



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**REPLIES OF THE GOVERNMENT OF RWANDA TO THE LIST
OF ISSUES (CCPR/C/RWA/Q/3/REV.1) TO BE TAKEN UP IN
CONNECTION WITH THE CONSIDERATION OF THE THIRD
PERIODIC REPORT OF RWANDA (CCPR/C/RWA/3)***

[9 March 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

**Constitutional and legal framework within which
the Covenant is implemented, right to effective
remedy and efforts to combat impunity
(art. 2)**

Question No. 1

1. Under Rwanda's monist legal system, a convention or treaty enters into force as soon as it has been ratified. No further procedure is required to incorporate it into domestic law. The status of such an instrument relative to domestic legislation is specified in article 190 of the Constitution of the Republic of Rwanda, which states that: "Upon publication in the *Official Gazette*, international treaties and conventions which have been duly ratified or approved take precedence over organic laws and ordinary laws, subject, for each agreement or treaty, to implementation by the other party." According to the Constitution, therefore, international instruments are directly applicable in Rwanda, provided that they are duly ratified and applied by the other party. As these instruments have primacy over domestic laws, except for the Constitution and referendum laws, the right to invoke them before the domestic courts is guaranteed.

2. Statistics concerning cases in which ratified conventions have been invoked or applied by the courts are not available, however, as no study on this matter has yet been conducted. This is because the Government of Rwanda's first priority has been to proceed with the ratification of international and regional legal instruments and with their incorporation into domestic legislation. The next step will be to evaluate the application of these instruments by the bodies authorized to do so.

3. A number of cases may be cited, however:

(a) In the case of *Ms. X v. Mr. Y* (No. RS/Inconst/Penal.0001/08/CS), Ms. Y petitioned the Supreme Court to set aside article 354 of the Criminal Code (Decree-Law No. 21/77 of 18 August 1977), which imposes different punishments on men and women for adultery: equality between males and females (arts. 3 and 26 of the Covenant);

(b) In the case of *Mr. X v. the National Prosecution Service* (No. RS/Inconst/Penal.0002/08/CS), Mr. X petitioned the Supreme Court to declare article 4, which deals with the penalty of rigorous imprisonment for life, of Organization Act No. 31/2007 of 25 July 2007 on the abolition of the death penalty null and void on the grounds that it is unconstitutional: respect for the dignity of the human person when deprived of liberty (art. 10 of the Covenant);

(c) In the case of Mr. X, charged with genocide, versus the Judge Advocate's Department (No. RMP 1507/AM/KGL/NZF/97, RP CG-CS/98):¹ the right to life (art. 6 of the Covenant);

¹ *Recueil de Jurisprudence, Contentieux du génocide*, T5, March 2004.

(d) In the case of Mr. X, charged with genocide, versus the Judge Advocate's Department (No. RMP 2636/AM/KGL/KT/96, RP003/CG-CS/98):² the right to life (art. 6 of the Covenant).

4. It should also be noted that:

(a) The preambles of organization acts and other laws make reference to legal instruments ratified by Rwanda, including the International Covenant on Civil and Political Rights;

(b) Instruments ratified by Rwanda are taken into account by Parliament in its deliberations on proposed legislation and provisions of the Constitution.

Question No. 2

5. In the wake of repressive, discriminatory regimes, the Government of Rwanda is convinced that unity and national reconciliation are the only path towards lasting peace and security and an integral and durable form of development for Rwanda. The Government has taken a number of steps towards that objective, including the following:

(a) The incorporation of the principles of unity and reconciliation into the nation's Constitution (arts. 9 and 11);

(b) The elimination of any mention of ethnicity in administrative documents;

(c) The creation of the National Unity and Reconciliation Commission, whose chief objective is to develop and implement ways and means of restoring and strengthening unity and reconciliation. The *Ingando* solidarity camps, as one example, provide Rwandan citizens with an opportunity to discuss their nation's history, consider the factors that divide them and reach decisions regarding the way forward;

(d) The Commission's use of a participatory methodology, whereby citizens become involved in resolving their own problems, as a means of fostering a lasting reconciliation;

(e) The Commission's civic education programmes, which are designed to raise the Rwandan community's awareness of civic rights and duties, and its Civic Education Department's involvement in developing school programmes and workshops for specific groups, such as returning refugees, former combatants and persons involved in the diaspora;

(f) Establishment of specialized agencies to uphold human rights and to ensure transparency and good governance. These institutions include the Office of the Ombudsman, the National Human Rights Commission, the National Anti-Genocide Commission, the Civil Service Commission, the National Examinations Council and the National Refugee Council;

² *Recueil de Jurisprudence, Contentieux du Génocide*, T6, p. 390.

(g) The use of poverty-reduction mechanisms as a means of furthering unity and reconciliation (for example, Vision 2020 and its associated Economic Development Poverty Reduction Strategy (EDPRS));

(h) Implementation of a policy to promote the integration of orphans and other vulnerable children into host families;

(i) The return of illegally appropriated land and other goods to their owners;

(j) The establishment of Gacaca courts as a means of promoting unity and reconciliation;

(k) Repatriation of refugees and former combatants and the creation of a single army (conversion of the Rwandan Patriotic Army into the Rwanda Defence Force);

(l) Transparent elections;

(m) Introduction of a competitive recruitment system;

(n) Suppression of actions conducive to divisiveness and segregationism, of acts of genocide and of the ideology of genocide.

6. The Government believes that the principle of unity and reconciliation should be employed to overcome not only the after-effects of the 1994 genocide of the Tutsi, but also all the other historical and ideological factors that have troubled Rwanda. This is therefore a process involving the reconstruction of a national identity and Rwandans' reconciliation with themselves and with their nation.

7. The principle of equality is enshrined in article 11 of the Constitution, which states that all Rwandans are born and remain free and equal in respect of their rights and duties and that all forms of discrimination based on race, ethnic origin, membership in a clan or tribe, skin colour, sex, region, social origin, religion or faith, opinion, economic status, cultural difference, language, social status, physical or mental disability, or any other form of discrimination are prohibited and punishable by law. The principle of the equality of all Rwandans is reflected in the programmes of the National Unity and Reconciliation Commission.

8. Since all provisions of the Covenant are directly applicable to Rwanda and are in keeping with its Constitution, the Commission, as a national institution, cannot act in contravention of the latter. All rights set forth in the Covenant are upheld by the Commission.

Question No. 3

9. Rwanda cooperates with the International Criminal Tribunal for Rwanda in numerous ways:

(a) It cooperates in inquiries, investigations, and witness protection and support activities;

(b) It cooperates in the search for fugitives, particularly in cases falling outside national jurisdiction;

(c) Acting as *amicus curiae*, Rwanda may make its views known in cases that are before the Tribunal;

(d) It cooperates in needs identification efforts with respect to the transfer of records and prisoners, particularly upon the Tribunal's completion of its mandate;

(e) It cooperates in capacity-building activities for officials of the judiciary;

(f) It arranges internships for university students and civil servants.

10. Rwanda has a special representative to the Tribunal in order to facilitate such cooperation.

Right to life and prohibition against torture (arts. 6 and 7)

Question No. 4

11. Extrajudicial executions are prohibited by law. Police officers or other agents who carry out such executions are prosecuted and punished as prescribed by law.

12. With respect to the question of extrajudicial executions in Mulindi Prison in December 2005, it should be noted that a strike was being held by military prisoners during the period in question. The strike was called to protest steps taken by the new warden to combat drug trafficking among prisoners and their family members. When military police intervened, some of the prisoners attempted to seize the officers' weapons and to turn those arms against them. Members of the military police then fired upon those prisoners in legitimate defence, leaving some of them wounded. Three of the prisoners subsequently died.

13. Following these events, the Judge Advocate's Department launched an investigation on 30 October 2005. The resulting report has been forwarded to the Ministry of Defence.

14. After examining the results of the investigation, the Judge Advocate's Department decided to file the matter and take no further action. Nonetheless, disciplinary action was taken against the military police officers who fired their weapons, and the warden was dismissed.

15. This has not, however, dissuaded the victims and their family members from seeking civil reparations and damages through the courts.

Question No. 5

16. The penalty of rigorous imprisonment for life was instituted by Organization Act No. 31/2007 of 25 July 2007, which abolished the death penalty, and Gacaca Courts Organization Act No. 16/2004 of 19 June 2004, as amended.

17. This penalty is applicable to persons found guilty of inhuman crimes (sexual torture, murder involving physical mutilation, etc.) and to dangerous repeat offenders.
18. It provides for confinement in an individual cell in order to prevent the prisoner from having a detrimental influence on other inmates.
19. Article 7 of the Covenant is not incompatible with this penalty so long as all necessary measures are taken to uphold all the rights corresponding to persons deprived of their liberty as set out in the Constitution, National Prison Service Organization Act No. 38/2006 of 25 September 2006³ and other laws in force in Rwanda.
20. These measures are defined in the bill regarding implementation of the penalty of rigorous imprisonment for life. Article 5 of that bill provides that persons sentenced to rigorous imprisonment for life shall at all times be treated decently, that their human rights shall be respected and that they shall, in particular, be protected against any sort of cruel treatment, torture and any other sort of inhuman or degrading treatment. Articles 6, 7 and 12 of the bill specify the basic needs of a person sentenced to rigorous imprisonment for life, which include health-care facilities, water, proper ventilation, adequate light and sufficient room to ensure good health and personal hygiene, a balanced diet, a sufficient supply of drinking water, the right to receive visits from family members and from legal counsel, the right to reading material, access to media, the right to follow the news, and the time needed to engage in physical exercise.
21. Under the provisions of this bill, the only difference between a person receiving this sentence and other inmates is that the former is prevented from having regular contact with the rest of the prison population in order to prevent him or her from having a detrimental influence on other prisoners and to ensure security and orderly conduct within the country's prisons.

Question No. 6

22. Any member of the services responsible for maintaining public order, whether a police officer or a member of the Local Defence Forces (LDF), who is found guilty of using excessive and illegal force while making an arrest is subject to administrative, civil and criminal prosecution.
23. Members of these services may not resort to force except for a legitimate purpose (article 40 of National Police Force Organization and Jurisdiction Act No. 09/2000 of 16 June 2000 and article 16 of Local Defence Service Organization Act No. 25/2004).

³ Articles 23 through 35 of this law define the rights of an incarcerated person as including the right to be afforded decent treatment which ensures respect for his or her human rights, the right to a sufficient diet, the right to worship, the right to health care, and the right to receive training and to remain informed.

24. Article 42 of National Police Force Organization and Jurisdiction Act No. 09/2000 states that police officers shall strive to accomplish their mission without resorting to the use of firearms. The police force employs other types of equipment, such as water jets, batons, tear gas, rubber bullets and other anti-riot gear. Any police officer who violates these provisions is subject to prosecution as outlined above.

25. Article 27 of Local Defence Service Organization Act No. 25/2004 provides that if, in the course of their duties, members of the local defence service exceed their authority, they will be legally answerable for their actions. Any civil proceedings instituted in connection with actions taken by members of the service in the line of duty should take place in the district where they are stationed.

26. Article 79 of the statute governing the national police force (Decree No. 155/01 of 31 December 2002) states that a wrongful act committed by a police officer and any corresponding disciplinary action are independent of the infraction and the corresponding penalty provided for in the Criminal Code. Consequently, a given action may give rise both to criminal proceedings and to disciplinary action.

27. Although the number of such cases is not cited here, when law enforcement personnel have committed infractions, they have been prosecuted and punished by the appropriate authorities by means of criminal, civil and/or administrative proceedings.

**Security of person and protection against arbitrary arrest
(art. 9)**

Question No. 7

28. Liberty and security of person are safeguarded by the Constitution of the Republic of Rwanda, which holds these rights to be inviolable. The general principle of liberty is recognized in article 18, which states that liberty of person is guaranteed by the State and that no one may be prosecuted, arrested, detained or convicted except as prescribed by the laws in force at the time the act was committed.

29. Under Act No. 13/2004 of 17 May 2004, as amended and supplemented by Code of Criminal Procedure Act No. 20/2006, very stringent conditions for arrest and detention have been established. In particular, the amount of time during which a person may be held by the police or Prosecution Service for the purposes of an investigation has been reduced (arts. 37 and 96).

30. A person may be held in police custody pursuant to an arrest report written by a police officer for no more than 72 hours, with no possibility of extension, while an arrest warrant issued by the Prosecution Service is valid for only seven days.

31. In addition to legal measures, administrative actions have also been taken to prevent arbitrary and illegal arrests. One such step has been the elimination of the unofficial detention centres commonly known as *cachots*.

32. Police commanders are required to visit the police stations each morning, and an officer of the National Prosecution Service must do so at least once per week.

33. In point of fact, as noted in the report of the National Human Rights Commission, Parliament instructed the Minister of Justice to investigate these cases, which proved to be justified arrests in connection with ongoing inquiries. In most of these instances, the normal procedures prescribed by law had been followed. The few cases in which there had been a misunderstanding were resolved either by their dismissal or by their rectification.

34. In short, the National Human Rights Commission based its report on the complaints it had received but failed to mention the outcome.

35. In every case, errors made by law enforcement officers in following proper arrest procedures are dealt with, whether by means of training, warnings or penalties.

36. The people of Rwanda are aware of their right to have recourse to the judicial system in the event of arbitrary arrest or slander.

Question No. 8

37. Vagrancy and begging constitute offences under articles 284, 285 and 286 of Rwanda's Criminal Code.⁴

⁴ Article 284: Vagrants are defined as people who have no established residence or means of support and who do not practice any trade or profession on a regular basis. Beggars are defined as people who customarily engage in begging.

Article: 285: Begging on a customary basis by any able-bodied person is punishable by a term of imprisonment of from 8 days to 3 months.

The following persons are subject to a term of imprisonment of from 15 days to 6 months:

1. Any beggar, even if he or she is disabled, who makes use of threats;
2. Any beggar, even if he or she is disabled, who enters a residence or an enclosure attached to such a residence without the permission of its inhabitants;
3. Any beggar who feigns injury or infirmity;
4. Any people, even if disabled, who beg as a group, unless the group is composed of a husband and wife, father or mother and their young children, or a blind person and his or her guide.

Article: 286: Any beggar or vagrant found to be bearing a weapon or instruments of a type used to commit theft or other offences or to commit breaking and entering, or who has

38. In order to maintain public order, the City of Kigali works with the national police force to arrest vagrants and beggars. Before these people are charged, however, they are sent to transit centres for screening. Those found to be criminally liable are prosecuted in accordance with established legal procedures. The rest, particularly children, are escorted to their families or taken to rehabilitation centres. Once these people are back home, community authorities are contacted to assist them in the process of rejoining their families.

39. A national policy for the assistance of orphans and other vulnerable children has been in place since 2003. In line with that policy, the Government has adopted a strategic plan to assist street children (2006) which makes use of a variety of social integration mechanisms.

40. In view of the fact that begging and vagrancy are often the result of poverty, the Government has launched a number of anti-poverty strategies, especially in rural areas. These initiatives include the *Ubudehe* (collective communal work) programme⁵ and a number of highly labour-intensive projects.

Question No. 9

41. Please comment, in the light of article 9 of the Covenant, on reports that a large number of prisoners have been detained for long periods without trial after having been charged in connection with acts of genocide.

42. In the aftermath of the genocide of the Tutsi, in which more than a million lives were lost, over 120,000 people were apprehended, arrested and imprisoned in various detention facilities in the country. The introduction of the Gacaca courts as part of Rwanda's judicial system in 2001 has made it possible to speed up genocide trials and thereby mitigate, to some extent, the slowness of the traditional justice system, which can be attributed to the limited number of courts and the difficulties involved in gathering evidence.

43. In order to avoid a situation whereby people would be held in detention for longer than any custodial sentence that might be imposed upon conviction, on 1 January 2003 the Office of the President of the Republic issued a communiqué asking for the provisional release, subject to the laws in force, of detainees who had confessed to participating in the genocide and risked finding themselves in such a situation. This appeal to the justice system has been made every year since 2003. As a result, a total of 59,919 detainees have been released: 24,903 of them in 2003, 4,500 in 2004, 20,859 in 2005 and 9,276 in 2006.

committed violence against other persons will be subject to a term of imprisonment of from two to five years, without prejudice to longer sentences in cases where they are warranted by the nature of the violence or the circumstances under which it was committed.

⁵ Community programmes that enable local groups to identify the poorest households in their area and to provide them with financing from a revolving fund for income-generating projects.

44. The third amendment of 19 May 2008 of Gacaca Courts Organization Act No. 16/2004 has made it possible to increase the number of Gacaca court sessions and to issue rulings regarding infractions falling into the first category of offences. This has also helped to speed up the issuance of judgements, since it provides a way of avoiding the long, time-consuming procedures followed by the traditional courts.

45. The possibility of sentencing people to perform community service, pursuant to Executive Order No. 17 of March 2003, is also helping to ease overcrowding in the country's prisons and to promote reconciliation.

State of emergency (art. 4)

Question No. 10

46. With the exception of the rights stipulated in article 137, paragraph 7, of the Constitution (i.e., the right to life and physical integrity, the rights accruing to people in relation to their status and capacity, the right to nationality, the principle of the non-retroactivity of criminal law, the right to a defence, and freedom of conscience and religion), the rights set forth in the Covenant may be limited during a state of emergency or state of siege. Such limitations are restricted and defined by law, however.

47. During a state of emergency, individuals may not have access to effective remedies, but when a state of emergency or siege is declared, the rights and liberties which are to be suspended must be specified, as must the geographical area covered by these provisions. All rights not restricted by the state of siege or emergency may be exercised without any limitation whatsoever.

48. A state of emergency is to remain in force only as long as is absolutely necessary in order to permit the speedy reestablishment of democratic conditions.

Equality between men and women (arts. 3 and 26)

Question No. 11

49. The Government of Rwanda is aware that any and all exclusions and forms of discrimination based on ethnic origin, regional origin, gender or religion must be repudiated in the interests of national unity. By the same token, all citizens must have equal access to political, economic and any other benefits bestowed by the State. The Constitution of the Republic of Rwanda consequently sets forth principles that call for the elimination of all forms of discrimination. Rwanda has also adopted other legislative, administrative and financial measures, as mentioned in the report (paras. 137-147), to ensure equality of opportunity for all Rwandans in general and between men and women in particular.

50. The legislative review process now under way is directed towards doing away with any remaining legal provisions that discriminate against women.
51. The proposed revision of the Civil Code (Family Code) is being considered for adoption by the Council of Ministers, while the new Criminal Code and Labour Code are currently before Parliament. All the discriminatory articles in these codes have been eliminated in the revised versions.
52. A list of other discriminatory provisions and laws has been drawn up with a view to their amendment. This list includes the decree of 2 August 1913 regarding merchants and evidence of commercial undertakings, the decree of 27 July 1934 on bankruptcy and on the bankruptcy prevention agreement, the decree of 1958 regarding mutual associations and others.
53. Apart from these legislative reform efforts, however, the fact that discriminatory provisions run counter to the Constitution renders them null and void, and the courts, the Administration and the private sector no longer take them into account. As part of its efforts to ensure the constitutionality of the laws in force in Rwanda, the Supreme Court is working to amend all discriminatory laws that contravene the Constitution. For example, on 26 August 2008, the Court issued a ruling which reformulates paragraph 1 of article 354 in order to make the same penalties applicable to men and women in cases of adultery.⁶

Question No. 12

54. Annual budgets are established for the Ministry of Gender and Family Promotion and the National Women's Council to permit them to carry out their missions. The means placed at the disposal of these public institutions are adequate, but more funding is needed, and they are therefore allowed to receive extrabudgetary funds in the form of grants and donations. Organizations providing such grants include members of the United Nations system, such as the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA) and the United Nations Development Fund for Women (UNIFEM), as well as national and international civil society organizations working in the field of gender and family promotion.
55. The National Women's Council develops action plans for each administrative level, starting with the sector concerned and continuing on up to the national level. These plans are formulated by its members at the corresponding level and are implemented locally.
56. The Council's eligibility requirements are set out in articles 7 and 8 of Ministerial Order No. 01/200 of 23 March 2004 (*Official Gazette* No. 7 of 1 April 2004) concerning the organization of elections to select the members of the executive committees of Council bodies.
57. In order to be eligible, a person must:
- (a) Be at least 21 years of age;
 - (b) Know how to read, write and count;

⁶ Case No. RC/Incinst/Pen.001/08/CS (*Mr. X v. Y*).

- (c) Be of proven integrity;
- (d) Be domiciled within the zone in which she is standing for election;
- (e) Not have been declared to be lacking in legal capacity or deprived of the right to vote by a court of law and not have had such a declaration reversed or have been pardoned;
- (f) Not have been declared mentally incompetent by a State-accredited physician;
- (g) Not be wanted for, have been arrested for or convicted of murder or the crime of genocide or have confessed or pleaded guilty to the crime of genocide.

58. The names of persons wishing to stand for election at other levels should figure on the electoral rolls of their constituency.

Question No. 13

59. Rape is punishable regardless of the circumstances under which it is committed. Legal and administrative penalties apply to this crime.

60. *Legal penalties:* In addition to the fact that Rwanda's Criminal Code (Decree-Law No. 21/77 of 18 August 1977) provides penalties for rape, Act No. 27/2001 on the rights and protection of children against any form of abuse was promulgated in order to ensure that a specific punishment for rape is applicable even in cases in which the victim does not make an accusation. In addition, a law penalizing gender-based violence has been passed. Special provisions pertaining to the offences of rape and domestic violence have been incorporated into the draft revised Criminal Code. A law penalizing trafficking in persons, particularly children, is in the process of being passed by Parliament.

61. The severity of the penalties provided for by these laws varies depending on the circumstances under which the offence was committed and the age of the victim.

62. Under Decree-Law No. 21/77 of 18 August 1977, which sets forth Rwanda's Criminal Code as of that date, the rape of an adult is punishable by a prison term of from 5 to 10 years. That term may be doubled under certain circumstances, such as when the rapist is an adult relative of the victim or the rapist is in a position of authority over the victim. If the rape results in the victim's death, the punishment for murder applies. The punishment for the rape of a minor ranges, depending on the circumstances, from 20 years of imprisonment to the death penalty. (Note: since the abolition of the death penalty, the maximum sentence has become life imprisonment.)

63. *Administrative measures:* Priority is placed on rape cases currently being prosecuted and those for which hearings are being scheduled. These hearings are held at the crime scene. A decentralized special prosecution unit (the Gender Desk) has been set up within the national police force at the district level, and the National Prosecution Service has created a witness protection unit. In addition, the National Human Rights Commission has established a children's rights watchdog body.

64. Each police station has a designated officer to register rape complaints. A police officer is also available at each hospital to deal with these cases and to accompany victims to the doctor, since prompt medical examinations are of crucial importance in most rape cases in order to ensure that evidence is not lost.

65. Victims are provided with counselling when they come to the police station and again at the hospital before being treated. They are promptly examined for sexually transmitted diseases, HIV/AIDS and other conditions, as well as being given a pregnancy test. Within 72 hours after this test, the victim can be given a morning-after pill if she wishes. If there is a risk of contagion with HIV/AIDS, prophylactic treatment is administered. The victim is provided with anti-retroviral drugs free of charge, to be taken for 30 days, within 72 hours after the rape.

66. The following table shows the number of penalties handed down by the courts:

Year	Sentences			
	0-5 years	5-10 years	Over 10 years	Life imprisonment
2006	348	205	154	85
2007	292	172	139	0
2008	322	424	259	118

Question No. 14

67. All victims of sexual violence, including those infected with HIV/AIDS, may bring a civil action, in addition to criminal proceedings, in order to assert their rights. Penalties of up to life imprisonment may be handed down in criminal cases when rapists or their accomplices have infected the victim with an incurable disease or have caused their death (art. 361, para. 6, of the Criminal Code). The court determines the amount of damages to be paid based on the nature of the tort and the victim's loss of earnings.

68. A number of steps have been taken by the Ministry of Health and by civil society to provide medical and psychological care. The creation of the Gender Desk within the national police force is one example. This special unit has set up a variety of mechanisms, including the following:

(a) In each police station throughout the country, a police officer has been designated to handle these cases;

(b) The Gender Desk works closely with hospitals to help provide victims with medical examinations and emergency medical attention;

(c) A toll-free telephone number has been made available to the public to report violent assaults;

(d) Officers in the national police force are provided with ongoing training regarding gender-based violence and other issues.

69. Other measures have been adopted in order to help victims make use of judicial services:

(a) Justice Offices have been set up in five districts within the country: Nyanza, Rusizi, Karongi, Rulindo and Rubavu;

(b) The victim and witness protection unit of the National Prosecution Service helps to defray witnesses' transportation and lodging expenses;

(c) The Bar Association provides indigent victims with legal assistance free of charge.

70. Trauma counselling is provided by the National Psychiatric Centre and by various associations, such as the African Rehabilitation Centre for Torture Victims (ARCT-Ruhuka), the Association of Widows of the Genocide of April 1994 (AVEGA), the Barakabaho Foundation and the Mbwirandumva Initiative.

71. *Rape victims infected with HIV/AIDS*: Such victims, like anyone else living with AIDS, receive anti-retroviral drugs free of charge. A large-scale campaign against their stigmatization and marginalization has also been launched.

72. With the help of various benefactors, people living with HIV/AIDS in almost all areas of Rwanda have formed associations and have set up a support network. This network also serves as a channel through which they can receive assistance and can undertake income-earning activities to help them cover the expenses associated with their illness.

73. *Victim and witness protection*: The National Prosecution Service has created a witness protection unit that operates at the most decentralized level of the Service. Its duties include:

(a) Designing and implementing victim and witness protection and support programmes and policies;

(b) Planning, managing, monitoring and evaluating, in collaboration with the relevant agencies, all activities designed to safeguard victims and witnesses and to provide them with psychosocial assistance;

(c) Making sure that victims and witnesses have access to the protection and assistance they need.

74. Any person who pressures or attempts to pressure a witness or member of a Gacaca court is liable to a prison term of between three months and one year. Repeat offenders are subject to a term of between six months and two years.⁷ Under articles 339 through 342 of the Criminal Code, it is unlawful to threaten or assault informants or their property.

⁷ Article 30 of Gacaca Courts Organization Act No. 16/2004 governs the organization, jurisdiction and operation of the Gacaca courts responsible for the prosecution and adjudication of offences constituting the crime of genocide or other crimes against humanity committed between 1 October 1990 and 31 December 1994, as amended.

75. With respect to the legislation mentioned in the latter portion of paragraph 139 of the report, the new draft version of the Criminal Code has not yet been adopted; the bill on the prevention and punishment of gender-based and marital violence has been passed and is soon to be published in the *Official Gazette*.

**Prohibition of slavery and forced labour
(art. 8)**

Question No. 15

76. The Government has taken several measures to prevent and punish human trafficking, particularly of women and children:

(a) Article 41 of Act No. 27/2001 on the rights and protection of children against violence stipulates that any person found guilty of the abduction, sale or trafficking of a child shall be sentenced to a prison term ranging from five years to life imprisonment;

(b) Articles 363-374 of the Criminal Code establish penalties for prostitution (imprisonment of less than one year), for incitation to prostitution (from one to five years' imprisonment) and for provision of facilities for the purpose of prostitution (from three months' to three years' imprisonment). If these offences are committed under aggravating circumstances, the above penalties may be doubled. In order to prevent such crimes, women who are prostitutes are alerted to the detrimental effects of prostitution and efforts are made to persuade them to abandon this activity. Many women who have done so have received trainer training and have been encouraged to band together to organize income-generating activities;

(c) Under the new draft Criminal Code, human trafficking, particularly of children, is a punishable offence. This crime is defined as the recruitment, transportation, transfer, harbouring or receipt of persons by means of threats, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of the vulnerability of the victim, or by offering or accepting payments or benefits to obtain the consent of a person who has power over another person for the purposes of the exploitation of the prostitution of others or other forms of sexual exploitation, including forced labour, slavery, or practices similar to slavery. The new draft criminalizes, in particular, the illegal exploitation of people in distress and human trafficking when engaged in as an occupation;

(d) Special legislation for the criminalization of trafficking in human organs, particularly those of children, has been proposed and is being discussed by Parliament.

77. Rwanda has ratified the following treaties:

- Slavery Convention
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

- ILO Forced Labour Convention (No. 29)
- ILO Forced Labour Convention (No. 24)
- Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- ILO Worst Forms of Child Labour Convention (No. 182)⁸

78. Other measures establishing objectives and strategies to combat the trafficking, sale and sexual exploitation of children include:

- National Policy on the Elimination of Child Labour (approval of this policy is pending).
- National Policy on Orphans and Other Vulnerable Children.
- Special Education Needs Policy.
- Education for All Programme.
- Free-Fee Education Strategy.
- A campaign has been launched nationwide to prevent the worst forms of child labour. Children are no longer being forced by their parents to serve as cheap labour on coffee and tea plantations or in quarries.

**Treatment of persons deprived of their liberty
(art. 10)**

Question No. 16

79. Articles 25 through 33 of National Prison Service Organization Act No. 38/2006 of 25 September 2006 lay down the rights of prisoners, including the right to be treated with dignity and without discrimination (art. 23).

⁸ The Labour Code is being revised in order to bring it into line with the provisions on the trafficking, sale and sexual exploitation of children of the ILO Worst Forms of Child Labour Convention (No. 182).

80. Practical measures have been adopted, including:

- (a) Provisional releases, suspended sentences, conditional releases and releases on bail are being granted by the competent authorities in order to alleviate overcrowding in prisons;
- (b) All prisons have an infirmary which is affiliated with local health establishments;
- (c) All prisons make training manuals available and have at least one reading room to which prisoners may bring their own books;
- (d) Prison health officers monitor the state of health, hygiene and diet of the prisoners;
- (e) In order to alleviate prison overcrowding, every year some prisoners are provisionally released pursuant to the communiqué issued by the Office of the President of the Republic on 1 October 2003,⁹ and conditional releases are granted to persons who apply for them and meet the conditions prescribed by law;
- (f) Rwanda continues to strengthen its cooperation with civil society, United Nations agencies and the International Committee of the Red Cross with a view to improving the living conditions of prisoners;
- (g) The national prison service continues to conduct regular prison inspections through a new body attached to the Ministry of the Interior;
- (h) Self-funding mechanisms have been devised and promoted by stepping up prison manufacturing activities;
- (i) Regular visits are paid by the National Human Rights Commission and civil society to monitor prisoners' living conditions and other circumstances.

Question No. 17

81. The system of community service as an alternative to imprisonment has been in place since 22 September 2005. Since that date, 109 community service sites have been established. The projects undertaken at 45 of those sites have been completed, while work is still under way at the other 64 sites.

82. A total of 53,620 prisoners have been assigned to perform community service. Of this number, 26,984 are serving their sentence and 5,000 have already served it.

⁹ The communiqué of 1 October 2003 calls upon the competent authorities to release prisoners prosecuted for genocide who have confessed and pled guilty and who are likely to incur a lighter penalty, in terms of length of sentence, than that established for the offences for which they are to be prosecuted. The communiqué also refers to minors aged under 18 and people aged 70 and over.

83. Types of community service work include terracing farmland, constructing new roads and repairing existing ones, building homes for genocide survivors and the homeless, building bridges, draining marshes, etc.

84. Since the system's establishment, the estimated value of work done by community service workers is 13,960,483,873 Rwandan francs (RF). This figure includes expenses amounting to RF 5,582,156,502.

85. The evaluation of this system indicates that, in addition to financial benefits, community service sites also act as a platform for providing prisoners with information on government programmes and for fostering their resocialization and their integration into the population at large.

86. Community service work is administered in keeping with the principles laid down in the Constitution and national laws in force and with respect for human rights such as the right to rest, freedom of worship, the right to leisure, the right to food, the right to health care, the right to receive visits from family members, etc.

**Right to a fair trial in Gacaca courts
(art. 14)**

Question No. 18

87. It is true that most of the judges in Gacaca courts are not professional judges; they are selected because they are considered to be upright citizens and members of society. Nevertheless, judges receive training before taking up their duties, and additional training is provided as and when necessary.

88. Gacaca court judges settle cases of which they or members of their administrative units or, "cells", have direct knowledge and thus do not require any technical inputs other than the evidence. Furthermore, they are assisted by legal experts from the National Department of the Gacaca Courts when they have difficulty ruling on a given case.

89. A number of modifications have been made in the structure of the Gacaca courts in order to ensure fairness. One of the many changes made was to reduce the number of judges from 19 to 7, since having a limited number of judges makes it easier to arrive at an evaluation in terms of implementation, personality and integrity.

90. Punitive measures have also been introduced. Articles 29 and 30 of the Gacaca Courts Organization Act, for example, establish penalties for the intimidation of judges and witnesses.

91. Corruption is an offence that incurs severe punishment in Rwanda, and Gacaca court judges are not exempt from prosecution under the Criminal Code and Act No. 23/2003 of 7 August 2003 on the punishment of corruption and related offences.

92. Legal advisers are allowed in the Gacaca courts, but only as part of the General Assembly. They may provide information or ask questions on behalf of one party or another but have no influence over the decision.

93. All participants (defence lawyers and others) in Gacaca court proceedings are to enjoy equal rights in terms of tenure and procedure. Anyone is allowed to request clarifications or to give evidence on behalf of or against the person on trial.

94. Concerning aspects of Gacaca court procedures which the Committee feels might undermine the right to a fair trial and the quality of decisions, it should be noted that Gacaca courts are constituted on the basis of specific events experienced by the local population, and it is through their statements that the truth about these events is established. The Gacaca courts uphold the principles of the right to a fair trial and to access to the courts, the adversarial principle, the impartiality of judges, the right to be tried within a reasonable time frame and the right of appeal.

95. The ready access to evidence afforded by direct public participation allows Gacaca court judges to settle cases within a reasonable amount of time. As regards access to the courts, people prefer Gacaca courts to traditional ones because their trials are swift and straightforward.

96. This is attested to by the fact that the Gacaca courts are well accepted in Rwanda and that many people prefer them to traditional courts, not only because they are competent but also because they administer the same justice within a reasonable time frame.

97. Other measures are being taken to ensure the quality of decisions handed down by the Gacaca courts, including the expulsion of incompetent and corrupt judges.

Question No. 19

98. As requested by the Committee, the following table shows cases falling into the first, second and third categories referred to and tried by the Gacaca courts as at 30 December 2008.

Type of court	Cases received	Cases tried	Cases pending
Unit (cell) court	612 151	434 827	9 628
Sector court	444 455	557 607	54 236
Total	1 056 606	992 434	64 172

99. The following table provides information on judgements falling into the first category (mentioned in paragraph 45 of the report) handed down by the Gacaca courts as at 31 December 2008.

Province/ Kigali City	District	CAT.1							
		Cases received		Cases tried					
		Rape	Other offences	Rape			Other offences		
				GSC	GAC	RJ	GSC	GAC	RJ
Northern Province	Musanze	51	30	36	0	0	15	6	0
	Burera	4	9	2	0	0	10	2	0
	Rilindo	91	48	77	19	3	32	3	0
	Gicumbi	29	17	29	13	0	19	13	0
	Gakenke	16	23	10	2	0	17	3	0
	Subtotal	191	127	154	34	3	93	27	0
Western Province	Rutsiro	172	174	29	1	0	12	19	0
	Karongi	184	305	102	12	0	96	9	0
	Rubavu	21	276	13	1	0	77	4	0
	Nyabihu	35	83	15	1	1	40	7	0
	Ngororero	60	62	46	20	0	44	29	0
	Rusizi	423	88	306	31	0	52	4	1
	Nyamasheke	194	95	116	8	0	50	6	1
	Subtotal	1 089	1 083	627	74	1	371	78	2
Kigali City	Gasabo	164	385	35	7	0	97	10	0
	Nyarugenge	230	192	78	6	0	72	10	0
	Kicukiro	166	142	7	0	0	34	9	0
	Subtotal	560	719	120	13	0	203	29	0
Eastern Province	Kayonza	243	35	168	11	0	10	3	1
	Gatsibo	229	115	129	53	0	33	8	0
	Nyagatare	8	26	8	3	0	17	11	0
	Ngoma	453	104	310	54	0	58	11	0
	Kirehe	224	50	144	25	0	46	11	1
	Rwamagana	344	110	212	19	0	53	9	0
	Bugesera	208	178	107	36	0	93	6	0
	Subtotal	1 709	618	1 078	201	0	310	59	2
Southern Province	Nyaruguru	205	155	160	18	6	118	2	0
	Nyamagabe	197	123	118	17	0	84	7	0
	Gisagara	776	191	458	64	0	62	19	0
	Huye	617	340	314	88	0	147	54	0
	Nyanza	654	184	471	78	0	110	11	0
	Ruhango	613	35	251	41	2	29	2	0
	Muhanga	263	122	149	34	0	63	13	0
	Kamonyi	710	128	311	9	18	66	6	0
	Subtotal	4 035	1 278	2 232	349	26	679	114	0
Total		7 584	3 825	4 211	671	30	1 656	307	4

Note: GSC = Gacaca sector court, GAC = Gacaca appeals court, RJ = Review of judgement.

Question No. 20

100. Indigents are provided with legal assistance free of charge by members of the Bar Association and the Legal Aid Forum, which is a collective of NGOs working in this field or conducting similar activities.

101. The Ministry of Justice works with these partners to provide legal assistance for the indigent. To this end, in 2004 it concluded an agreement with the Belgian Development Cooperation Agency and the Bar Association under which some lawyers are paid fees to assist indigents, in particular children.

102. The Ministry of Justice has also started to establish Justice Offices throughout Rwanda for the purpose of providing legal assistance to the population.

103. Some NGOs, such as Avocats sans Frontières, pay fees to lawyers who provide legal assistance for the indigent.

104. The reforms being made in this area call for the establishment of a judicial assistance fund, to be jointly financed by the State and donors, and open up the possibility of NGOs providing legal representation for people who do not have sufficient means.

**Freedom of expression and prohibition of advocacy of national and racial hatred
(arts. 19 and 20)**

Question No. 21

105. Freedom of the press and freedom of information are recognized and guaranteed under article 34 of the Constitution so long as their exercise does not disrupt public order or undermine public morals, the protection of young persons and children, or the right of every citizen to his or her honour, reputation, and personal and family privacy.

106. Hence, notwithstanding the wide degree of freedom of opinion and speech enjoyed in the country, any propaganda for war or incitement to war and inter-ethnic hatred is defined as an offence punishable under articles 164-177 of the Criminal Code and under the Press Act.

107. As regards the compatibility of the penalties established by the Criminal Code and those provided for under the draft legislation governing the press currently being considered by Parliament, the latter apply only to press-related offences; there is thus no incompatibility with the penalties established by the Criminal Code, which apply to ordinary offences.

Question No. 22

108. Any advocacy of national or racial hatred is an offence liable to prosecution and punishable under the legislation in force, specifically the Criminal Code. Act No. 47/2001 of 18 December 2001 on punishment of offences of discrimination and sectarian practices and the act on prevention and punishment of the ideology of genocide are the applicable laws when such advocacy leads to discrimination.

**Protection of children
(art. 24)**

Question No. 23

109. Statistics on the enrolment rates for girls and boys in primary and secondary education over the last four years are given below.

	Primary education			Secondary education		
	Total number of girls and boys	Girls	Boys	Total number of girls and boys	Girls	Boys
2008	2 190 256	1 114 148 (50.87%)	1 076 108 (49.13%)	288 036	137 815 (47.85%)	150 221 (52.15%)
2007	2 150 430	1 092 404 (50.8%)	1 058 026 (49.2%)	156 375	47.6%	52.4%
2006	2 019 991	1 035 719 (51.27%)	984 272 (48.73%)	140 530	47.5%	52.5%
2005	1 857 841	945 634 (50.9%)	912 207 (49.1%)	128 407	47.2%	52.8%

Source: Report of the Ministry of Education, 2008.

Question No. 24

110. All children imprisoned for having participated in the genocide when they were under 18 have been provisionally released. Before rejoining their families, these children are required to spend time in a solidarity camp (*Ingando*), where they take civic education courses designed to aid them to find ways and means of developing the mutual respect and social skills that will then help them integrate into society.

111. Once they are reunited with their families, these children enjoy the same rights as other children vis-à-vis their families or the State, including the right to education, the right to development, the right to health and so forth.

112. They are also served by the policies and programmes established by the Government for the protection of children.

**Participation in public life
(art. 25)**

Question No. 25

113. In Rwanda, every citizen who has legal capacity (i.e., who meets the requirements) has the right to participate in public affairs, unless otherwise provided by law. Legislative and administrative actions have been taken in this connection.

Legislative measures

114. Article 2, paragraph 3, of the Constitution of the Republic of Rwanda stipulates that national sovereignty is vested in the people, who exercise it directly in referendums or through their representatives.

115. Article 9, paragraphs 3 and 4, of the Constitution enshrine the principles of equitable power-sharing, of building a State governed by the rule of law and a pluralist democratic regime, and of the equality of all Rwandans and equality between men and women, which is reflected in the allocation of at least 30 per cent of posts in decision-making bodies to women. This provision applies to all administrative and political posts in Rwanda.

116. Article 11, paragraph 2, of the Constitution stipulates that all forms of discrimination based on race, ethnic origin, membership in a clan or tribe, skin colour, sex, region, social origin, religion or faith, opinion, economic status, cultural difference, language, social status, physical or mental disability, or any other form of discrimination is prohibited and punished by law.

117. Article 37 of the Constitution states that every person has the right to free choice of employment. Paragraph 2 of that article stipulates that persons with the same skills and ability have the right to equal pay for equal work, without discrimination.

118. Article 45, paragraph 1, of the Constitution establishes that all citizens have the right to take part in the public affairs of their country, either directly or through freely chosen representatives. Paragraph 2 says that all citizens have the right ... of equal access to public service in accordance with their competence and abilities.

Other legislation

119. Article 84 of the Labour Code states that workers with equal skills, performing the same type of work and under the same conditions, must receive equal remuneration, regardless of their origin, sex or age.

120. Article 28, which deals with the status of State officials, provides that recruitment should be on a competitive basis to ensure neutrality and that the conditions of recruitment should not involve any form of sex discrimination.

121. Act No. 42/2001 on punishment of offences of discrimination and sectarian practices applies to all acts of discrimination relating to employment and participation in public affairs.

122. Discrimination in relation to employment and participation in public affairs is considered to be a form of corruption punishable under Act No. 23/2003 on punishment of corruption and related offences.

Administrative measures

123. The Civil Service Commission, whose task is to recruit civil servants on an objective, impartial, transparent and equal basis, has been established.

124. Labour inspectorates have been set up at all levels down to the district level. The role of these offices is to monitor observance of the legal provisions relating to employment and participation in public affairs and to determine whether they are being enforced.

125. The National Electoral Commission, whose tasks include planning and organizing elections and ensuring that elections are free and transparent, has been created.

126. The Office of the Ombudsman has been established. Its duties include serving as a liaison between citizens and public and private institutions and combating injustice, corruption and related offences in public and private institutions.

127. Decentralization mechanisms have been set up that encourage active participation in public affairs.

128. The following mechanisms have been put in place to ensure fair and transparent elections in Rwanda:

(a) Under article 180 of the Constitution, elections are monitored by an independent commission. This commission's objective is to prevent any influence or interference from domestic or foreign sources;

(b) The National Electoral Commission monitors elections on the basis of the legislation in force and general principles laid down in the Constitution;

(c) The Rwandan electoral process is open to all, to public scrutiny under the conditions prescribed by law and to local and international observers. For the presidential and parliamentary elections of 2003, the National Electoral Commission accredited 2,058 local observers and 9,562 international observers; for the parliamentary elections of 2008, the Commission registered 14,000 local and international observers, including 12,796 representatives of political parties;

(d) Rwandan electoral laws provide for remedies through the courts in the event of irregularities during elections;

(e) The competent bodies have investigated the allegations of irregularities and intimidation during the 2003 elections. One candidate, for example, lodged a complaint with the Supreme Court on the grounds that the elections had not been transparent. The Supreme Court, after conducting the requisite inquiry, subsequently issued a confirmatory judgement. Other acts of intimidation, whether in the context of elections or other circumstances, are prosecuted and punished in accordance with the legislation in force.

Question No. 26

129. Rwanda is one of the Member States of the United Nations that has ratified without reservation the United Nations Declaration on the Rights of Indigenous Peoples as well as many other international and regional human rights instruments. Through its legislation and particularly the Constitution, it has undertaken to uphold the rights and fundamental freedoms of its citizens without discrimination of any kind. All of the rights protected by the Covenant are granted to all citizens, including communities that have historically been marginalized.

130. Rwanda recognizes that indigent Batwa warrant special attention, as do other citizens in the same situation. Comprehensive poverty reduction policies and programmes are in place, along with specific programmes aimed at promoting the rights of such groups, irrespective of ethnic, religious or regional ties or any other identifying characteristic. Different State or semi-public institutions and national NGOs run programmes to promote the socio-economic integration of these groups by such means as providing free education for their children, mutual health insurance schemes and collective housing. Others help to reduce poverty through income-generating employment programmes.

**Dissemination of the Covenant and of the Committee's concluding observations
(art. 2)**

Question No. 27

131. *Measures adopted to disseminate information on the Covenant:* The sections of the new Constitution of the Republic of Rwanda of 4 June 2003 which deal with human rights and fundamental freedoms incorporate several provisions of the Covenant. Since the Constitution was adopted by referendum, these provisions were well publicized during the nationwide campaign.

132. Furthermore, the Constitution is a working tool for a number of individuals and institutions, namely members of Parliament and judges, the National Prosecution Service, the National Human Rights Commission (in advocacy activities), etc.

133. With a view to disseminating information on the Covenant, which has already been translated into the local language (Kinyarwanda), the National Human Rights Commission has incorporated a unit on civil and political rights into one of the modules it uses for various training sessions. Several different groups of people have received or are receiving training, including local authorities, the prison authorities, members of the armed forces (officers), national police officers, members of arbitration committees and of the Local Defence Forces (LDF), clerics (Catholic, Muslim, Protestant, etc.), members of various associations, university students, secondary school students, secondary school political education instructors and human rights volunteers (National Human Rights Commission). In addition to these types of training, awareness-raising activities are organized in the country's solidarity camps (for students preparing for university, LDF members, former combatants and former prisoners), in prisons, at district level on the occasion of International Human Rights Day and so forth.

134. Specific training courses were organized in 2001, 2002, 2003 and 2005 for national police officers and military officers by the National Human Rights Commission.

135. Training sessions and awareness-raising activities are often organized by the National Human Rights Commission for members of the judiciary, law enforcement personnel and civil servants.

136. Training sessions organized by United Nations bodies include those offered by the Office of the United Nations High Commissioner for Human Rights through its Action 2 programme. Similar sessions are held by civil society organizations such as the Danish Institute for Human Rights, Avocats sans Frontières, etc.

137. One of the long-term measures adopted by the Government to ensure the implementation of treaties and follow-up of concluding observations has been the establishment of a treaty body task force. The task force's functions are not only to supervise the process of drafting periodic reports on treaty implementation but also to devise awareness-raising and dissemination strategies.

138. Steps have also been taken to disseminate the concluding observations that will be issued following the consideration of Rwanda's third periodic report:

(a) A press conference will be organized in order to publicize the concluding observations;

(b) After the concluding observations have been translated into Kinyarwanda, they will be officially transmitted to:

- (i) The institutions to which the recommendations are addressed;
- (ii) The judiciary (courts and tribunals, prosecuting authorities, the criminal investigation department, the Judge Advocate's Department, the military police, etc.);
- (iii) The two chambers of Parliament (Chamber of Deputies and Senate);
- (iv) Members of civil society working in the field of human rights;
- (v) The media (public and private);
- (vi) The various ministries and State institutions;
- (vii) The prison authorities.

139. The concluding observations will also be published in widely circulated newspapers, including *Imvaho Nshya*, *Kinyamateka*, *The New Times* and *Izuba*. Any other means of disseminating the concluding observations will also be considered and used.
