy which favours women, that the latter play a more significant part in the management of public affairs.

32. Take measures to guarantee the effective protection of returning refugees and displaced persons, by according them equal rights in all areas including economic and social rights, without discrimination, thereby allowing their social re-insertion/reintegration which should lead to genuine national reconciliation.

33. Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

Adopted at the 36th Ordinary Session of the African Commission on Human and Peoples' Rights held from 23 November to 7 December 2004, Dakar, Senegal