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SUMMARY RECORD OF THE 345th MEETING

Held at Headquarters, New York,
on Tuesday, 30 March 1982, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of the
Covenant

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The meeting was called to order at 11 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Rwanda (CCPR/C/1/Add.54)

1. At the invitation of the Chairman, Mr. Nsengiyumva (Rwanda) took a place at the Committee table.
2. Mr. NSENGIYUMVA (Rwanda), introducing the initial report submitted by his Government (CCPR/C/1/Add.54), said that, to enable the members of the Committee to gain a better understanding of the general framework of Rwanda's institutions, the Government had made available to the Committee secretariat the text of various relevant laws, including the Constitution and the Administrative Code. It would provide further volumes of its legislation as work on them was completed. The Constitution of 20 December 1978 reiterated the principles set forth in the 1962 Constitution and had been influenced by the Universal Declaration of Human Rights.
3. The principle of separation of powers was laid down in article 34 of the Constitution. The President of the Republic was the central authority responsible for ensuring that the three branches of government worked together. The President had wide powers, as set out in article 44 of the Constitution. The Government consisted of ministers responsible to the parliament (known as the National Development Council) and to the President of the Republic. The legislative function was exercised jointly by the President of the Republic and the National Development Council. Deputies to the Council were elected for a five-year term on the basis of universal direct suffrage.
4. The judiciary was independent of both the legislative and the executive branches. Judges were appointed and removed by the President of the Republic on the recommendation of the Minister of Justice and with the concurrence of the Superior Council of the Judiciary. There were three categories of courts responsible for protecting public rights and freedoms. First, there was the ordinary court system, comprising the cantonal courts, the courts of first instance, the courts of appeal and the Court of Cassation. Special courts could be established for criminal matters, including courts martial, and there was a joint military/civil court, the State Security Council. Second, the supreme administrative court was the Council of State; there were no lower administrative courts in Rwanda, owing to a shortage of qualified judges and legal personnel. Third, there was what might be called a "political" court, namely, the Constitutional Court, which was composed of the Court of Cassation and the Council of State sitting jointly. The Constitutional Court ruled on the constitutionality of bills approved by the parliament. If it found that a bill was constitutional, the President of the Republic was required to sign it into law within two weeks of the Court's decision. If a Court found a bill unconstitutional, it was sent back to parliament for review. The Constitutional Court also had the power to try the President of the Republic for violating the Constitution upon impeachment by a three-fourths majority of the parliament.

(Mr. Nsengiyumva, Rwanda)

5. While he acknowledged that the report was very brief, if he could, he was ready to provide any additional information the Committee might require.
6. Mr. LALLAH noted that Rwanda had become a party to the Covenant in 1975 and that it had entered into force for Rwanda in 1976. He asked whether, when drafting the new Constitution in 1978, the Government had specifically taken into account the obligations it had assumed internationally for the protection and promotion of human rights in its territory.
7. With regard to the lack of legal personnel to give effect to or to monitor observance of the rights provided for in the Covenant, he asked what steps were being taken by the Government to ensure that people would be trained for the legal profession in sufficient numbers not only for government service but also to advise and assist citizens in the defence of their rights.
8. The Government of Rwanda was in a somewhat unusual situation in that, although the country had become independent in 1962, it was still engaged in the process of nation-building. While the report did not refer to specific events, it created the impression that major developments had occurred in 1978. National upheavals such as the one Rwanda had experienced tended to affect the human rights situation, and precisely for that reason it would be helpful to the Committee if the representative of Rwanda could provide information on the impact which the events of recent years had had on the enjoyment of the rights provided for in the Covenant, especially articles 7, 9, 10, 14 and 19.
9. The information in the report to the effect that commutation of sentence had been granted to certain persons convicted of political offences was, on the one hand, encouraging, and, on the other, disturbing because they had been convicted of such offences under the ordinary law. He asked to what extent the possibility of such convictions had an adverse effect on freedom of thought and of speech.
10. While the Covenant did not prohibit the death penalty, its general aim was to restrict its imposition to serious crimes. In that connexion, he asked what crimes were punishable by death in Rwanda, how many death sentences had been pronounced since 23 March 1976 and how many of them had been carried out.
11. It would be recalled that the provisions of the Covenant relating to torture and other cruel, inhuman or degrading treatment did not admit of derogation. Presumably the national upheaval that had occurred in Rwanda had led to the arrest or detention of many people. He wished to know how many individuals were confined in prisons or detained elsewhere, how many prisons existed in Rwanda and what kind of control the authorities exercised to ensure that torture or cruel, inhuman or degrading treatment was not inflicted on persons in custody and to punish those responsible for such acts when they occurred. It was not enough to enact legislation providing for the punishment of anyone who committed torture; the Government had to exercise control over its own agents in order to prevent torture, punish those responsible for it and provide compensation to the victims. He wished to know how many persons had died in prison and what the cause of death had been in such cases.

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(Mr. Lallah)

12. Although the Constitution prohibited arrest and detention not carried out in accordance with law, the report gave no indication of what the applicable law was. Accordingly, he asked what procedures governed detention before a suspect was charged with an offence, what guarantees applied during the period of such detention, whether the courts had any control over the kind and duration of detention before formal charges were brought and whether any procedure similar to habeas corpus existed in Rwanda.

13. He construed article 9 (4) of the Covenant as covering individuals committed to mental hospitals, reformatories and the like, since they too should have access to the courts not only to test the validity of their detention but also to seek redress. He asked what procedures applied to detainees both before and after they were charged, what was the average length of time between the date on which charges were brought and the date of trial and whether, in the event of a conviction, the time spent in detention pending trial was taken into account in sentencing. He also wished to know whether any allegations of ill-treatment or torture while in detention had been made by individuals and, if so, whether the courts had ever awarded compensation to the victims.

14. With reference to article 10 of the Covenant, there was the question what steps were taken to ensure that persons deprived of their liberty were treated with respect. It might be argued that Rwanda was a developing country and could not be expected to provide full facilities for such persons, but the Covenant required a certain minimum level of treatment, as a basic right, for those in custody.

15. It was not clear from the report what control machinery there was in the case of persons deprived of their liberty. Was it possible, for example, for them to be visited by legal representatives or members of their family? If prisoners were deprived of visitors, they might have no proof of any abuses they suffered, since it would then merely be a question of their word against that of various public officials.

16. The Government of Rwanda should appreciate that the Committee was eager, not to criticize, but to assist it in discharging its obligations.

17. Mr. TOMUSCHAT said that Rwanda had been one of the first countries to ratify the Covenant. Regrettably, the report submitted by the Government had not fulfilled the Committee's expectations of a fruitful dialogue to promote human rights. Although the report contained some important elements, it was far too brief and superficial and failed to provide specific details under each article of the Covenant. The Committee had been established to monitor compliance with the provisions of the Covenant and, whatever legislation a State had enacted, it could not consider itself exempt from review and criticism.

18. Experience had led the Committee to regard constitutional texts with a degree of scepticism, although they revealed the underlying principles of the political system in question. The members needed information on the practical implementation of the Covenant in order to appraise the Rwandese Constitution's strong and weak points with regard to the protection of individual rights. It was not clear, for

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(Mr. Tomuschat)

example, whether the popular referendum referred to in article 98 of the Constitution had already been held. Nor was there any indication of how international conventions were treated in the legal system or how they were to be invoked. Rwanda had become a party to the Covenant under its previous Constitution, so that the question arose of its status under the new Constitution. For example, had it been translated into the national languages? Had attempts been made to disseminate information on the Covenant?

19. It was clear from article 7 of the Constitution that the National Revolutionary Movement for Development was the foundation of all political life in Rwanda. Unfortunately, the Committee had not been provided with its statute. The Movement had a monopoly of political activity in the country and should therefore be bound by the obligations imposed under the Covenant, including freedom of expression. It was not clear what freedom was allowed under the National Revolutionary Movement for Development or whether dissent was tolerated. The Committee had yet to pass judgement on single-party régimes, although it was clear that such régimes would be incompatible with the Covenant if they inhibited freedom of expression and failed to respect the rights of individuals without discrimination on the basis of political belief.

20. Article 95 of the Constitution gave foreigners the same status as nationals, save for exceptions established by law. It would be useful to know what those exceptions were and what use had been made of that provision. Information on the numbers of foreigners and details of their national origins would be welcome.

21. The Constitutional Court referred to in the Constitution was of relevance to the Covenant, since the protection of constitutional rights amounted to protection of the rights set out in the Covenant. However, it was not clear whether the Constitutional Court was already in operation. In addition to the Constitutional Court, Rwanda had established courts of law at four levels, which was surprising in view of the country's small population. Article 82 of the Constitution provided that judges should be appointed and dismissed by the President. In order for there to be an independent judiciary, as provided in the Covenant, there was a need for safeguards against the abuse of executive power. Parliamentary procedures could also provide a remedy under article 2 of the Covenant. Article 75 of the Constitution referred to the National Development Council, although it was not clear how that body was constituted or whether the organic law referred to had already been enacted. Clarification of those points would be welcome.

22. With regard to the press, the Committee needed information on the number and distribution of newspapers and details of the Government's authority over editors.

23. The report submitted by Rwanda referred to ministerial directives concerning the conditions governing arrest and preventive detention. The use of preventive detention represented one of the most serious threats to the individual, who might be imprisoned for years without any formal accusation being brought. Article 9 of the Covenant provided that persons could only be detained in accordance with procedures established by law; ministerial directives were not enough.

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(Mr. Tomuschat)

24. If the Covenant was to make a real impact, it must fit into the legal, social and cultural background of the country concerned while maintaining its prescriptive nature. Implementation of article 14 of the Covenant, which had been prepared by legal experts from countries with well-established legal systems, undoubtedly created difficulties for African countries which were striving to establish comprehensive legal infrastructures. However, the Committee was ready to help. The role of a country's traditional institutions in implementing the provisions of the Covenant was of interest.

25. In view of the rudimentary and fragmentary nature of the report, a supplementary report should be prepared containing all the information which the Committee required.

26. Sir Vincent EVANS said that it was common practice for legal systems like Rwanda's to embody the provisions of international conventions in specific legislation. Article 44 of the Constitution provided that treaties affecting the rights of sovereignty could be executed only after approval by law. It was clear that the Covenant did affect the sovereignty of a ratifying State, since it affected laws enacted by that State on individual rights. It thus seemed possible that the Covenant might require approval in the form of an ad hoc law in Rwanda. Had such a law been enacted?

27. Since the Covenant aimed to protect individual rights vis-à-vis the State, it was important for individuals to be aware of the rights which it recognized. It would be of interest to know whether the Covenant had been translated and published in French and the other languages used in the country. Could someone whose rights had been violated by the Government invoke the Covenant before Rwandese courts? Could such considerations be debated in public or in the press? It was for the courts and the administrative authorities, including the police, to give effect to the provisions of the Covenant on behalf of the State. It was therefore extremely important that all officials, including both civil servants and police officers, should understand the significance of the Covenant and their obligation to comply with its provisions. It was particularly important that information on the Covenant should be given to law enforcement personnel as part of their training.

28. The report contained references to commutation of the death sentence. The death penalty had been abolished or its imposition suspended in a number of countries where it was considered an inhuman form of punishment. There had been reports that a number of persons had been sentenced to death by the State Security Council in Rwanda in November 1981. He inquired whether those death sentences had been commuted.

29. More information would be appreciated concerning the welfare service established for prisoners at each penal establishment. Bringing prison conditions up to acceptable modern standards involved considerable expenditure for developing countries like Rwanda. It involved the adoption of new approaches to the custody and rehabilitation of prisoners and the training of police and prison personnel. Much valuable assistance and advice in that regard could be obtained from such

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(Sir Vincent Evans)

organizations as the International Committee of the Red Cross. Had Rwanda consid red making use of such technical assistance to improve standards in prisons?

30. Article 14 of the Covenant was very important because it was designed to ensure that persons charged with criminal offences enjoyed due process of law and received a fair trial. Paragraph 3 of the article laid down certain minimum requirements to be fulfilled. He requested an item-by-item account of how thos provisions were implemented in Rwanda. It would be helpful to learn of the difficulties encountered in that respect so that the Committee could suggest means to overcome them.

31. Lastly, he asked why it was necessary to have the special State Security Council, whose jurisdiction was separate from that of the ordinary criminal courts in Rwanda.

32. Mr. OPSAHL said it was clear that Rwanda would have to make a considerable ffort to complete its report, and he agreed with Mr. Tomuschat that an additional report was required. Since Rwanda had been one of the first 35 countries to ratify the Covenant, thus bringing it into force, its co-operation would enable the Committee to set guidelines for other States parties with similar social, political and conomic systems, a process in which the role of the Committee was still evolving. The Committee was a body of independent experts and had to rely on information made available to it by many sources, particularly non-governmental organizations. The report of Rwanda was too brief and not entirely up to dat with regard to recent developments in the country; for instance, one non-governmental organization had informed him of elections held in 1981. He requested further information on the law governing elections and the number of representatives chosen to serv on the National Development Council. More general information was needed on such developments as political unrest, the arrest of members of certain groups and trials by the State Security Council. He inquired whether the National Development Council was yet functioning and whether further legislation had be n passed.

33. The position of the Covenant in the Constitution was not entirely clear. How were civil and political rights protected by the Constitution? Were the Constitutional provisions supreme or were they dependent on laws which had alr ady been passed? The Constitution seemed to leave the protection of civil and political rights open to limitation by legislation. Article 63, relating to legislative power, did not seem to have any saving clause for human rights. He asked whether that was intentional and whether human rights were entirely dependent on legislation. The ordinary courts seemed to have limited powers in that respect. Article 69 of the Constitution referred to the Constitutional Court and its power to decide on the constitutionality of laws; did that mean that there were laws which infringed the civil liberties of citizens? Article 73 seemed to suggest that the role of the courts in the interpretation and application of human rights was rather limited. Additional information would be appreciated on how the Constitution guaranteed the independence of the courts.

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(Mr. Opsahl)

34. Article 7 of the Constitution explained how the National Revolutionary Movement for Development operated. Were there in fact two political systems, one composed of the organs of the State as described in the Constitution and the other composed of the Movement itself? If so, it was important to know how human rights and civil liberties were protected in the Movement as well as in the State. Article 40 of the Constitution provided that the President of the Movement should be the only candidate for the office of President of the Republic. The Committee would appreciate a general explanation of the structure and operation of the Movement in much the same terms as the State itself. How did that system protect the rights of ethnic and other minorities under article 27 of the Covenant?

35. The Committee would also appreciate an explanation of the role and function of the State Security Council in the context of both the Rwandese system of government and article 4 of the Covenant. Had there been an emergency situation in recent years? If so, it was clear that normal procedures and a number of provisions of the Covenant might be derogated from. If not, what purpose did the Council serve?

36. Mr. GRAEFRATH said States parties to the Covenant should understand that the Committee was not a United Nations body, a human rights court or a sub-commission of the Commission on Human Rights. The purpose of the reporting procedure was to promote mutual understanding and co-operation in implementing the Covenant. States parties were requested to submit substantial reports to show how their Governments were living up to their obligations under the Covenant in regard to the society as a whole and what was being done to overcome problems that arose. The Covenant should not be conceived as a weapon to be used against States parties. Neither the Committee nor the international community had the competence to safeguard human rights in the territory of States parties; the latter must do that through their constitutional procedures. The task of the Committee was to assist States in fulfilling their obligations under the Covenant, promote the exchange of information, stimulate co-operation and point out where the main problems in the field of human rights existed. The Committee's guidelines were not a set of rules to be followed, but were designed to assist States parties in drawing up reports which corresponded to the objectives of the Committee. Referring to unofficial materials when reports were being considered only made a dialogue with States parties more difficult; he had in mind, for instance, information submitted by non-governmental organizations and newspaper articles.

37. The Committee would appreciate further information from Rwanda on the reasons for adopting a new Constitution and on how that had affected the implementation of human rights. What was the place of the Covenant within the legal system of Rwanda? What percentage of the population was illiterate and to what extent was the population acquainted with the concepts embodied in the Covenant? He requested further information on the access which ordinary people had to the courts, how they used the courts and how expensive that procedure was. What role did the courts play in the day-to-day life of society? How many judges were there and how and where were they educated? What percentage of those judges were women? He inquired as to how and to what extent the understanding and implementation of human rights were influenced by the culture and traditions of the Rwandese people.

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(Mr. Graefrath)

38. Ensuring equal enjoyment of the right to life included affirmative action by States parties to protect human life against criminal offences, epidemics, infant mortality and so forth. What steps had been taken or were envisaged to ensure the enjoyment of the right to life?

39. The Constitution provided that every citizen was by birthright a member of the National Revolutionary Movement for Development. Citizenship and membership in the Movement seemed to coincide. He asked whether that did not diminish the active role of the Movement. According to article 38 of the Constitution, the Court of Cassation seemed to have special jurisdiction with regard to members of the Central Committee of the Movement. Why was that special jurisdiction necessary, and how did the Government reconcile that constitutional provision with article 14 of the Covenant?

40. He requested further general information on the role of tribal traditions and the family in Rwandese society.

41. Lastly, he stressed that the Committee was composed of members with different backgrounds and approaches to the Covenant. That was reflected in their understanding of the provisions of the Covenant. The interpretation of the Covenant by any one member of the Committee should not be identified with the opinion of the Committee as a whole and should not hinder States parties from providing their own interpretation.

The meeting rose at 1.05 p.m.