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RWANDA

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report explains why Rwanda must safeguard the human rights to freedom of religion, freedom of association, and freedom of expression, as well as prevent and end all forms of discrimination on the basis of religion.

(a) Freedom of Opinion and Expression

3. In 2018, the Penal Code of Rwanda was revised; yet, limitations on freedom of expression continue to remain of concern. The new code contained provisions that criminalized the humiliation of national leaders and persons in charge of public service, and outlawed the public defamation of religious rituals. However in April 2019, the Supreme Court declared these provision unconstitutional, stating that such limitations were counteractive to freedom of expression and press freedom as granted by the Constitution.¹
4. Despite evidence of tangible progress, certain Penal Code provisions continue to curtail freedom of opinion and expression. Of notable concern among these is Article 164 on the crime of “instigating divisions”, which punishes, by imprisonment or imposition of fines, the “use of speech, writing, or any other act which divide people or may set them against each other or cause civil unrest on the basis of discrimination.”
5. Further, laws proscribing “genocide ideology” or “sectarianism” overstep their intended purpose to curtail freedom of expression. On the one hand, Law No. 18/2008 defines the crime of “genocide ideology” as manifest in “marginalising, laughing at one’s misfortune, defaming, mocking, boasting, despising, degrading creating confusion aiming at negating the genocide which occurred, stirring up ill feelings, taking revenge, altering testimony or evidence for the genocide which occurred...”; on the other hand, according to Law No. 47/2001, “Sectarianism means the use of any speech, written statement or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination...”.
6. These laws have reportedly been misused to erase government criticism, leading to, among other things, wrongful arrests.² Opposition party leader Victoire Ingabire Umuhiza, 49, was arrested in 2010 and convicted of “conspiracy against the country

¹ Elias Hakizimana, ‘Lawyer Mugsha wins appeal case against law criminalising defamation and humiliation, but insulting or defaming the President remain offense’ *The New Times* (25 April 2019)

<<http://rwandainspirer.com/2019/04/25/lawyer-mugsha-wins-appeal-case-against-law-criminalising-defamation-and-humiliation-but-insulting-or-defaming-the-president/>>.

² ‘Safer to Stay Silent: The Chilling Effect on Rwanda’s Laws on “Genocide Ideology” and Sectarianism’ *Amnesty International* (31 August 2010) <<https://www.amnesty.org/en/documents/AFR47/005/2010/en/>>.

through terrorism and war” and “genocide denial” following an accusation that she undermined the government and downplayed the 1994 genocide. In a 2018 ruling in her favor the African Court on Human and Peoples’ Rights reaffirmed that even in post-genocide contexts, the restriction on freedom of expression remains subject to established checks and balances under regional and international human rights law. In line with the principles set forth in the African Charter on Human and Peoples’ Rights and the International Covenant on Civil and Political Rights (ICCPR), the Court upheld a liberal approach to freedom of expression in political spaces, including a high degree of tolerance for speech that may be considered offensive or shocking.³

7. Clearly, the abovementioned provisions restrict the right to freedom of expression in a way inconsistent with the narrowly-construed limitations to its exercise laid down *inter alia* in the ICCPR. Indeed, it is patently disproportionate to take away someone’s liberty in reprisal for insensitive words or government criticism. Central to the freedom of speech is indeed the liberty to openly and candidly debate ideas and belief systems of all varieties. The threat of prison sentences (or even fines) for saying the wrong thing directly flouts the possibility of honest, democratic debate.
8. It is critical that citizens can clearly tell what would count as a violation of law, in accordance with the principle of legal certainty. Only then can citizens live securely, confident that they will not be punished for actions they viewed as legal and unobjectionable.
9. Rwanda has taken positive steps in pardoning some individuals who have been wrongfully imprisoned; yet, it is essential that relevant legislation be reviewed to the extent necessary to ensure full compliance with its obligations under international human rights law.

(b) Freedom of Religion or Belief

10. Christianity is the largest religion in Rwanda. Roman Catholics account for 46.5% of the population, with Protestants at 45.4%. Muslims comprise 1.8% of the population, and atheists and agnostics also amount to 1.8%. The remaining percentage includes Jehovah’s Witnesses, followers of African folk beliefs, and others.⁴
11. Rwanda’s Constitution prohibits discrimination based *inter alia* on religion,⁵ and provides for freedom of conscience, religion, worship, and public manifestation thereof.⁶

³ Sylvie Namwase, ‘Inclusive dialogue, freedom of speech in Rwanda and the milestone decision of the African Court in the matter of Victoire Ingabire Umuhoza v Republic of Rwanda’ (2018) 2 African Human Rights Yearbook 487-508, 489.

⁴ ‘Religious Beliefs in Rwanda’ *World Atlas* (25 April 2017) < <https://www.worldatlas.com/articles/religious-beliefs-in-rwanda.html>>.

⁵ Constitution of Rwanda, art. 16.

⁶ *Ibid.* art 37.

12. Until 2019, the defamation of religious rituals was a criminal offense under Article 154 of the Penal code. Commendably, the Supreme Court of Rwanda declared the provision unconstitutional.⁷
13. Over the reporting period, the Rwandan government has made tentative steps to enhance respect for freedom of religion or belief, including in the education sector.⁸ However, incidents of discrimination against minority religious groups remain significant.
14. Jehovah's Witnesses report discrimination based on their religious beliefs, particularly as actions that involve saluting a national flag run contrary to their doctrine. The government requires schoolteachers to participate in seminars that involve military training and the singing of the national anthem, resulting in many Jehovah's Witness teachers having lost their employment. Many also report discrimination in seeking jobs in public service.⁹
15. Additionally, government officials presiding over wedding ceremonies generally require couples to take a pledge while touching the national flag, a legal requirement that Jehovah's Witnesses rejected on religious grounds. Practicing Jehovah's Witnesses report that the requirement makes it difficult for them to marry legally because few officials will perform the ceremony without the flag oath. Jehovah's Witnesses were not able to obtain a waiver for their religious exemption.¹⁰

(c) Recommendations

16. In light of the foregoing, ADF International suggests the following recommendations be made to the state of Rwanda:
 - i) Repeal or revise criminal legislation that infringes on the right to freedom of expression, in line with its international human rights obligations;
 - ii) Ensure that laws on preventing so-called "genocide ideology", "sectarianism" or "divisionism" are not used to silence government critics;
 - iii) Ensure and safeguard the rights to freedom of opinion and expression as required under international law, and release and/or grant relief and protection to individuals whose rights have been violated by these laws;
 - iv) End all restrictions on the right to freedom of opinion and expression and ensure that the right to manifest one's religion in private or in public is fully protected and realized;

⁷ Christopher Kayumba, 'President Kagame's Disagreement With Supreme Court Advances Rule of Law' *The Chronicles* (3 May 2019) <<https://www.chronicles.rw/2019/05/03/president-kagames-disagreement-with-supreme-court-advances-rule-of-law/>>.

⁸ 'Rwanda Acts to Counter Religious Discrimination in Schools' *Jehovah's Witnesses* (9 June 2016) <<https://www.jw.org/en/news/legal/by-region/rwanda/counter-religious-discrimination-school/>>.

⁹ 'Rwanda Overview', *Jehovah's Witnesses* <<https://www.jw.org/en/news/legal/by-region/rwanda/jehovah-witness-facts/>>.

¹⁰ The European Association of Jehovah's Christian Witnesses, 'Rwanda' (Report, November 2015).

- v) Ensure freedom of religion and belief, both in law and in practice, for adherents of all religions, and root out all cases of discrimination against members of religious minorities;
- vi) Continue efforts to promote religious tolerance by ensuring reasonable accommodation for religious minorities in the workplace.



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