


AFRICAN UNION		UNION AFRICAINE
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Forty-Seventh Ordinary Session

12 - 26 May 2010, in Banjul, The Gambia

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 Ninth and Tenth Periodic Reports 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 latter on 17 May 1983.
2. Rwanda submitted its Initial Report to the African Commission on Human and Peoples' Rights (the African Commission) in August 1990 and was considered during the latter's 19th Ordinary Session. It submitted its combined First to Fifth Periodic Reports in March 2000, its combined Sixth and Seventh Periodic Reports in June 2004 and its Eighth Periodic Report in June 2007.
3. The present Report, which covers the period from 2005 to 2008, combines the Ninth and Tenth Periodic Reports of Rwanda. It was

examined by the African Commission during its 47th Ordinary Session held from 12 to 26 May 2010, in Banjul, The Gambia.

4. The Report was presented to the African Commission by Honourable Karugarama Tharcisse, the Minister of Justice and Attorney General of Rwanda. Other members of the delegation included Professor Joseph Nsengimana, Ambassador to the Embassy of the Republic of Rwanda in Ethiopia, Mr Rusanganwa Eugene, Principal State Attorney, and Mr Nkerabigwi Etienne, Treaty Reporting Project Coordinator at the Ministry of Foreign Affairs.
5. The Report highlights the developments that have taken place in the country in the area of human and peoples' rights and measures put in place to comply with the country's obligations under the African Charter.
6. During the presentation of the Report the delegation provided the African Commission with additional information, and further undertook to provide information which was not immediately available.
7. The African Commission had a constructive dialogue with the delegation, which allowed for a meaningful engagement of the State Party on their compliance with its obligations under the African Charter. In this regard, the African Commission welcomes the positive reaction of the delegation to the suggestions and recommendations made by the African Commission during the dialogue.
8. The present Concluding Observations are drawn from this constructive dialogue based on the content of the Report as well as the oral responses and information given by the delegation during the presentation of the Report.

9. The Concluding Observations highlight the positive aspects identified in the report, outline areas of concern and point out factors that are likely to restrict the enjoyment of the rights guaranteed by the African Charter in the country. They also provide recommendations, which if implemented, are likely to enhance the promotion and protection of human and peoples' rights in Rwanda.

II- Positive Aspects

The African Commission:

10. Commends the fact that both the format and presentation of the Report are in substantial conformity with the African Commission Guidelines for the Preparation of Periodic Reports.
11. Appreciates the fact that Rwanda is one of the States Parties to the African Charter to submit its Periodic Reports regularly in conformity with Article 62 of the African Charter.
12. Recognises the fact that the 2003 Constitution of Rwanda provides for a wide range of civil and political rights, as well as some economic, social and cultural rights, in particular, the right to form trade unions and the right to strike. The African Commission further notes with appreciation that Article 190 of the said Constitution provides for the immediate application at domestic level of international instruments ratified by Rwanda.

13. Appreciates the fact that the Constitution of Rwanda entrenches the policy and structure of power sharing at all levels of Government and different arms of the State.
14. Appreciates the reform of the judicial sector to bring justice closer to the people through the establishment of Mediation Committees; which mediate between parties to settle disputes before they reach the courts resulting in reducing the backlog of cases in the courts.
15. Further appreciates the community service program introduced by the Rwanda to enhance the rehabilitation of prisoners and ease congestion in prisons.
16. Welcomes the Government's plan to wind up the *gacaca* courts in June 2010 with a provision to provide remedies for any injustices that might have occurred during their operation.
17. Welcomes the abolition of capital punishment through law No. 31/2007 relating to the abolition of the death penalty and the injunction not to extradite any suspect to countries where the death penalty is applicable unless they make an undertaking not to apply the death penalty.
18. Welcomes further the abolition of solitary confinement in respect of prisoners serving life sentence and the criminalisation of torture.
19. Notes with appreciation the high number of women in decision making positions at all levels of state institutions.
20. Welcomes the undertaking made by the delegation to ensure that the Robben Island Guidelines on the Prohibition and Prevention of Torture

adopted by the African Commission in 2003 are disseminated and implemented by prison and police authorities.

21. Appreciates the measures and efforts taken by the Government to ensure education for all, including the introduction of free and compulsory basic education and free education up to tertiary level to children from disadvantaged groups such as genocide survivors, the Batwas as well as to children with special needs.
22. Further appreciates the measures taken to empower the youth and women through the establishment of the Internship Programme to help students gain experience in their field of study, and the establishment of the micro-credit scheme which has enabled many women, especially in the rural areas to access credit.
23. Commends the progress made by Rwanda towards reconciliation and peace building by using traditional institutions, like the *Itorero*, the traditional cultural education program designed to build national unity, and *Abunzi*, which mediate conflicts and advocate reconciliation.
24. Welcomes the various programmes, policies and strategies put in place to reduce poverty with particular emphasis on vulnerable groups, including:
 - Sustainable Growth for Jobs and Exports –which aims at the creation of jobs for young people;
 - Vision 2020 Umurenge - a decentralized integrated rural development program designed to reduce poverty;
 - The national policy for orphans and other vulnerable children and its strategic plan along with a National Program for children;
 - The national population policy for sustainable development; and

- The policy for the elderly and people with disabilities.

25. Notes with appreciation the attention the Government has given to the health sector by putting in place:

- A Community Based Health Insurance scheme (*mutuelles de santé*) which aims at providing health insurance to the whole population;
- A National Malaria Control Programme and the Prevention of Mother-to-Child Transmission programme;
- A provision of free ARV drugs to people living with HIV;
- Psychosocial Consultation Centres in primary and secondary health care; and
- Health schemes such as the Integrated Management of Childhood Illness (IMCI), the Reproductive Health and Family Planning, and the Expanded Program on Immunization;

26. Commends Rwanda for ratifying the various international human rights treaties mentioned in the Report.

27. Welcomes the steps taken by Rwanda to ensure a clean and healthy environment, in particular the establishment of the National Program for adaptation on climate change (NAPA) and the training of experts to assess climate change in the country.

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

28. The African Commission notes that in spite of the progress made in the promotion and protection of human rights in the country several challenges, including efforts to prevent a repeat of genocide, poverty, limited resources, ignorance, and illiteracy continue to mitigate against the effective enjoyment of human rights.

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:

29. The Government continues to deny the concept and very existence of indigenous populations in the country and continues to treat and term the indigenous Batwa community as ‘historically marginalised people’.

30. The continuous denial to recognise the Batwa as indigenous populations does not afford the Government the opportunity to develop appropriate strategies suitable to enhance the welfare of the indigenous community, and this may account for the continuous underdevelopment, marginalisation and discrimination of the Batwa.

31. The meaning given to the concept of divisionism and genocide ideology are too broad and imprecise and have the potential to be misinterpreted and abused if not properly defined. The broad definitions have the potential in particular to restrict freedom of expression and participation, and seem incompatible with an open and democratic society.

32. There is inadequate training of judges, lawyers and prosecutors on the use of human rights in the administration of justice.
33. The conditions of detention remain unsatisfactory.
34. The enactment of the Access to Information Bill into law has been unduly delayed.
35. Reports indicate that the Law Relating to the Punishment of the Crime of Genocide Ideology of 2008 is being used to victimise and intimidate perceived opponents of the regime in power.
36. More than 90% of the Rwandan working population is not protected by any labour laws as they are employed in the informal sector which remains unregulated.
37. There is no special support scheme to child headed households in spite of the large number of such children.
38. There is no specific legislation to regulate legal aid in Rwanda;
39. Rwanda has not ratified certain major African Union human rights instruments such as the African Charter on Democracy, Elections and Governance and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.
40. Rwanda has not made the declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol Establishing the African Court).

41. Rwanda has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
42. Civil society organisations, including Non-Governmental Organisations (NGOs) working in the field of human rights were not individually associated in the preparation of this Periodic Report.

V- Recommendations

The African Commission recommends that the Government of Rwanda should:

43. Recognise the Batwa as an indigenous community and take steps to protect their identity, culture and way of life.
44. Adopt policies and laws including affirmative action measures to extend special protection and ensure the continued participation of the indigenous population in all aspects of life in Rwanda;
45. Take measures to improve the conditions of prisons in the country and ensure visitation rights for detainees and prisoners.
46. Establish appropriate mechanisms to ensure that, the Law Relating to the Punishment of the Crime of Genocide Ideology of 2008, and the Law on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism are not used to restrict freedom of expression and other rights and freedoms.
47. Open up the political space for an increased and free participation of all opposition political parties.

48. Develop appropriate ways of registering, controlling and regulating the informal sector to prevent exploitation of workers.
49. Put in place a special program to assist child headed households.
50. Ensure the training of judges, prosecutors and lawyers on the application of human rights at domestic level, especially with regard to the African Charter.
51. Ratify the African Charter on Democracy, Elections and Governance as well as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.
52. Make the declaration under Article 34(6) of the Protocol Establishing the African Court to accept direct access for individuals and NGOs.
53. Ratify the OPCAT.
54. Promote civil societies and NGOs that provide free legal aid and enact appropriate laws that regulate legal aid.
55. Adopt the Access to Information Bill that has been pending for almost five years and ensure that it complies with international standards on access to information and freedom of expression, in particular the Declaration of Principles on Freedom of Expression in Africa adopted by the African Commission in 2002.
56. Ensure the teaching and dissemination of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman and Degrading Treatment or Punishment in Africa (The Robben Island Guidelines) to law enforcement agents, prosecutors, judges, prison administration and guards.

Concluding Observations and Recommendations on the 9th and 10th Periodic Report of the
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57. Ensure that it involves all relevant stakeholders, including all human rights NGOs in the preparation of its next Periodic Reports.

58. 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 47th Ordinary Session of the African Commission on Human and Peoples' Rights held from 12 to 26 May 2010, Banjul, The Gambia