

## **Concluding observations on the second periodic report of Rwanda\***

1. The Committee against Torture considered the second periodic report of Rwanda (CAT/C/RWA/2) at its 1596th and 1599th meetings, held on 23 and 24 November 2017 (CAT/C/SR.1596 and 1599), and adopted the present concluding observations at its 1611th meeting, held on 4 December 2017 (CAT/C/SR.1611).

### **A. Introduction**

2. The Committee welcomes the submission of the second periodic report of Rwanda (CAT/C/RWA/2) and the written replies to the list of issues (CAT/C/RWA/Q/2.Add.1).

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the responses provided orally and in written form to the questions and concerns raised during the consideration of the report.

### **B. Positive aspects**

4. The Committee notes with satisfaction the fact that the State party ratified in 2015 the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

5. The Committee welcomes the following legislative measures taken by the State party in areas of relevance to the Convention:

(a) The adoption, in 2017, of the amendment to the Penal Code removing the requirement of requesting a court permission before carrying out an abortion when it is legally accepted in specific cases;

(b) The adoption, in 2014, of Law No. 13 ter/2014 relating to refugees;

(c) The adoption, in 2013, of the Law No. 69/2013 on extradition, which recognizes the principle of non-refoulement.

6. The Committee welcomes the State party's initiatives to amend its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular:

(a) The application, in 2017, of the Integrated Electronic Case Management System (IECMS) in all Rwandan courts;

(b) The adoption, in 2017, of the National Human Rights Action Plan of Rwanda (2017-2020);

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\* Adopted by the Committee at its sixty-second session (6 November-6 December 2017).

(c) The adoption, in 2015, of the Prime Minister's Order no. 112/03 determining the organization and functioning of the National Refugee Status Determination Committee (NRSDC);

(d) The establishment, in 2015, of the Gender Monitoring Office, providing legal and psychological counselling services to victims of gender-based violence;

(e) The adoption, in 2014, of the Ministerial Order No.01/Minister/14, determining the judicial police custody facilities and establishing that children should be separated from adults during police custody;

(f) The adoption, in 2014, of a Legal Aid Policy and a Justice for Children Policy;

(g) The adoption of the Anti-trafficking Action Plan (2014-2017);

(h) The adoption of the Strategic plan of the Rwandan Correctional Services (2013-2018), which envisaged the construction of new prisons.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

7. The Committee regrets the State party's lack of compliance with the follow-up procedure and the fact that the majority of the recommendations identified for follow-up in the previous concluding observations have not yet been implemented, namely accountability for allegations of torture in the Kami and Kinyinga camps (CAT/C/RWA/CO/1, para. 10), closure of any secret or unofficial detention facilities (para. 11), fundamental legal safeguards (para. 12) and accountability for enforced disappearances (para. 14).

### Definition and criminalization of torture

8. The Committee is concerned that the definition of torture in article 176 of the 2012 Penal Code is not fully harmonized with that contained in article 1 of the Convention, since it does not include the pain or suffering inflicted at the instigation of, or with the consent or acquiescence of, a public official or by another person acting in an official capacity. While noting the State party's position that officials who consent to the commission of torture would be considered as accomplices, the Committee remains concerned that the legal definition of complicity does not expressly include acts of consent or acquiescence. The Committee is also concerned about the lenient penalties for the crime of torture envisaged in article 177 of the Penal Code, which could range between six months and two years, although it appreciates the commitment made by the delegation to increase the penalties for the crime of torture, as part of the current legislative review (arts. 2 and 4).

9. **Taking into account the current legislative review, the Committee recommends the State party to define the crime of torture in full conformity with article 1 of the Convention, covering the pain or suffering inflicted by a person acting in an official capacity or inflicted at the instigation of or with the consent or acquiescence of a public official. The State party should also ensure that such crime is punishable by appropriate penalties that take into account its grave nature, in accordance with article 4 (2) of the Convention.**

### Status and applicability of the Convention

10. The Committee notes with regret that, following the 2015 amendments to the State party's Constitution, the Constitution and organic laws take precedence over international treaties. It also notes with concern that, despite the efforts to train on the provisions of the Convention, there have been no cases in which the Convention has been applied by or invoked before domestic courts (arts. 2, 10, 12 and 16).

11. **The Committee recommends the State party to revise the amended Constitutional provision to ensure that the Convention take precedence over domestic law. The State party should also encourage the direct application of the Convention by domestic courts.**

### **Non-derogability of the prohibition of torture**

12. The Committee notes with concern that the criminal legislation does not exclude the application of statute of limitations, amnesties, plea agreements and Presidential pardon to the crime of torture, and gives the prosecutor excessive discretion to pursue an amicable settlement or to accept a fine as an alternative to prosecuting alleged perpetrators of torture (arts. 2(2) and 12).

**13. The Committee urges the State party to undertake the necessary legislative amendments to exclude the application of statute of limitations, amnesties, Presidential pardon and plea agreements to the crime of torture, as well as of other similar provisions leading to impunity for acts of torture. The Committee draws attention to paragraph 5 of its general comment No. 2 (2008), in which it states that amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability.**

### **Fundamental legal safeguards**

14. While taking note of the procedural safeguards for detainees set out in the Code of Criminal Procedure, the Committee notes with concern that the right to have access to a medical examination is not yet enshrined in the legislation and is applied “whenever the prosecutor is convinced that this should be done”, according to the delegation’s response. The Committee is also concerned at the broad five-day period during which detainees can be held in police custody, and the additional five days before they are being brought before a judge. As regards children in conflict with the law, the Committee notes with concern that they could be legally held in police custody for as long as 72 hours. The Committee welcomes the adoption of a legal aid policy and the legislative process to establish a Legal Aid Act, but it expresses concern at the reported difficulties to access an *ex officio* lawyer during the investigation phase. It is also concerned over reports of harassment of lawyers working on politically-sensitive cases, although it notes the delegation’s categorical statement claiming that there are no such cases in Rwanda. Finally, and while appreciating the establishment of the Integrated Electronic Case Management System, the Committee expresses concern over consistent reports that the period of police custody is still not well recorded and does not take into account the detention period in military facilities (art. 2).

**15. Following the commitment made during the constructive dialogue with the Committee, the State party should make the necessary legislative and other amendments to guarantee, in the law and in practice, that all detained persons, including those held by intelligence services and the military, are afforded all the fundamental legal safeguards from the outset of their deprivation of liberty. The State party should monitor the provision of such safeguards to persons deprived of their liberty and should ensure that any official who fails to provide them in practice is subjected to disciplinary or other appropriate punishment. These safeguards should include, in particular, the right to:**

**(a) Request and receive a medical examination by a qualified and independent medical doctor. The State party should ensure that doctors report signs and allegations of torture or ill-treatment confidentially and without fear of reprisals to an independent investigating authority;**

**(b) Be brought before a judge within 48 hours of their apprehension, unless in exceptional circumstances duly supported with actual justifying elements, and within 24 hours in case of detained juveniles;**

**(c) Have prompt and confidential access to a qualified and independent lawyer, or to free legal aid when needed, particularly during investigation and questioning. The State party should accelerate the adoption of the Legal Aid Act and ensure that lawyers are not identified with their clients or their clients' causes as a result of discharging their functions, and are able to perform all of their professional functions without intimidation, in accordance to the Basic Principles on the Role of Lawyers (paras. 16-18);**

**(d) Have their detention recorded immediately after arrest in a register at the place of detention and in the Integrated Electronic Case Management System, including the detention by military personnel or in military facilities.**

#### **Alleged secret and incommunicado detention**

16. While acknowledging that the legislation prohibits detention in unofficial facilities, the Committee notes with concern that, for soldiers and their civilian accomplices, the place of detention could be located in an undetermined place “near the Military Prosecution”. The Committee further notes with concern that the 2008 counter-terrorism legislation allows security agents or any “authorized person” to keep suspects in an undetermined place of detention for up to 48 hours, before handing them over to the nearest police station. Bearing this legal framework, and notwithstanding the State party’s denial of the existence of secret detention facilities, the Committee remains seriously concerned at information from various authoritative sources about a continuing practice of illegal detention in military facilities and in unofficial locations, including at the premises of the Ministry of Defence, Kami and Mukamira military camps, the military base known as the “Gendarmerie” in Rubavu and at detention centres in Bigowe, Mudende and Tumba. According to the information received, almost all the persons detained were suspected of threatening State security and were kept incommunicado for prolonged periods, and some were subsequently transferred to official detention facilities. The Committee remains seriously concerned at the State party’s failure to clarify whether or not it opened an investigation into the allegations of unlawful and incommunicado detention in these places, despite the questions posed by the Committee during the dialogue (arts. 2, 11 and 12).

#### **17. The State party should:**

**(a) Repeal the provisions in its legislation that allow civilians to be detained by military personnel in military detention facilities or by other authorized persons in unofficial places of detention;**

**(b) Ensure that no one is detained incommunicado or in unofficial places and that prosecutors promptly review all the detentions by military personnel or under the 2008 counter-terrorism legislation, ensuring that civilian detainees who are designated for potential prosecution are charged and brought before a judge as soon as possible and those who are not to be charged are immediately released. If detention is justified, detainees should be formally accounted for, held in official places of detention and with access to their fundamental legal safeguards;**

**(c) Investigate the existence of secret non-official detention places, identify those exercising their effective control and bring them to account.**

#### **Allegations of ill-treatment and torture in military detention facilities**

18. Recalling its previous recommendation concerning the need to investigate the alleged cases of torture and ill-treatment in military camps by the Rwanda military intelligence (para. 10), the Committee is seriously concerned by the State party’s response that no investigations were conducted because the persons that alleged having been tortured were unknown, and so were the suspects. It is particularly concerned by the fact that allegations of torture and ill-treatment in military custody between 2010 and 2016 were raised by at least 29 presumed victims during their own public trials, and the names of the potential perpetrators were cited in different testimonies and communicated to the State party by non-governmental sources. In light of the above, the Committee regrets the State party’s failure to clarify the reasons why these allegations did not result in an investigation (arts. 2, 12, 13).

**19. The Committee draws the attention of the State party to its general comment No. 3 (2013) on the implementation of article 14 by States parties, in which it indicates that a State’s “failure to investigate, criminally prosecute, or to allow civil proceedings related to allegations of acts of torture in a prompt manner, may constitute a de facto denial of redress and thus constitute a violation of the State’s obligations under article 14”. The Committee urges the State party to:**

**(a) Ensure that all allegations of torture and other ill-treatment perpetrated by military personnel are effectively and impartially investigated by an independent authority, that perpetrators and the officials in the chain of command, whether by acts of instigation, consent or acquiescence, are prosecuted and, if found guilty, punished;**

**(b) Ensure that victims and their families obtain full reparation and are protected at all times against retaliation for vindicating their rights;**

**(c) Install video recording equipment for its use during all interrogations in military and other places of custody where detainees may be present, except in cases in which the rights of detainees to privacy or to confidential communication with their lawyer or doctor may be violated;**

**(d) Store recordings in secure facilities and make them available to investigators, detainees and their lawyers and national human rights monitoring mechanisms.**

### **Coerced confessions**

20. The Committee notes with concern that, although the Rwandan Law on Evidence prohibits the use of confessions or evidence obtained through torture, it requires proof that judicial admissions were the result of physical torture. Consequently, the burden of proof falls on the accused to prove that the confession was obtained through torture, as confirmed by the delegation of the State party. In view of the above, the Committee is seriously concerned over consistent reports indicating that judges often refuse to consider scars or medical documents as evidence of torture and do not order a forensic examination of the defendant or an investigation into the torture allegations. The Committee is, furthermore, concerned by the State party's response that there were no cases in which detainees alleged that their confessions were extracted through torture, particularly because several defendants alleged in their public trials that their earlier confessions or testimonies were reportedly extracted through torture and some of them were convicted on the basis of those confessions (art. 15).

#### **21. The State party should:**

**(a) Make the necessary legislative amendments to the Rwandan Law on Evidence to ensure that confessions or statements obtained by mental or physical torture are inadmissible, except in proceedings against a person accused of torture as evidence that the statement was made; and that the burden of proof does not lie with the victim, as the delegation has claimed, but with the State;**

**(b) Ensure that a forensic medical examination is immediately ordered and the necessary steps are taken to ensure that the allegations of torture are promptly and properly investigated;**

**(c) Ensure that law enforcement officials, judges and lawyers receive training on how to detect and investigate cases in which confessions are obtained under torture;**

**(d) Make sure that the competent authorities take action against judges who fail to respond appropriately to allegations of torture raised during judicial proceedings;**

**(e) Ensure that officials who extract confessions through torture are immediately brought to justice;**

**(f) Adopt the measures required to permit proceedings to be reopened on the ground that they were held on the basis of confessions extracted under torture.**

### **Impunity for acts of torture and ill-treatment**

22. Despite the numerous allegations of torture raised by detainees during their trials, the Committee expresses concern at the fact that, since 2012, only 11 cases of torture have been prosecuted and six persons have been convicted. While noting the information that victims of torture in military custody have rarely filed formal complaints about their treatment for fear of reprisals, the Committee is concerned by the delegation's position that the onus

regarding crimes of torture should be on the complainant, who should prove the allegation. It is also concerned at the State party's failure to clarify whether it has ever initiated an investigation *ex officio* on the basis of allegations of torture or as a result of information reported by doctors, despite the questions raised during the dialogue (arts. 2, 12-13 and 16).

**23. The Committee urges the State party to establish an independent oversight mechanism to facilitate the submission of complaints by victims of torture and ill-treatment and ensure prompt, impartial and effective investigation into all these allegations. The State party should also:**

**(a) Ensure that all allegations of torture and ill-treatment are promptly investigated in an impartial manner by the independent mechanism, that there is no institutional or hierarchical relationship between that body's investigators and suspected perpetrators of such acts, and that the suspected perpetrators are duly tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts;**

**(b) Ensure that the authorities launch investigations *ex officio* whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;**

**(c) Ensure that, in cases of alleged torture and ill-treatment, suspected perpetrators are suspended from duty immediately for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or obstruct the investigation;**

**(d) Ensure that complainants are protected against any reprisal as a consequence of their complaint or any evidence given;**

**(e) Compile disaggregated statistical information relevant to the monitoring of the Convention, including data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment.**

#### **Excessive pre-trial detention**

24. The Committee is concerned that, according to the Code of Criminal Procedure, persons suspected of offences punishable with at least two years imprisonment can be placed in provisional detention pending investigation without the need to specify any other ground. As regards offences punishable with lower penalties, the Committee notes with concern that provisional detention could be ordered if it is "in the interest of public safety" (art. 2).

**25. The Committee recommends that the State party:**

**(a) Amend its legislation with a view to reducing the use of pretrial detention, which should be applied only as an exceptional measure, on the basis of an individualized determination that it is reasonable and necessary taking into account all the circumstances, and not based on a particular penalty or vague standards such as "public security";**

**(b) Ensure increased use of alternatives to pretrial detention, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules);**

**(c) Ensure that the judiciary continues to monitor the need for and the length of pretrial detention and provide compensation to victims of unjustified pretrial detention.**

#### **Detention conditions**

26. While welcoming the general improvement of prison conditions, through the construction of new facilities and the renovation of the remaining ones, as well as through the establishment of the "prison watch system", the Committee notes with concern that the number of prison staff and medical professionals is still insufficient, and so is access to an adequate quantity and quality of food and water. It is also concerned over reports that children

in conflict with the law are not separated from adults in several police stations, pre-trial facilities and in prisons, although the separation is compulsory by law. The Committee regrets the State party's failure to provide disaggregated data on the capacity and occupancy rates of all places of detention (arts. 2, 11 and 16).

**27. The Committee recommends the State party to continue its efforts to bring the conditions of detention in police stations and prisons into conformity with the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). In particular, the State party should:**

**(a) Ensure that detainees are provided with a sufficient quantity and quality of food and water, adequate sanitation and hygienic conditions and that a sufficient number of prison staff and health professionals is deployed in the facilities;**

**(b) Ensure the strict separation of juveniles from adults and pretrial detainees from convicted detainees in all detention facilities;**

**(c) Avoid detaining minors in conflict with law and ensure that they are only deprived of their liberty as a last resort and for a short period of time as possible, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).**

#### **Disciplinary sanctions in places of detention**

28. The Committee takes note that the Instructions of the Commissioner General of Prisons of 2015 establish procedures for handling acts of serious misconduct inside prisons and limit the imposition of solitary confinement to a maximum period of 15 days. It is, however, concerned by reports indicating that prison staff often resorts to beatings as a form of punishment and that solitary confinement is frequently imposed for up to 30 days (arts. 11 and 16).

**29. The State party should monitor disciplinary practices inside prisons and ensure that they are in line with international standards, especially rules 36 to 46 of the Nelson Mandela Rules. In particular, it should ensure that:**

**(a) Corporal punishment is strictly prohibited;**

**(b) Solitary confinement is only used as a last resort, for as short a time as possible and never for periods in excess of 15 consecutive days, and subject to strict judicial oversight and control;**

**(c) Due process rights are always observed in disciplinary proceedings against detainees;**

**(d) Any official who fails to respect these rules is subjected to the appropriate criminal and/or disciplinary sanctions.**

#### **Detention and ill-treatment in “transit” and “rehabilitation” centres**

30. The Committee is concerned at the extended use of administrative detention in the so-called “transit” and “rehabilitation” centres, where persons suspected of prostitution, drug addiction, petty crime and homeless people are arbitrarily detained for prolonged periods of time and without judicial process. While noting the recent adoption of Law N° 17/2017, which defines these centres as premises to educate persons exhibiting “deviant behaviours”, the Committee notes with concern that the criteria for selection of these people and their period of stay in the centre are not defined in the law but referred to a Ministerial Order for further regulation. Although the Gikondo Transit Centre in Kigali is regulated by such an Order since 2015, the Committee is concerned that the overall length of the detention in this centre is not limited, its necessity is not reviewed by a court, and the detainees are not afforded due process rights and cannot challenge the legality of their detention. The Committee is also concerned by information that, despite marginal improvements, the conditions in all transit centres remain extremely harsh, and children are reportedly detained in the same building as adults. The Committee is particularly disturbed at reports that people detained, including children, are regularly beaten and, as a result of the beatings, lack of medical care and poor detention conditions, several persons have allegedly died during or just after their detention. While

noting the State party's affirmation that there have been no deaths in transit centres, the Committee regrets the State party's failure to clarify whether or not there have been investigations into allegations of violence or deaths inside the centres (arts. 2, 12, 11 and 13).

31. **The State party should:**

(a) **Abolish the current system of involuntary detention in "transit" and "rehabilitation" centres, which allows persons to be arbitrarily detained without due process safeguards, making them vulnerable to abuse;**

(b) **Release all persons detained in transit centres, unless there is a reasonable suspicion that they have committed a criminal offence, in which case they should be brought promptly before a judge;**

(c) **Prioritize the use of community-based or alternative social-care services for persons in street situations or drug dependants, including the placement of children in family-based settings;**

(d) **Promptly, impartially and effectively investigate all allegations of illegal detention, ill-treatment and deaths in transit or rehabilitation centres, duly prosecute perpetrators and officials who were complicit or allowed those acts to occur and make them accountable;**

(e) **Provide adequate redress to all persons who have been arbitrarily detained in transit and rehabilitation centres and their families.**

#### **National Human Rights Commission**

32. While noting that the National Human Rights Commission has the mandate to visit places of detention, the Committee is concerned that there is no mention of arbitrary detention in military facilities in the Commission's annual reports for the last ten years, in spite of allegations from former detainees in military custody that they had reported their cases to the Commission. In view of the above, the Committee regrets the State party's failure to clarify whether or not the Commission had visited places under military control and how many complaints of torture it had received from persons detained in these places (arts. 2, 11 and 13).

33. **The State party should take the necessary legislative and other measures to ensure, in the law and in practice, the independence of the National Commission for Human Rights, so that it investigates promptly and impartially all allegations of torture and ill-treatment that it receives and reports on illegal detention and on complaints of torture in its annual reports.**

#### **National Preventive Mechanism**

34. The Committee takes note of the current revision of the Law on the National Human Rights Commission to provide for the establishment and mandate of the National Preventive Mechanism (NPM), but regrets the lack of specific information on the resources that will be allocated, whether it would access military facilities and how its independence will be guaranteed (arts. 2, 11 and 13).

35. **The Committee urges the State party to make the necessary legislative amendments to ensure that the National Commission for Human Rights effectively fulfils its mandate as a NPM, with a dedicated structure and adequate resources for that purpose. It should also guarantee that the NPM is granted unrestricted access to all places of detention, including military facilities, and is able to carry out unannounced visits, in accordance with the provisions of the Optional Protocol to the Convention and the guidelines on NPMs issued by the Subcommittee on Prevention of Torture (CAT/OP/12/5).**

#### **Lack of cooperation with international mechanisms**

36. While taking note of the delegation's commitment towards dialogue and cooperation with international mechanisms, the Committee notes with concern that the Subcommittee on Prevention of Torture (SPT) has recently suspended a visit to the State party due to

obstructions to access some places of detention and fear of reprisals against people the SPT interviewed. It also notes with concern the State party's withdrawal of the declaration under article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights recognizing the competence of the African Court to receive cases from individuals and from non-governmental organizations (NGOs) because, according to the delegation, "genocide perpetrators who had escaped justice could file cases against Rwanda" (art. 2).

**37. The Committee calls on the State party to maintain the cooperation with international and regional mechanisms, with a view to providing supplementary protection for the victims of violations of the Convention. In particular, the Committee recommends the State party to:**

**(a) Provide the SPT with unrestricted access to all places of detention during its future visits, including to military facilities, in full respect of the principles of confidentiality and freedom from reprisals and, thereby, to assist and facilitate the resumption of the suspended visit;**

**(b) Consider making the declaration recognizing the competence of the African Court on Human and Peoples' Rights to receive cases from individuals and from NGOs once again, so that all individuals under its jurisdiction, without distinction, could benefit from effective remedies to vindicate their rights.**

#### **Alleged extrajudicial executions and enforced disappearances of petty offenders**

38. The Committee is alarmed by reports from reliable sources indicating that the Rwandan security forces and the police summarily executed at least 37 suspected petty offenders between July 2016 and March 2017 in north western Rwanda, and encouraged local residents to execute others, in at least two occasions. At least four enforced disappearances of petty offenders were also documented. While noting the "report on investigations carried out by the National Commission for Human Rights in Rustiro and Rubavu districts on the Human Rights Watch's report of July 2017", indicating that some of the deaths were due to accidents, natural causes and resistance to arrest, the Committee is seriously concerned at the State party's failure to respond whether investigations were conducted into these deaths (arts. 2, 12, 13, 16).

**39. The Committee urges the State party to:**

**(a) Ensure that all allegations of extrajudicial, arbitrary or summary executions and enforced disappearances are investigated with impartiality by an independent authority and that those responsible are punished if found guilty, including potential officers or civilian authorities who may bear command responsibility;**

**(b) Guarantee that any investigation into allegations of extrajudicial, arbitrary or summary executions entails an independent forensic examination, including, if necessary, an autopsy, in line with the Revised United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions (2016) (the Minnesota Protocol);**

**(c) Ensure that victims' families are protected from reprisals, are allowed to participate in the proceedings and receive adequate compensation;**

**(d) Exercise strict control over the law enforcement agents active in the north western region to prevent them or any other person from committing human rights violations against suspected criminals.**

#### **Deaths in custody**

40. While noting the information provided in the replies to the list of issues that only one case of violent death in police custody occurred since 2012, the Committee is concerned about various reports of deaths during arrests, on-site inspections and at police stations in suspicious circumstances, presumably when the victim was trying to escape, as in the cases of Alfred Nsengimana, Dr. Emmanuel Gasakure, Mahoro Jean Bosco and Eric Hashakimana. The Committee is also concerned about the alleged police killings of Muslim community members, who were reportedly suspected of collaboration with international terrorist groups,

such as the Imam Muhamad Mugemangango, Channy Mbonigaba and the killing in August 2016 of three Muslim community members in Bugarama. The Committee regrets not having received any information on the investigations conducted by the State party into these cases (arts. 2, 11, 12 and 16).

41. **The State party should take the necessary measures to ensure that:**

(a) **Impartial and effective investigations, including an independent forensic examination in line with the Minnesota Protocol, are conducted promptly into all instances of death in custody, and that those responsible are prosecuted and that victims receive adequate compensation;**

(b) **All members of the security forces receive appropriate training in the use of force, taking due account of the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), which prohibit the use of lethal force except when strictly unavoidable in order to protect life.**

#### **Enforced disappearances**

42. While welcoming the information provided in the State report with regard to the 21 cases of enforced disappearances referred to in the previous concluding observations (para. 14), the Committee remains concerned that almost all of these disappearances remain outstanding, including the cases of André Kagwa Rwiseraka and Augustin Cyiza. It is also disturbed at reports that enforced disappearances continue to occur, targeting, in particular, members of opposition political parties, such as Jean Damascène Munyeshyaka, mentioned in the list of issues, Illuminée Iragena, Jean Damascène Habarugira and Théophile Ntirutwa, members of the banned political party United Democratic Forces (FDU)-Inkingi. The Committee is concerned at the State party's failure to provide information on the investigations undertaken into these cases or the whereabouts of the victims (arts. 2, 12, 13 and 14).

43. **The State party should take all the necessary measures to combat impunity for the crime of enforced disappearance, in particular by:**

(a) **Ensuring that all cases of enforced disappearance, including the cases mentioned by the Committee, are investigated thoroughly and impartially, that those responsible are prosecuted and, if they are found guilty, that they receive punishment commensurate with the crime, even when the victim is not found;**

(b) **Taking all possible action to locate persons reported missing, and ensure that anyone who has suffered harm as a direct result of an enforced disappearance has access to all available information that could be useful in locating the missing person and has an enforceable right to fair and adequate compensation;**

(c) **Ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.**

#### **Redress, including reparation**

44. The Committee is concerned that, despite its previous recommendation (para. 22), the right of victims of torture to reparation is still conditional upon the recognition of the offence by the perpetrator or upon liability proven by a court. It also notes with concern that there have been only two cases in which compensation was ordered to victims of torture since 2012 (art.14).

45. **The State party should:**

(a) **Amend its legislation and remove the condition based on "recognition of offence by the perpetrator" so that the State party becomes legally responsible for the conduct of its agents and, therefore, liable to compensate victims of torture and ill-treatment, including in cases where the civil liability of the State is involved;**

**(b) Ensure that all victims of torture and ill-treatment obtain redress, including an enforceable right to fair and adequate compensation, and the means of achieving as full a rehabilitation as possible.**

#### **Non-refoulement and detention of asylum seekers**

46. While welcoming the new legal framework aimed at strengthening protection against refoulement, the Committee is concerned at the reported delays to register asylum seekers, placing them at risk of being deported. It also expresses concern at the difficulties to access the asylum procedure faced by Turkish residents as well as Eritreans and South Sudanese relocated from Israel, some of whom have reportedly been forcibly expelled to neighbouring countries. While acknowledging that the State party has granted *prima facie* refugee status to over 80,000 Burundians, and noting the delegation's denial of forced returns, the Committee takes note with concern of information reported in the media that more than 1,000 Burundians were forcibly expelled in May 2016. It is also concerned at information that in July 2017 several refugees were arrested at Mahama camp on the grounds of possession of drugs, reportedly in disregard of their due process rights. The Committee is concerned that the arrested refugees could be at risk deportation. In light of this information, the Committee regrets the State party's failure to provide information on the time-frames observed in the adjudication of asylum claims and on the use of the judicial remedy to challenge the deportations (art. 3).

47. **The State party should:**

**(a) Ensure that the asylum authorities are provided with sufficient personnel and resources to be able to register asylum seekers in a timely manner and adjudicate on the asylum claims within the legal time-frame;**

**(b) Ensure that all asylum seekers without restriction relating to nationality or profile of the claim are issued with temporary residence permits and their claims are processed within the legal time-frame;**

**(c) Screen all foreign nationals prior to their expulsion or relocation in order to guarantee at all times that no person in need of international protection will be expelled to a country where he or she is in danger of being subjected to acts of torture or to chain refoulement and that they are granted access to the refugee status determination procedure;**

**(d) Guarantee the procedural legal safeguards of refugees and asylum seekers in police custody as well as their right to be protected from refoulement.**

#### **Trafficking of human beings**

48. While noting the data provided by the State party regarding cases of trafficking, the Committee regrets the lack of information concerning the convictions and the sanctions imposed on the perpetrators. It also notes the State party's denial that Rwandan security forces facilitated or tolerated the recruitment of Burundian refugees into armed groups and the transport of Congolese refugees, including children, for sex trafficking, despite different reliable sources reporting about this ongoing practice (art. 2, 12 and 16).

49. **The State party should:**

**(a) Ensure that all cases of human trafficking are thoroughly investigated, including officials and individuals potentially involved in the recruitment and use of refugees into armed groups and sex trafficking, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated;**

**(b) Intensify its efforts to protect refugees against the risk of being trafficked by, *inter alia*, increasing the presence of law enforcement agents in the refugee camps;**

**(c) Provide training to immigration officers, camp management staff and military personnel deployed close to refugee camps on the identification of victims of trafficking, including victims of torture among the trafficked persons.**

## Training

50. While acknowledging the efforts made by the State party to implement training programmes that include the provisions of the Convention and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or punishment (the Istanbul Protocol), the Committee remains concerned that the State party has not yet developed any method to assess the effectiveness of these programmes for the prevention of torture. It is also concerned at the lack of information on the training provided to the armed forces (art.10).

**51. The State party should step up its efforts to provide periodic and compulsory training on the provisions of the Convention and on the Istanbul Protocol to all civil, military and medical personnel involved in the treatment and custody of persons deprived of their liberty. The State party should also develop training programmes on non-coercive investigatory techniques and apply a methodology for evaluating the effectiveness of educational and training programmes relating to the Convention, the Optional Protocol to the Convention and the Istanbul Protocol.**

## Reported crackdown on human rights defenders, journalists and political opponents

52. While noting the delegation's commitment towards an ongoing constructive dialogue with civil society, the Committee remains concerned at consistent reports that political opponents, human rights defenders and journalists have increasingly been harassed and charged with broadly defined offences for any action or position that would be judged in contradiction with the action of the Rwandan authorities. According to several reliable sources, some have been detained unlawfully and ill-treated during their detention, such as the presidential candidate Diane Rwigara and her family members, the members of FDU-Inkingi Léonille Gasengayire and Boniface Twagirimana, Bernard Imberakuri, or the journalist Cassien Ntamuhanga and Jean-Paul Dukuzumuremyi. The Committee further notes with concern that on 24 November 2017 the African Court on Human and Peoples' Rights has found in the case *Application 003/2014-Victoire Ingabire Umuhoza v Republic of Rwanda*, that the State party violated the right to freedom of opinion and expression of Victoire Ingabire Umuhoza, former president of the political party FDU-Inkingi, as well as her right to defend herself, due to the procedural irregularities identified in her trial. In view of this information, the Committee regrets the delegation's failure to comment on these reported violations (arts. 2 and 16).

**53. The Committee requests the State party to:**

**(a) Put an end to the practice of detaining or prosecuting political opponents, journalists and human rights defenders on the basis of broadly-defined offences as a means of intimidating them or discouraging them from freely reporting on human rights issues and ensure that their procedural safeguards and right to a fair trial are always respected;**

**(b) Promptly investigate the allegations of illegal detention, ill-treatment and harassment against political opponents, human rights defenders and journalists and ensure that suitable action is taken against those responsible and remedies granted to the victims.**

## Follow-up procedure

**54 The Committee requests the State party to provide, by 6 December 2018, information on follow-up to the Committee's recommendations on alleged secret and incommunicado detention (paragraph 17 (b) and (c)), on allegations of torture and ill-treatment in military detention facilities (paragraph 19), on impunity for acts of torture and ill-treatment (paragraph 23) and on the lack of cooperation with the SPT (paragraph 37(a)). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

**Other issues**

**55. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely:**

**(a) The Convention for the Protection of All Persons from Enforced Disappearance;**

**(b) The Optional Protocol to the International Covenant on Civil and Political Rights on a communications procedure;**

**(c) The Optional protocol to the International Covenant on Economic, Social and Cultural Rights on a communications procedure;**

**(d) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

**56. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in the official languages, through official websites, the media and non-governmental organizations.**

**57. The State party is invited to submit its next periodic report, which will be its third, by 6 December 2021. For that purpose, the Committee invites the State party to accept, by 6 December 2018, the simplified reporting procedure consisting in the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the report. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.**

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