

# National Commission for Human Rights / Rwanda



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## Report of the National Commission for Human Rights /Rwanda on the implementation of the Concluding Observations of the initial report of Rwanda on the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT)

### I. Introduction

Since 2015, the National Commission for Human Rights (NCHR) has begun the process of evaluating the level of implementation of the recommendations formulated to Rwanda on the occasion of submission of reports to the Universal Periodic Review or reports on various international human rights instruments.

Among the recommendations assessed, there are those that relate to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). It should be recalled that Rwanda is party to the said Convention, adopted by the UN GA Resolution 39/46 of 10 December 1984, which it has ratified in 2008 by Presidential Order n° 51/01 of 05/09/2008.

It should also be noted that Article 19 of the said Convention stipulates that the States parties undertake to submit to the Committee an initial report on the measures they have taken to give effect to the Convention within one year of its entry into force, and to submit supplementary reports every four years on any new measures taken and any other reports requested by the Committee.

In compliance with the above provision, Rwanda submitted for consideration its initial report and the Committee against Torture adopted 24 related concluding observations at its 1090<sup>th</sup> and 1091<sup>st</sup> meetings (CAT/C/SR.1090 and 1091), held on 31 May 2012.

This report shows that progress has been made in the implementation of the concluding observations to Rwanda's initial report. Much has been done in the context of setting policies and laws that promote and protect human rights in general and those that prevent and punish torture in particular.

### II. NCHR Legal framework

Article 42 of the Constitution of the Republic of Rwanda of 2003 revised in 2015 stipulates that the promotion of human rights is a responsibility of the State. The same article adds an important clarification which emphasizes that this responsibility is particularly exercised by the National Commission for Human rights. Moreover, article 139 of the above mentioned Constitution underlines that a specific law shall determine its mission, organization and functioning.



The NCHR has been legally established in 1999 but it is currently governed by the Law n° 19/2013 of 25/03/2013 determining its missions, organization and functioning.

The article 4 (3) of the Law enacting the Commission entrusts it with the mandate to monitor places of deprivation of liberty. Basing on UN principles and standards on the rights of detainees ( Règles minima), Luanda Guidelines and tools of monitoring developed by the Commission, the Commission visits prisons and police stations in the country twice per year to ensure the respect of the rights of detainees among them the rights to be from torture and other inhuman or degrading treatments. After the visit, the Commission releases its reports with recommendation to relevant institution and a proper redress.

Also individual cases are investigated and the Commission using the its power to lodge complaints before courts, lodged complaints related to torture (see on website the report of the Commission 2012-2013, 2014-2015, 2015-2016) English Version, part related to the monitoring of the respect of human rights) .

The article 4, 6° of this Law states that, the Commission has the special mission to urge relevant government institutions to submit on time the reports related to international treaties on Human Rights ratified by Rwanda. For this purpose, the Commission monitors the implementation of the content of international human rights instruments as well as the recommendations issued by the United Nations treaty bodies on different reports submitted by Rwanda.

Furthermore, the Commission fully assumes its responsibility to monitor compliance with the content of Article 14 of the Constitution which clearly provides the protection against torture by stating bluntly that no one shall be subjected to torture or physical abuse, or cruel, inhuman or degrading treatment.

Taking into account this legal framework, the NCHR carried out, before Rwanda submits its second report, an assessment on the implementation of the concluding observations adopted by Committee against Torture. The report was transmitted last year to the State bodies concerned with the implementation of the concluding observations.

The assessment aimed at helping the Government to know how far it is with the implementation of the concluding observations and accelerate the implementation of not yet implemented ones before the presentation of the second periodic report. It was also an incentive to concerned institutions that the NCHR has initiated for the success of the Rwanda second report.

The assessment concluded that most of the concluding observations were implemented but that a number of them required effort as noted.

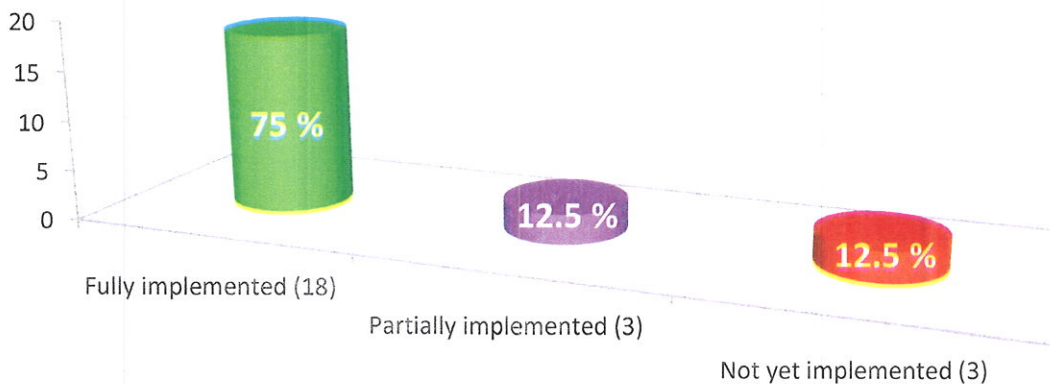
### III. NCHR findings

The implementation status of the concluding observations is presented in three (3) categories as follows: fully implemented concluding observations, partially implemented concluding observations and not yet implemented concluding observations.

The assessment findings revealed that out of the **24** concluding observations adopted by the Committee against Torture, **18 thus 75 %** were fully implemented, **3 thus 12.5 %** were partially implemented, whereas **3 thus 12.5 %** were not yet implemented.



## Implementation level of concluding observations on CAT



Eighteen (18) fully implemented concluding observations are those related with access to justice and living conditions in detention premises, three (3) partially implemented concluding observations are related to conducting investigations on CAT which findings are not disseminated and the sub-category on access to justice are fully implemented while specific request are not done. Finally, the three (3) remaining not yet implemented concluding observations are related to the lack of conclusion on investigation conducted on specific cases and the ratification of the Convention for the Protection of All Persons from Enforced Disappearance (CPED).

Concerning the eighteen fully implemented concluding observations, the assessing of implementation of concluding observations indicates globally that this was possible because of the establishment and implementation of new policies and strategies, and the adoption and promulgation of new laws.

Furthermore, it should be noted that most of the concluding observations that were found partially implemented are those related to detailed information on alleged cases of torture and ill-treatment, legally authorization of civil society organizations to visit places of detention without prior condition and training programs in which Istanbul Protocol should be included.

With regard to the concluding observations which have not yet been implemented, they refer to the Civil Code which has not yet been amended, the declarations envisaged in Articles 21 and 22 of the Convention and the dissemination of these concluding observations.

### IV. Recommendations and Conclusion

#### 4.1. Recommendations

After analyzing the data collected in the public institutions in charge of the implementation of the concluding observations issued after the presentation of the initial report on the Convention against Torture (CAT/C/RWA/1), the NCHR has found that some of them have been fully implemented, other have been partially implemented and other have not yet been implemented.

Hereinafter, the NCHR's recommendations with regard to the partially and not yet implemented concluding observations.

##### 4.1.1. Partially implemented concluding observations



- **Para 10.** Investigations should be continued on 18 alleged cases of torture and ill-treatment and produce a detailed report to avoid any misunderstanding.
- **Para 13.** In the context of protection, authorized public bodies should initiate the amendment of the Law n° 34/2010 of 12/11/2010 on the establishment, functioning and organization of Rwanda Correctional Services at its article 27 in order to explicitly allow civil society organizations the right to visit places of detention without prior condition.
- **Para 21.** Relevant public institutions should ensure that the content of the manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is included in the training program for all persons who may be involved in the custody, interrogation or treatment of individuals subjected to arrest, detention or imprisonment.

#### 4.1.2. Not implemented concluding observations

- **Para 22.** The authorized public institution should initiate the amendment of the Civil Code, Book III to allow victims of torture to seek and obtain prompt, fair and adequate compensation when civil liability of the State is raised.
- **Para 26.** The authorized public institution should initiate the process of making the declarations envisaged under articles 21 and 22 of the Convention in order to recognize the competence of the Committee to receive and consider communications.
- **Para 27.** Relevant public institutions should ensure that all the concluding observations were translate in appropriate languages and shared with the state actors responsible for implementing them.

Besides, with regard to the OPCAT, the National Prevention Mechanism (NPM) provided for by this instrument is currently being established. The NCHR has been designated as the institution that will oversee the NPM. Therefore, the Government and the Parliament should speed up the amendment of the Law n° 19/2013 of 25/03/2013 determining missions, organisation and functioning of the NCHR so that this Mechanism is in place as soon as possible.

#### 4.2. Conclusion

This report shows the progress made in the implementation of the concluding observations to Rwanda's initial report.

Considering the results of the assessment, the NCHR found that there was a significant progress in implementing the concluding observations adopted in 2012 on the Conventions against Torture because 75% had already been implemented.

Done at Kigali on 21 November 2017

