



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
9 May 2016

Original: English

Committee on the Elimination of Racial Discrimination Eighty-ninth session

Summary record of the 2428th meeting

Held at the Palais Wilson, Geneva, on Thursday, 28 April 2016, at 3 p.m.

Chair: Ms. Crickley

Contents

Consideration of reports submitted by States parties under article 9 of the Convention
(*continued*)

Combined eighteenth to twentieth periodic reports of Rwanda

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-07070 (E) 090516 090516



* 1 6 0 7 0 7 0 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



The meeting was called to order at 3.05 p.m.

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

Combined eighteenth to twentieth periodic reports of Rwanda (CERD/C/RWA/18-20, CERD/C/RWA/Q/18-20)

1. *At the invitation of the Chair, the delegation of Rwanda took places at the Committee table.*
2. **Mr. Ngarambe** (Rwanda), introducing the combined eighteenth to twentieth periodic reports of Rwanda (CERD/C/RWA/18-20), said that modern Rwanda was a country with a political culture that valued diversity of views and consensus-building; that culture was underpinned by a system of laws and institutions that guaranteed justice for all. Rwandans were active participants in the implementation of programmes that impacted on their lives.
3. Institutionalized discrimination against the Tutsi people was part of the collective memory of all Rwandans. No one had ever been prosecuted for any of the offences committed against the Tutsi people in past decades, including the 1994 genocide; on the contrary, legal amnesty had been granted. There were some who might wish to return to that period, asserting claims of discrimination in the form of deprivation or denial of ancestral land rights, or lack of access to social services. They were promoting the very policy of racialization that had led to systematic marginalization and stigmatization and ultimately resulted in the genocide. The people of Rwanda had resolved to turn their backs on that legacy of discrimination and impunity and instead embrace a common Rwandan identity, “Ubunyarwanda”, with equality for all before the law and enjoyment of the same rights and with no single group’s interests prevailing over those of any other group.
4. Protection from discrimination and the principle of equality were enshrined in the Constitution. Under its article 16, discrimination of any kind, on such grounds as ethnic origin, skin colour, race or language, was punishable by law. Relevant provisions of international human rights treaties ratified by Rwanda were incorporated into domestic law. Positive discrimination, in the form of affirmative action measures, might be practiced to assist the most vulnerable members of society.
5. Law No. 18/2008 on the punishment of the crime of genocide ideology had been superseded by Law No. 84/2013. The 2008 law had been drafted as an urgent response to study findings revealing that genocide ideology and divisive ideas were still widespread. However, in practice, the law had proved to have significant loopholes, which the new law was designed to fill. It defined the crime of genocide ideology, the acts constituting that crime and the associated penalties. It also defined related offences separately and guaranteed the principle of presumption of innocence and other due process rights.
6. With regard to the situation of the Batwa people, a national policy on unity and reconciliation had been adopted in 2007 with the aim of bringing together citizens who shared the same nationality and culture and had equal rights and healing the wounds inflicted in the past. The attainment of that objective had required a radical shift on the part of Rwandan society and a willingness to transform Rwanda into a united nation. In Rwanda all people were treated equally in every aspect of life. The Government did not consider any group of Rwandans to be distinct from any others.
7. All persons obtaining the status of refugee were documented and enjoyed the rights and liberties provided for in law. They also had access to all social services, including health care and education.

8. **Ms. Hohoueto** (Country Rapporteur), welcoming the Government's dissemination of the Committee's previous concluding observations in all official languages, said that the State party was to be commended on the participatory process followed in preparing the latest report. Rwanda had made extraordinary progress towards social cohesion since 1994 and had introduced highly successful socioeconomic development policies and programmes. There nevertheless remained a number of obstacles that hindered the implementation of the policies and programmes relevant to the Convention.

9. The 2012 census had yielded socioeconomic data confirming the country's progress in terms of health, drinking water supply and sanitation, and other areas. However, it had taken no account of the ethnic make-up of the population, since the classification in three ethnic categories — Hutu, Tutsi and Twa — had been abolished in the interests of unity and reconciliation. The three groups had been subsumed into a single category of "Rwandans", speaking a single language, Kinyarwanda, reflecting the conviction that development depended on the preservation of the constructive values that formed the foundation of Rwandan culture and identity. Yet the refusal to recognize people's cultural identity could well rekindle ethnic division, since traditional ethnic groups were unable to exercise their cultural rights. The promotion of national unity was not incompatible with the right to freely claim membership of an ethnic group. Instead, the categories used in the census had been based on nationality: Rwandan, Rwandan with dual nationality and foreign nationals. She would like to know what purpose was served by distinguishing two categories of Rwandans, which could become a new basis for discrimination.

10. No recognition had been given in the census to indigenous populations such as the Batwa. Further categories had been created by the Government for the purposes of its development programmes. Vulnerable groups — for example genocide survivors or persons with disabilities — and historically marginalized groups were included in social protection programmes according to their level or degree of economic or social vulnerability. The Committee questioned the criterion of "level of vulnerability" and would appreciate an explanation of why such a distinction was considered necessary. Moreover, "historically marginalized groups", which included the Batwa, were indigenous forest- or lakeshore-dwelling minorities with particular ways of life, yet there was a reluctance to recognize them as such in order to avoid having to recognize their specificities and thus their associated rights.

11. The Committee required demographic and ethnic statistics in order to be able to evaluate the equitable implementation of human rights across all sectors of the population and the State party's progress in eliminating discrimination based on race, colour, descent or national or ethnic origin. What the Committee would like to see was that, in its efforts to forge national unity — and notably in the context of the Vision 2020 programme — the State party was taking due account of the characteristics of each of its population groups.

12. She noted that the right to housing was not a constitutional right in Rwanda. However, the State party was also a party to the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, both of which enshrined the right to housing. Since duly ratified international treaties prevailed over domestic organic and ordinary law in Rwanda, the right to housing could therefore be asserted in the State party's courts. The State party had implemented several housing programmes that had entailed moving families from one form of housing, for example grass thatched houses, to modern dwellings. She wondered whether the families concerned, particularly poorer people, had freely consented to resettlement and whether due consideration had been given to the historically marginalized groups.

13. Given the standardization of the national language, she would like to know whether Rwandans were permitted to speak their mother tongue with members of their own community at home, in the street, at school and in the workplace. With regard to Law No.

02/2013, which had introduced a mechanism for self-regulation of the media, she would like clarification of the notion of self-regulation. She would also like statistical data on the exercise of the freedom of thought and conscience; the report contained no such information, although there was a good deal of data on the freedom of religion and worship.

14. Turning to the definition of racial discrimination in the State party's legal order, she noted that discrimination on virtually any grounds was prohibited, but what was still lacking for full compliance with article 1 of the Convention was a reference to the purpose of discrimination, namely "any distinction, exclusion, restriction or preference". The Committee welcomed the current moves to amend Law No. 18/2008 to include intent as an element of the crime of genocide ideology. The law should also give an exhaustive list of all material acts constituting that crime, as the courts should not have discretion to interpret the law.

15. Not all provisions of article 4 of the Convention were covered by Rwandan law. The Committee again wished to recommend that the State party include the necessary provisions in its Penal Code so as to give full effect to that article. Similarly, Law No. 47/2001 on prevention, suppression and punishment of the crime of discrimination and sectarianism referred only to statements made by organizations. She invited the delegation to explain how the law dealt with views expressed by individuals or prominent persons or politicians.

16. According to the report, there had been no proven cases of racial discrimination in matters of security of person in Rwanda apart from the genocide against the Tutsi. However, the report provided no statistics on complaints, prosecutions, sanctions and reparations as requested by the Committee in its previous concluding observations; the Committee required such data in order to enable it to evaluate possible discrimination in judicial proceedings and the procedures of national human rights institutions. The Committee welcomed the administrative and financial independence of the judiciary; it would appreciate information on the percentage of the national budget allocated to the Ministry of Justice.

17. The Committee was concerned at the role of the mediation committees, which received cases before they went to court, a situation that appeared to hinder access to justice. It was also concerned at the fact that intermediate courts, which tried crimes of genocide and crimes against humanity, were single-judge courts, which meant that one person was responsible for prosecuting, investigating and rendering a verdict; fairness and impartiality could not be guaranteed under such circumstances. The report gave no indication of whether Rwanda had a constitutional court. She asked what body verified that laws were not unconstitutional. With regard to equal access to justice, she would like to know why foreign plaintiffs were required to put up a special surety in legal proceedings, in an amount set by the court.

18. Regarding the situation of the Batwa, the Committee was of the view that the values associated with a national identity, or Ubunyarwanda, were not incompatible with the embrace of a particular cultural identity. Although the State did not explicitly recognize the Batwa as an indigenous people, it did recognize them as a historically marginalized group, i.e., a group effectively excluded from decision-making processes and whose development needs were not taken into account. The Government recognized the particular situation of some vulnerable populations and was attempting to improve their living conditions and integrate them into mainstream Rwandan society so that they could fully enjoy their rights as Rwandan citizens.

19. The Committee was concerned at the limited impact of measures taken by the State party for the benefit of the Batwa people, who continued to suffer poverty and remained the object of negative stereotypes and discrimination in access to education, decent housing,

social services and employment. The approximately 36,000 Batwa, who were indigenous hunter-gatherers, had been expelled from their ancestral lands in the forests after the genocide in order to make way for the creation of national parks, and they now had no means of livelihood. She asked whether expropriation procedures had been followed when expelling them from their traditional lands and whether they had been compensated. Although, as a vulnerable group, the Batwa were in theory covered by existing programmes, she wondered whether there had been any evaluation of the support they actually received. She would also like to know how they could access the justice system to assert their rights. It was necessary to recognize the cultural specificity and indigenous status of the Batwa people and develop a specific reintegration programme for them.

20. Noting that the number of migrants arriving in Rwanda increased every year, she expressed concern that asylum seekers faced obstacles in formalizing their asylum applications; for example, they could not enter the premises of the Directorate General of Immigration and Emigration to obtain information, and the Directorate did not meet the deadlines established for forwarding their applications for review.

21. **Ms. McDougall** said that, as Special Rapporteur on minority issues, she had had the opportunity to visit Rwanda in 1995 and in 2011, and had thus witnessed first-hand the extraordinary progress made in the aftermath of the genocide. It was evident that further progress had been made since then, and she commended the Government's efforts made to foster healing and transformation and promote development and growth. However, she was disturbed by the issue of identity in Rwanda. While she fully understood the reasoning behind the Government's efforts to forge unity through the creation of a single national identity, she did not see that as incompatible with allowing different communities to continue to enjoy the positive aspects of their own cultures and identities.

22. She was also concerned about the situation of the Batwa people, who were living in extreme poverty on the edges of mainstream society. Whether they were recognized as an indigenous people, as the African Union had done, or as a unique cultural group within Rwandan society, the reality was that the Batwa were facing extinction and their culture and traditional practices were at risk of being lost to humanity. It was essential to preserve their culture and also to address their deplorable living conditions. The Batwa required special programmes, as they often did not qualify for or could not access general programmes for marginalized groups. She would be interested to know whether there had been any assessment of the impact of measures taken to benefit the Batwa people in the areas of poverty alleviation, health care and education.

23. While the introduction of a decentralization policy was generally a positive step, it was important to ensure the necessary oversight by the central Government so that local authorities did not discriminate against particular groups, such as the Batwa, when determining eligibility for assistance programmes. She wondered whether there was any monitoring of the distribution of government support by local authorities to guarantee that national standards were being upheld. She invited the delegation to provide clarification on the settlement policy for the Batwa people whereby they were advised and helped to stay in agglomerations.

24. **Mr. Avtonomov** said that the State party was to be commended on its regular reporting to the Committee, its excellent updated core document and the impressive progress made in many areas. While he understood the State party's reluctance to highlight differences among different population groups in the aftermath of the genocide, it was important that special measures should be taken to support the socioeconomic development and education of the Batwa people, who faced significant structural discrimination. It was possible to collect data on the situation of that and other historically marginalized groups on an anonymous basis without stigmatizing them. The Committee would be interested in

receiving further information in that regard. He wondered whether persons with albinism faced discrimination in Rwanda as they did in some other African countries.

25. **Mr. Bossuyt** said that it was impossible to consider the situation of racial discrimination in Rwanda without making reference to the 1994 genocide. Recalling the appalling atrocities committed and the failure of the international community to intervene, he said that the State party's economic and social progress and developments in the fields of health and education were remarkable, as was the discipline with which the Rwandan people were rebuilding their country. It was not surprising that the Government wished to do away with the ethnic divisions that had given rise to the genocide and to foster unity among all Rwandans, although that was not the only possible approach to the situation, as had been seen in neighbouring Burundi. As sovereign countries, each could choose the approach that it considered most appropriate, provided it did not give rise to human rights violations.

26. The international community was hardly in a position to criticize the policy choices made by the Rwandan Government, especially since it had done nothing to prevent or stop the genocide. However, it seemed that the marginalized and impoverished Batwa community was paying the price for those policies. Having been driven out of their forest homes without compensation, they were in real need of special measures as envisaged under the Convention. He believed that it would be possible to provide assistance to the Batwa community without jeopardizing the Government's anti-ethnicist policy simply by providing compensation to all those who had been expelled from the forests and to their descendants, without regard to ethnicity. The fact that the Batwa would make up the majority of those compensated would merely be a reflection of the reality of the situation and not a discriminatory policy. He urged the Government to consider such compensation.

27. **Mr. Amir** said that the State party report responded in a very satisfactory manner to all of the Committee's past recommendations. The inclusion of an abundance of statistical data was especially welcome. Rwanda was to be commended for welcoming a large number of refugees from Burundi warmly and in a spirit of solidarity, although the living space allotted to them was perhaps too small. Rwanda had ratified both the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto and applied the articles of those agreements.

28. On the subject of the Batwa people, it was important to understand that exclusion, injustice and a lack of understanding could create a breeding ground for hatred and undo all the progress the country had made in recent years. Rwanda could serve as an example to other countries in Africa of how to resolve inter-ethnic conflict, rebuild a society and promote a unified national identity. It deserved hearty congratulations for its success.

29. **Mr. Murillo**, agreeing that the State party's achievements to date were most commendable, said that he wished to encourage Rwanda to continue on the path to peace and reconciliation. The Batwa people were different from other vulnerable groups and required special attention. The Committee would be interested to know how the general public in Rwanda perceived the Batwa people in general.

30. **Ms. Dah** said that, while the report provided a wealth of interesting information, in future the State party should try to adhere to the Committee's guidelines regarding report length. Noting that Rwanda had pursued a vigorous policy of decentralization, she asked how it was ensured that all provinces, districts and villages had sufficient financial capacity to resolve problems. The actions taken by the State following the genocide had been courageous and generally successful in terms of managing ethnic diversity. Its approach was not without risk, however, since people were unlikely to forget that were members of a particular group and would undoubtedly remain attached to the culture of that group.

31. She was curious to know whether the Batwa people were regarded as a historically marginalized group. The measures mentioned in paragraph 40 of the report, which aimed to integrate marginalized groups into the mainstream of Rwandan society, were not in line with the concept of special measures as defined by the Committee. The purpose of special measures was to help a specific marginalized group to reach the same level in society as other groups. Once that objective had been achieved, the measures would then cease to be applied. However it did not appear that any such special measures had been applied to the Batwa. The Committee urged the State party to consult its general recommendation No. 32 (2009) on the subject of special measures and to adopt such measures for the Batwa, especially in the area of education. With regard to other special measures, the progress made by women in Rwanda was to be commended, especially in relation to the successful implementation of quotas for high-level government and legislative positions.

32. She would like to know what measures were in place to assist repatriated persons, who were playing an important role in rebuilding Rwanda. She also wondered whether the Government planned to strengthen cooperation with the Office of the United Nations High Commissioner for Refugees in order to better manage the flow of refugees arriving in Rwanda as a result of subregional conflict. It was important to ensure that certain fundamental rules and principles, such as non-refoulement and equal treatment, were applied consistently to all refugees, even in crisis situations.

33. The National Commission for Human Rights should have participated in the dialogue between the Committee and the State party in order to provide its perspective on the situation in Rwanda. It would have been useful to have heard the views of more NGOs as well.

34. **Mr. Kemal** said that it was clear that the State party had approached its reporting obligation with seriousness and dedication. Given the events of the past, the State party's policy of promoting national unity and cohesion was both understandable and recommendable. Its emphasis on economic development was also praiseworthy. The Government should be commended for the way it had managed the flow of refugees, although, as had been mentioned, the space allotted to them was limited. Regarding the Batwa, there had been a significant decline in the population in recent years and the community now only numbered around 35,000 people. It was therefore certainly feasible and appropriate to implement special measures. To enable the Batwa community to regenerate and grow again, it was essential to ensure that they had access to government programmes for historically marginalized groups. In light of the country's recent economic progress, the Government should be able to put in place such special measures even without foreign aid.

35. **Mr. Lindgren Alves** said that the progress made by the State party over the previous two decades was truly exceptional. The State party's reluctance to collect disaggregated data on the ethnic makeup of the population was indeed understandable, given its history. The Committee should perhaps not insist that States parties in a similar situation provide such data. While statistical data were important, there must not be too much emphasis on differences between groups, since obsession with differences and with identity could lead to conflict. Moreover, the Committee could often discern where inequality existed without disaggregated data. It could not help but notice, for example, the persistent difficulties faced by the Batwa. While they had not been recognized as an indigenous people, the Batwa were a historically marginalized group, which made them eligible to benefit from temporary special measures aimed at facilitating their integration into mainstream society, as provided under the Convention. The Batwa and other marginalized groups should be given the opportunity to contribute to the process of forging a new national identity and to do so on an equal footing with the rest of Rwandan society.

36. **Mr. Yeung Sik Yuen**, agreeing that the State party should take action to improve the situation of the Batwa people, said that the remarkable progress made in rebuilding the country after the genocide of 1994 was chiefly attributable to the State party's efforts to empower its people; the measures that it had adopted to meet their basic needs, such as cash transfer schemes and animal husbandry initiatives; and its willingness to seek out external expertise when needed.

37. **Mr. Calí Tzay**, noting that the State party's approach to achieving national reconciliation, cohesion and unity involved classifying people according to their level of vulnerability as opposed to their ethnicity, enquired which groups were not considered vulnerable. He was curious to know how the State party had gone about selecting the specific characteristics and values to be embraced in the effort to forge a new national culture and identity. It seemed to him that the values promoted through the "Ndi Umunyarwanda" (I am Rwandan) campaign would have had to have been drawn from some of the cultural values espoused by individual ethnic groups. The State party should not shy away from leveraging existing ethnic diversity to build a new national culture. Diversity was not necessarily synonymous with division and conflict.

38. The State party should also give serious consideration to amending the Code of Criminal Procedure so as to ensure that the Batwa and other marginalized or vulnerable groups had access to justice, as required by the Convention. It should be recalled that the absence of complaints of racial discrimination did not necessarily mean that it did not exist, but rather could point to a lack of knowledge and understanding of the procedure for reporting such acts, distrust of the State authorities or fear of reprisals. He encouraged the State party to step up its efforts to inform the population of the complaints procedures available to victims of discrimination and to restore confidence in the authorities.

39. **Mr. Khalaf** said that, while it was gratifying to learn that women held 30 per cent of the seats in the Chamber of Deputies, it was his understanding that female deputies could only be elected by women. If that was true, it would appear to be a situation of discrimination. He would appreciate clarification of the criteria used to determine the composition of the Chamber of Deputies and the Senate. The deplorable situation of the Batwa was largely attributable to the fact that they had not received compensation following their expulsion from their forest home, which had left them without the means to meet their basic needs in terms of food, housing, health care and education. The Batwa's lack of formal title to their lands could not be used as a justification for their expulsion and the failure to provide them with compensation, as their ancestors had occupied the land in question for centuries. The State party should take immediate action to protect the Batwa people and to prevent the further deterioration of their situation. It should also take steps to ensure that the surface area allocated to each person in refugee camps was in conformity with the applicable international standards. Lastly, he wished to know whether a refugee who was married to a Rwandan national acquired Rwandan nationality and, if so, whether there were any circumstances in which citizenship could be denied.

40. **Ms. Shepherd** asked what steps the State party planned to take to carry out the Programme of activities for the implementation of the International Decade for People of African Descent. She would also like to know whether secondary school dropout rates had declined and whether the rates tended to be higher among males than among females; if so, what were the reasons behind that trend and the strategies in place to reverse it? She would also like information on strategies for ensuring that women and other vulnerable groups had equitable access to higher education and well-paid jobs. She wished to know, as well, to what extent the education system was being used to eliminate stereotypes and encourage a wider acceptance of gender equality in Rwandan society, which could, in turn, enhance the impact of measures such as the gender quotas in place within the national parliament. Lastly, she urged the State party to take steps to protect the Batwa and to take account, in

its efforts to promote national unity and forge a common identity, of the specific characteristics and needs of the various groups that made up the Rwandan population.

41. **The Chair** noted that other human rights bodies had also expressed concern about the Batwa. The Committee on Economic, Social and Cultural Rights, for example, had recommended, in its concluding observations on the State party's most recent periodic report to that body (E/C.12/RWA/CO /2-4), that the State party should take steps to combat stereotypes, stigma and discrimination against and the marginalization of the Batwa, including by ensuring the effective application of its anti-discrimination legislation. The Committee would appreciate information on any groups of women who were vulnerable to racial discrimination in Rwanda and on how many Batwa women held seats in the national parliament and how many held senior decision-making positions.

The meeting rose at 5.45 p.m.