



## Rwanda – Researched and compiled by the Refugee Documentation Centre of Ireland on 31 May 2012

**Is there an offence of 'genocidal ideology' in Rwanda? If so, what are the penalties, and are people convicted? Are there any reports of prosecutions and prison sentences? Do people accused of genocide get bail or legal representation?**

The Introduction to an *Amnesty International* report states:

“Rwanda’s laws on ‘genocide ideology’ and ‘sectarianism’, more commonly known as ‘divisionism’, were introduced in the decade following the 1994 Rwandan genocide. Up to 800,000 Rwandans were killed during the 1994 genocide, most of them ethnic Tutsi, but also some Hutu who opposed this organized killing and the forces that directed it. Aware of the role that hate speech and the infamous hate radio Radio Télévision Libre des Mille Collines (RTLM) played in inciting genocidal participation, the post-genocide government led by the Rwandan Patriotic Front (RPF) enacted laws to encourage unity and restrict speech that could promote hatred.” (Amnesty International (31 August 2010) *Safer to Stay Silent: The Chilling Effect of Rwanda's Laws on 'Genocide Ideology' and 'Sectarianism'*, p.7)

In a section titled “Legal Analysis And Ambiguity” this report quotes article 2 of the law relating to the crime of genocide ideology as follows:

“Article 2: Definition of “genocide ideology”

The genocide ideology is an aggregate of thoughts characterized by conduct, speeches, documents and other acts aiming at exterminating or inciting others to exterminate people basing (sic) on ethnic group, origin, nationality, region, color, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war.” (ibid, p.13)

This report also quotes article 3 of this law as follows:

“Article 3: Characteristics of the crime of genocide ideology

The crime of genocide ideology is characterized in any behaviour manifested by acts aimed at dehumanizing (sic) a person or a group of persons with the same characteristics in the following manner:

1. Threatening, intimidating, degrading through diffamatory (sic) speeches, documents or actions which aim at propounding wickedness or inciting hatred;
2. Marginalising, laughing at one’s misfortune, defaming, mocking, boasting, despising, degrading createing (sic) confusion aiming at negating the

genocide which occurred, stirring (sic) up ill feelings, taking revenge, altering testimony or evidence for the genocide which occurred;

3. Killing, planning to kill or attempting to kill someone for purposes of furthering genocide ideology.” (ibid, p.14)

This section of the report also states:

“The sanctions outlined in articles 4 to 13 of Law No 18/2008 provide for heavy custodial sentences ranging from 10 to 25 years and fines of between 200,000 and 1 million Rwandan francs to be doubled for recidivists, with life imprisonment for people also convicted of genocide. Leaders and former leaders in the public sector, private sector, NGOs and religious institutions may receive 15 to 25 years in prison and fines of 2 – 5 million Rwandan francs. Political organizations and NGOs can be dissolved and fined 5 – 10 million Rwandan francs.” (ibid, pp.14-15)

This section refers to the sentencing of children as follows:

“Children under 12 years found guilty of ‘genocide ideology’ can be sentenced to up to one year in a rehabilitation centre. Those aged 12 to 18 are sentenced to half the adult penalty, up to 12.5 years in prison and a fine of 500,000 Rwandan francs. The sentence, in whole or part, could be served in a rehabilitation centre, but this remains at the judge’s discretion. Parents, guardians, teachers and headmasters of convicted children may be sentenced to 15 to 25 years in prison, if proven that they ‘inoculated’ the child with ‘genocide ideology’. (p.15)

A section of this report titled “Ambiguous Laws That Create Confusion” lists the penalties for persons convicted of genocide ideology, stating:

“Prosecutions related to ‘genocide ideology’ were underway before the ‘genocide ideology’ law was promulgated in October 2008, exacerbating confusion about what was illegal. According to a 2007 – 2008 government report on justice in Rwanda, there were 1,034 trials connected to ‘genocide ideology’ which were prosecuted as assassination, murder, poisoning, aggravated assault, arson, damage to goods and cattle, negationism, revisionism, discrimination and threats. Those prosecutions which came to trial in that period resulted in eight convictions to life in prison, two convictions to more than 20 years in prison, 36 between 10 and 20 years in prison, 96 between 5 and 10 years, 91 to less than five years and 102 acquittals.” (ibid, p.17)

See also a document published by *Article 19* which, in a section titled “Penalties” (paragraph 22) which states:

“As indicated earlier, the Genocide Ideology Law provides for very severe penalties for individuals convicted of genocide ideology. Pursuant to Article 4, anyone convicted of the genocide ideology as defined by Articles 2 and 3, shall be sentenced to an imprisonment of 10 to 25 years and a fine of 200,000 to 1,000,000 Rwandan francs (approximately €245 to €1,230). In the case of recidivism, that penalty is doubled. Article 5 requires that anyone found guilty of genocide ideology who was also convicted of genocide shall also be sentenced to life imprisonment. Under Article 6, current or former

leaders in public or private administrative organs, political organisations or non-governmental organisations, or religious leaders convicted of the crime of genocide ideology shall be sentenced to harsher sentences than ordinary people, 15-25 years and a fine of 2,000,000 to 5,000,000 Rwandan francs (approximately €2,460 to €6,145). Under Article 8, those who are convicted of disseminating genocide ideology in public through documents, speeches, pictures and other media shall be sentenced to 20-25 years imprisonment and a fine of 2,000,000 to 5,000,000 Rwandan francs (approximately €2,460 to €6,145). The level of fines is extremely high for the vast majority of individuals to pay in Rwanda, a country whose GDP per capita estimated at only €687 or US\$1,000 for 2008.” (Article 19 (September 2009) *Comment on the Law Relating to the Punishment of the Crime of Genocide Ideology of Rwanda*, p.10)

A *Human Rights Watch* report, in a section titled “The New Law on ‘Genocide Ideology’”, states:

“The punishments, specified in articles 4 to 13, are harsh—between 10 and 25 years in prison and a fine of 200,000 to 1 million Rwandan francs for first-time offenders, with penalties to be doubled and even increased to life imprisonment for recidivists. Persons who occupy or have occupied leadership positions, whether in government, the private sector, NGOs, or the church may be sentenced from 15 to 25 years in prison with a fine of 2 to 5 million Rwandan francs. Political and non-governmental organizations may be dissolved and fined 5 to 10 million Rwandan francs. Children are held criminally responsible at the age of 12 and may be sent away to a rehabilitation center for a year, and parents, guardians, teachers, and headmasters may be punished by 15 to 25 years in prison. Children between the ages of 12 and 18 will receive one half the penalty meted out to adults.” (Human Rights Watch (25 July 2008) *Law and Reality: Progress in Judicial Reform in Rwanda*, p.42)

In a section titled “The Right to Legal Counsel” this report states:

“The 2003 Constitution guarantees the right to legal counsel, as does a 2004 amendment to the code of criminal procedure. Many lawyers named the 2004 provision guaranteeing right to counsel at all stages of judicial proceedings as one of the most important changes brought by the legal reforms. Gacaca jurisdictions, however, remain the one dramatic exception to the exercise of that right with accused persons having no access to counsel at any stage of the proceedings.” (ibid, p.78)

This section of the report also states:

“The Rwandan bar association counts 84 lawyers and 149 *stagiaires*, or apprentice lawyers, but many of them focus largely, if not exclusively, on civil cases. In addition, virtually all of the lawyers are based in Kigali, meaning that persons living elsewhere find it hard to engage a lawyer, far less to have frequent access to him. This poses a particular hardship for detainees who must wait for their lawyers to come to them. Judges and prosecutors working outside Kigali said that most of the defendants appearing in court—one judge estimated 80 percent of the defendants—had no legal assistance. All see scarcity of lawyers as a ‘huge problem’ and ‘catastrophic,’ particularly for poor persons charged with serious crimes that carry heavy penalties. Recognizing

the extent to which ignorance of procedure constitutes a grave disadvantage for many defendants, one prosecutor said that he believed defendants without legal representation ordinarily received longer sentences than comparable defendants who had lawyers assisting them.” (ibid, p.79)

This section further states:

“The shortage of lawyers particularly affects minors, that is persons under the age of 18 years, who by law must have legal assistance for court appearances. This requirement, introduced as part of the legal reforms, should work to the advantage of underage defendants. But because minors, most of them poor, must wait their turn to receive free assistance, many spend long periods waiting in jail.” (ibid, p.80)

An article published by the Kigali-based newspaper *The New Times* states:

“A Gacaca Court in Karongi District yesterday handed a life sentence 'with special provisions to Enos Kagaba, a Genocide suspect who was deported from the United States, five years ago. The ruling, passed by seven judges said that Kagaba, 55, played a major role during the 1994 Genocide against the Tutsi in the Western Province. Presiding judge Ildephonse Ndagijimana convicted Kagaba on three counts; leading armed Interahamwe militias to various designated killing sites, chairing meetings aimed at inciting killings and genocide ideology.” (The New Times (7 October 2011) *Rwanda: Karongi Gacaca Court Hands Life Sentence to Kagaba*)

An article from *The New Times* refers to the arrest of persons on charges relating to genocide ideology as follows:

“Police in Rwempasha Sector, Nyagatare District has arrested two people for allegedly propagating genocide ideology. According to reports, one of the suspects, a 22-year-old man was on April 7, overheard threatening Eugenie Kawera, a Genocide survivor, who resides in Rwempasha Sector, that ‘they would keep killing them,’ on the same day the 18th commemoration anniversary of the 1994 Genocide against the Tutsi began. Police said four cases of genocide propagation have been reported in various areas of the country, since Saturday. Another suspect, a 37-year old man, in the same district on the same day, reportedly told local leaders who were rallying residents to go for discussions about the Genocide that he would go for the discussion after ‘I am done with drinking the blood (read beer) of the Tutsi.’ Police said investigations were still ongoing and more arrests could be made.” (The New Times (10 April 2012) *Rwanda: Police Arrests Two Over Genocide Ideology*)

See also an article from *The New Times* which states:

“Since the beginning of this year, at least 22 people have been arrested for promoting or exhibiting the genocide ideology. According police statistics, 19 of the cases were registered in April, the beginning of the commemoration period in remembrance of the 1994 Genocide against the Tutsi. Police spokesperson, Theos Badege, said the recent and most notorious case involves a man who threatened and attempted to behead a Genocide survivor in Ngoma District.” (The New Times (3 May 2012) *Rwanda: Over 20 Genocide Ideology Cases Reported*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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