

REFERENCE:GH/fup-124

8 November 2018

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 16, 20, 32 and 40 of the concluding observations on the report submitted by Rwanda ([CCPR/C/RWA/CO/4](#)), adopted by the Committee at its 116th session in March 2016.

On 8 May 2018, the Committee received the reply of the State party. At its 124th session (8 October-2 November 2018), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see [CCPR/C/124/2](#)). I hereby attach a copy of the relevant section of the said report (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee requests the State party to provide this information in the context of its next periodic report due on 31 March 2019.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.



Mauro Politi  
Special Rapporteur for Follow-up to Concluding Observations  
Human Rights Committee

His Excellency Mr. François Xavier Ngarambe  
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## Report on follow-up to concluding observations of the Human Rights Committee, [CCPR/C/124/2](#):

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### Assessment of replies<sup>1</sup>

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- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
- B Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
- C Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.
- D No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
- E Information or measures taken are contrary to or reflect rejection of the recommendation**

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### Rwanda

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Concluding observations:	<a href="#">CCPR/C/RWA/CO/4</a> , 24 March 2016
Follow-up paragraphs:	16, 20, 32 and 40
Follow-up reply:	<a href="#">CCPR/C/RWA/CO/4/Add.1</a> , 8 May 2018
Committee's evaluation:	Additional information required on paragraphs 16[B][C], 20[C], 32[B] and 40[B][C]

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### Paragraph 16: Violence against women and children

#### The State party should:

- (a) **Make the necessary legislative amendments in order to apply the same penalties to all types of rape and repeal the provision that criminalizes the victim's refusal to testify;**
- (b) **Ensure that cases of domestic and sexual violence are thoroughly investigated, that the perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated;**
- (c) **Guarantee the issuance of protection orders in order to ensure the safety of victims;**
- (d) **Step up its efforts to guarantee the availability of a sufficient number of *Isange* one-stop centres and support services in all parts of the country.**

#### Summary of State party's reply

- (a) The State party stresses that the Parliament has passed, but has yet to publish, the new Penal Code, which envisages the same penalties, without distinction, for all perpetrators of the crime of rape. Article 765 of the Penal Code of 2012, which repeals all provisions contrary to it, implicitly repealed article 36 of Law No. 59/2008 on the

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<sup>1</sup> The full assessment criteria are available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/INT\\_CCPR\\_FGD\\_8108\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf).

prevention and punishment of gender-based violence, which punished victims who refused to testify in cases against those who had committed violence against them.

(b) The State party ensures that cases of sexual violence are thoroughly investigated and prosecuted and those responsible are punished with appropriate sanctions if convicted. It reports that between 2016 and 2017, the National Public Prosecution Authority received a total of 3,130 cases of gender-based violence from the judicial police, of which 1,932 were passed to the courts, where 1,488 perpetrators were found guilty of child defilement, rape or spouse harassment. Victims are provided with free access to civil action to obtain compensation, as well as assistance with representation by legal counsel, which is assigned by the Bar Association in partnership with the Government.

(c) The State party reports that Law No. 59/2008 prevents and punishes gender-based violence, Order No. 001/03 of the Prime Minister of 11 January 2012 determines modalities in which government institutions prevent and respond to gender-based violence and Ministerial Order No. 002/08.11 of 11 February 2014 now regulates court fees in civil, commercial, social and administrative matters. The Government of Rwanda has adopted new policies to enhance the protection of victims of gender-based violence through the establishment of countrywide *Isange* one-stop centres, the Investigation Bureau, which ensures the security of victims and witnesses, and the Gender Monitoring Office, which monitors the effectiveness of the prevention of such violence and the quality of services and mechanisms offered to victims.

(d) The number of *Isange* one-stop centres was increased from 7 in 2013 to 44 in 2017 and are currently operational in all district hospitals. The centres offer safe shelter, medical and psychosocial counselling and medico-legal aid to victims and survivors of gender-based violence round the clock. Such services are offered under one roof to avoid revictimization and the risk of forging evidence.

### **Committee's evaluation**

[B] (a), (b) and (d): The Committee welcomes the enactment of the new Penal Code, which provides for penalties, without distinction, for all perpetrators of the crime of rape, and the implicit repeal of the provision punishing victims who refuse to testify in cases alleging violence against them. It requests, however, information on the progress made in the adoption of the new Penal Code, the content, definition and punishment for the crime of rape provided therein and an update on the efforts made to explicitly repeal article 36 of Law No. 59/2008 after its implicit repeal by article 765 of the Penal Code of 2012, which is due to be replaced by the new Penal Code.

The Committee notes the information provided on the assistance guaranteed to victims and the cases of gender-based violence filed and prosecuted. Nevertheless, it regrets the large discrepancy between the number of cases received by the National Public Prosecution Authority and those brought before the courts. It requests the State party to provide further information in this regard.

The Committee welcomes the significant increase in the number of *Isange* one-stop centres throughout the country, as well as the provision of services to victims round the clock, and advises the State party to continue its efforts in this regard.

[C] (c): The Committee notes the information provided by the State party, but regrets that the State party has not taken measures after the Committee's concluding observations to provide guarantees for the issuance of protection orders to ensure the safety of victims. The Committee reiterates its recommendation.



## **Paragraph 20: Unlawful detention and allegations of torture and ill-treatment**

### **The State party should:**

- (a) Make the legislative amendments necessary to ensure that the normal maximum period of detention before a suspect is brought before a judge is 48 hours;**
- (b) Ensure that all persons deprived of their liberty are only detained in official places of detention and are provided in practice with all legal safeguards;**
- (c) Ensure that allegations of unlawful detention, torture and ill-treatment are promptly investigated and that the perpetrators are brought to justice;**
- (d) Guarantee that persons who have been victims of unlawful detention, torture and ill-treatment have an effective right to remedy and redress.**

### **Summary of State party's reply**

- (a) The State party announces that the Law on Criminal Procedure is currently being reviewed by Parliament.
- (b) There are no unofficial places of detention on its territory and that detention centres and prisons are governed by United Nations standards, as well as relevant national laws. A judicial police officer is to inform suspects of the charges brought against them upon arrest.
- (c) The State party confirms that allegations of torture, unlawful detention and ill-treatment are promptly investigated and prosecuted. Between 2015 and 2017, 11 cases of torture were investigated and prosecuted, resulting in 6 convictions.
- (d) Victims of unlawful detention, torture and ill-treatment are compensated for the injuries suffered through civil action procedures.

### **Committee's evaluation**

[C] (a), (b), (c) and (d): The Committee regrets the lack of information on legislative amendments regarding the normal maximum period of detention of 48 hours before suspects are brought before a judge. It requests the State party to provide information on the progress made in the review of the Law on Criminal Procedure. The Committee reiterates its recommendation.

The Committee notes the information provided by the State party, but regrets the lack of information on the measures taken after the Committee's concluding observations. The Committee remains concerned about the continuation of the State party's denial of unlawful detention practices and the lack of a reply to reports of incommunicado detentions. The Committee reiterates its recommendation.

While noting the information provided on the cases of torture and ill-treatment that have been investigated and prosecuted, the Committee remains concerned about the low number of such cases. In this regard, the Committee requests information on (a) the number of complaints of unlawful detention, torture and ill-treatment registered after the Committee's concluding observations and the investigations and prosecutions conducted; and (b) the measures taken after the adoption of the Committee's concluding observations to ensure that all allegations of unlawful detention, torture and ill-treatment are promptly investigated and that the perpetrators are brought to justice.

The Committee notes the information provided by the State party, but requires information on the measures taken to ensure that victims of unlawful detention, torture and ill-treatment have an effective right to remedy and redress. In this regard, the State party should also provide information on the cases decided after the Committee's concluding observations in which victims were provided with adequate compensation and other guarantees.



### **Paragraph 32: Prison conditions**

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

#### **Summary of State party's reply**

Since the last reporting period, a new prison in Mageragere was constructed; the prisons of Rubavu, Huye and Rwamagana were renovated in order to meet international standards; and efforts were made to separate women and children from other inmates.

The State party confirms the continuation of its rehabilitation policy.

Significant efforts are being made to separate detainees in pretrial detention from those serving sentences. The Prosecution and the National Commission for Human Rights regularly visit detention facilities to monitor the treatment and respect of the detainees' human rights.

#### **Committee's evaluation**

[B]: The Committee appreciates the information provided on the construction and renovation of prisons to bring them into line with international standards, as well as the information provided on its continued efforts to separate both children and women from other inmates, as well as pretrial detainees from convicted individuals, and encourages the State party to continue its efforts. It requests further information about which specific renovations were made in order to meet international standards, as well as the capacity of the renovated and new prisons, the number of prison personnel and the services provided to prisoners.

### **Paragraph 40: Freedom of expression**

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

#### **Summary of State party's reply**

While the freedom of the press and freedom of expression are recognized and guaranteed by the State, article 38 of the Constitution, as revised in 2015, exceptionally limits these freedoms in the interest of public order, good morals, the protection of young persons and children, the right of every citizen to honour and dignity and the protection of personal and family privacy. The State party announces that the new Penal Code decriminalizes defamation and related offences.

#### **Committee's evaluation**

[B]: The Committee welcomes the information that defamation and related offences have been decriminalized in the new Penal Code, and requires clarification as to whether insult has also been decriminalized.

[C]: The Committee regrets that no information has been given in relation to the protection afforded to politicians, journalists and human rights defenders who are being prosecuted to deter them from exercising their freedom of expression. The Committee requires complete information on those matters, as well as specific information on: (a) the



definitions and content of crimes such as hate crimes and crimes against State security that are envisaged in the new Penal Code; and (b) how the new Penal Code is in compliance with the State party's international legal obligations, in particular the Covenant.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party's next periodic report.

**Next periodic report:** 31 March 2019.

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