

# DECOLONIZATION OF THE LEGAL CODE: THE END OF COLONIAL LAWS IN RWANDA AND A MODEL FOR OTHER POST-COLONIAL SOCIETIES

*Agnes Binagwaho and Richard Freeman\**

## INTRODUCTION

Communities around the world are organizing to confront structural violence and its enduring consequences. As the COVID-19 pandemic, caused by a deadly respiratory virus, disproportionately affects historically oppressed communities, protestors rally around cries of “I can’t breathe,” the dying words of black men and women killed by police.<sup>1</sup> In Africa and in Europe, the global movement has found

---

\* Agnes Binagwaho, M.D., M(Ped), Ph.D. is a pediatrician, Senior Lecturer in the Department of Global Health and Social Medicine at Harvard Medical School, Vice Chancellor of the University of Global Health Equity in Rwanda, and Adjunct Clinical Professor of Pediatrics at Dartmouth College’s Geisel School of Medicine. She served for 14 years in senior government positions in Rwanda’s health sector and served as Rwanda’s Minister of Health from 2011 to 2016. Richard Freeman, J.D., M.P.P. works in Rwanda as an Advisor of the Rule of Law Program at Stanford Law School.

1 See Mike Baker et al., *Three Words. 70 Cases. The Tragic History of ‘I Can’t Breathe.’* N.Y. TIMES (June 29, 2020), <https://www.nytimes.com/interactive/2020/06/28/us/i-cant-breathe-police-arrest.html> [<https://perma.cc/446Z-NR6Y>] (“Mr. Floyd’s dying words have prompted a national outcry over law enforcement’s deadly toll on African-American people, and they have united much of the [U.S.] in a sense of outrage that a police officer would not heed a man’s appeal for something as basic as air . . . Over the past decade, The New York Times found, at least 70 people have died in law enforcement custody after saying the same words—‘I can’t breathe.’”).

expression in the struggle against unresolved injustices of colonial and post-colonial violence. Activists worldwide have converged on a common tactic, as they topple statues and monuments that honor racist historical figures. Symbolic in nature, the powerful action carries real import: it transforms the space, norms, and discourse within which we accept to live together.

For post-colonial societies, this article demonstrates Rwanda's experience in extending the movement beyond the realm of symbolism and into substantive policy reform. The country has taken the unprecedented step of systematically eradicating the legal roots of historic inequality and structural violence at the very heart of post-colonial society. Rather than toppling statues, Rwanda toppled its colonial statutes.

In a previous article published in this Journal, we advocated for Rwanda to initiate a public debate and to take bold action to abolish the barriers that colonial laws still presented to health, human rights, and development.<sup>2</sup> Staying true to its trailblazer reputation, Rwanda acted swiftly. As it commemorated 25 years since the end of the 1994 genocide against the Tutsi—the culmination of European colonial divisionism—Rwanda laid down a new milestone in the liberation of its legal institutions.

---

<sup>2</sup> See Agnes Binagwaho, Richard Freeman & Gabriela Sarriera, *The Persistence of Colonial Laws: Why Rwanda is Ready to Remove Outdated Legal Barriers to Health, Human Rights, and Development*, 59 HARV. INT'L L. J. ONLINE 45 (2018), <https://harvardilj.org/2018/06/the-persistence-of-colonial-laws-why-rwanda-is-ready-to-remove-outdated-legal-barriers-to-health-human-rights-and-development/> [<https://perma.cc/4XAN-FG3X>] [hereinafter *Persistence of Colonial Laws*].

Namely, on July 15, 2019, the Parliament historically proclaimed an end to all colonial laws:

All legal instruments, brought into force before the date of independence of Rwanda, are repealed.<sup>3</sup>

That is a victory for social justice. As discussed in our previous article, the persistence of colonial laws, originally designed to oppress, continued to exert harm. These legal vestiges can jeopardize the rule of law, causing delays in policy implementation and unjust outcomes.<sup>4</sup> In health policy, the consequences can mean the difference between life and death.<sup>5</sup> Especially today, at a time of a global pandemic, when every moment counts to control the spread of a highly lethal infectious disease, there is no room for interference from the ghosts of colonial oppressors.

No doubt, Parliament's bold stroke will surface some questions about how to interpret certain laws, or how to adjudicate in the absence of certain now-abolished statutory rules. But the country's modern legal institutions are resilient; they have the tools and capability to resolve those questions. These challenges are minor when compared to the malignancy that has finally been excised from the code. As Rwanda moves into the future on a more just and dignified

---

<sup>3</sup> Law N° 020/2019 of 22/08/2019 Repealing All Legal Instruments Brought into Force Before the Date of Independence, Art. 3 (Rwanda), [https://www.rlrc.gov.rw/fileadmin/user\\_upload/LawsOfRwanda/Laws%20of%20Rwanda/1.\\_Fondamental/1.1.%20National%20Instruments/1.1.12.\\_Repealing\\_laws\\_adopted\\_before\\_the\\_independence/1.1.12.1.\\_Repealing\\_Laws\\_of\\_before\\_independence\\_Law\\_no\\_020\\_of\\_2019.pdf](https://www.rlrc.gov.rw/fileadmin/user_upload/LawsOfRwanda/Laws%20of%20Rwanda/1._Fondamental/1.1.%20National%20Instruments/1.1.12._Repealing_laws_adopted_before_the_independence/1.1.12.1._Repealing_Laws_of_before_independence_Law_no_020_of_2019.pdf) [<https://perma.cc/5FR6-RECJ>] [hereinafter Law Repealing All Legal Instruments Brought into Force Before the Date of Independence].

<sup>4</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 45.

<sup>5</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 45.

legal foundation, it now has an opportunity to inspire other post-colonial countries in Africa and beyond to consider doing the same.

## I. A WORLD READY TO DISMANTLE COLONIALISM: FROM STATUES TO STATUTES

Globally, societies have mobilized to reject historic instruments of oppression. What began as nationwide protests against institutionalized racism in America, especially its manifestation in police brutality against black civilians, has ignited a wave of actions across the world. While Americans tear down statues of Confederate generals who fought for the institution of slavery in the country's south, elsewhere in the world protestors have set their sights on "statues glorifying men made famous or rich by the slave trade and colonialism."<sup>6</sup> In Europe and Africa, the movement has revived an overdue reckoning with the unfinished business of decolonization. Rwanda's reform coincides with this global context of introspection, activism, and change.

Among these international reactions, a public debate has emerged around Belgium's violent colonial legacy—the same evil past that continues to haunt communities in both Europe and Africa, including Rwanda. Across Belgium there has been "a wave of support for the removal of all monuments built to honour [King Leopold II,] the former king, who brutalised

---

<sup>6</sup> John Campbell & Jack McCaslin, *George Floyd's Murder Revives Anti-Colonialism in Western Europe*, COUNCIL ON FOREIGN REL. (June 16, 2020), <https://www.cfr.org/blog/george-floyds-murder-revives-anti-colonialism-western-europe> [<https://perma.cc/A5K3-2D9B>].

Congolese people.”<sup>7</sup> In a particularly powerful instance, a fourteen year old boy of Congolese descent launched a viral petition demanding the City of Brussels remove all statues of Leopold II.<sup>8</sup> As the sixtieth anniversary of the Democratic Republic of the Congo’s independence approached last year, monuments to Belgian colonialism were removed in Antwerp, Ghent, and Ixelles.<sup>9</sup> Even as far away as Western Australia,

---

7 Maïthé Chini, *Burned Leopold II Statue Removed from Antwerp Square*, BRUSSELS TIMES (June 9, 2020), <https://www.brusselstimes.com/all-news/belgium-all-news/115940/burned-leopold-ii-statue-moves-to-antwerp-museum/> [<https://perma.cc/Z4MD-RJHT>].

8 See *Enlever toutes les statues Léopold II - Alle Léopold II standbeelden verwijderen* [Remove all Leopold II statues], CHANGE.ORG, <https://www.change.org/p/ville-de-bruxelles-enlever-toutes-les-statues-en-hommage-%C3%A0-1%C3%A9opold-ii> [<https://perma.cc/Q972-E3UQ>]; Scott McClean & Sebastian Shukla, *Belgium’s King Leopold II Has a 21<sup>st</sup> Century Nemesis. He’s 14 Years Old*, CNN (June 25, 2020), <https://edition.cnn.com/2020/06/25/europe/belgium-king-leopold-statue-petition-colonialism-intl/index.html> [<https://perma.cc/4FMG-A2X7>].

9 In early June 2020, local authorities removed one such statue from the marketplace in Antwerp, after protestors had burned it. See Chini, *supra* note 7; Monika Pronczuk & Mihir Zaveri, *Statue of Leopold II, Belgian King Who Brutalized Congo, Is Removed in Antwerp*, N.Y. TIMES (June 9, 2020), <https://www.nytimes.com/2020/06/09/world/europe/king-leopold-statue-antwerp.html> [<https://perma.cc/5GPM-LQ3D>]. Days later, on June 30, 2020, the city council of Ghent removed a bust of King Leopold II from a park. See *Leopold II Bust Removed in Ghent on Congo’s Independence Day*, BRUSSELS TIMES (July 1, 2020), <https://www.brusselstimes.com/all-news/belgium-all-news/119467/leopold-ii-bust-removed-in-ghent-on-congos-independence-day/> [<https://perma.cc/MT4N-DH7C>]. The mayor of Ixelles announced that the municipality would remove a monument to Leopold’s general, Émile Storms. See Gabriela Galindo, *Ixelles Will Remove Bust of Leopold II’s ‘Ruthless’ Colonial General*, BRUSSELS TIMES (July 1, 2020), <https://www.brusselstimes.com/belgium/119374/ixelles-will-remove-bust-of-leopold-iis-ruthless-colonial-general/> [<https://perma.cc/D8NV-QVPL>] (“Doukeridis first announced the removal of the statue in May, as decolonisation activists in Belgium, galvanised by massive anti-racism protests in the US, renewed calls for the removal of colonial monuments in Belgium, and namely of statues to Leopold II.”). Unfortunately, not all authorities have followed this movement. Some local Belgian authorities have even continued to clean and restore Leopold monuments that

on July 3, 2020, the local government changed the official name of the King Leopold Ranges to the aboriginal name, Wunaamin Miliwundi Ranges, finally rejecting the tyrant's "grievous atrocities, brutal oppression and the enslavement of African people."<sup>10</sup> The response is not unique to the Belgian colonial legacy: other European communities have also toppled monuments to their own slave traders and colonialists too.<sup>11</sup>

To its credit, the Belgian government has also taken a few steps. It invited experts from the United Nations Office of the High Commissioner for Human Rights ("U.N. Human Rights") to visit Belgium for an independent assessment of concerns about human rights and racism.<sup>12</sup> In 2019, their

---

protestors repeatedly deface with graffiti. *See, e.g., Leopold II statue defaced again after clean-up*, BRUSSELS TIMES (June 22, 2020), <https://www.brusselstimes.com/brussels/117936/leopold-ii-statue-defaced-again-after-clean-up-trone-stop-cleaning> [<https://perma.cc/V2S6-YLBW>].

**10** GOV'T OF W. AUSTL., MEDIA STATEMENT: KING LEOPOLD RANGES RENAMED TO HONOUR ABORIGINAL CULTURE (July 3, 2020), <https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/07/King-Leopold-Ranges-renamed-to-honour-Aboriginal-culture.aspx> [<https://perma.cc/R5K8-TZGD>].

**11** For example, in England, "a bronze statue of Edward Colston, a 17th-century slave trader, was toppled into Bristol Harbor . . . And a statue of Robert Milligan, an 18th-century slave trader, was taken down in London." Pronczuk & Zaveri, *supra* note 9. *See also* Mark Lander, 'Get Rid of Them': A Statue Falls as Britain Confronts Its Racist History, N.Y. TIMES (June 8, 2020), <https://www.nytimes.com/2020/06/08/world/europe/edward-colston-statue-britain-racism.html> [<https://perma.cc/G8WJ-BY2P>] ("[W]hen these demonstrators dumped the monument of Colston into Bristol Harbor with a splash, they also forced Britain to consider how to confront its racist history at a moment when many of the same questions are being asked in the United States . . . Colston's ignominious fate may not bode well for a statue of Cecil Rhodes that sits uneasily at the Oxford University college where he studied. Students have campaigned for years to pull down the statue of Rhodes, whose white supremacist views are considered by some to be a precursor to apartheid.").

**12** *See* U.N. Off. of the High Comm'r for Hum. Rts., *Statement to the Media by the U.N. Working Grp. of Experts on People of Afr. Descent, on the Conclusion of Its*

report concluded that the “public discourse does not reflect a nuanced understanding of how *institutions* may drive systemic exclusion” and inequity.<sup>13</sup> The experts “note[d] with concern the public monuments and memorials that are dedicated to King Leopold II and Force Publique officers.” But, looking deeper, they also advised “finally confront[ing] and acknowledg[ing] King Leopold II’s and Belgium’s role in colonization and its long-term impact on Belgium and Africa.”<sup>14</sup> As the expert report recognized, removing statues is important, but true healing must reach institutional reforms.

A year later, on July 17, 2020, Belgium’s Chamber of Representatives responded: it established a special commission to examine King Leopold and the Belgian state’s colonial past in Congo, Rwanda, and Burundi, including the role of the Catholic church and other non-state actors.<sup>15</sup> The commission will not only assess “symbolic actions” to promote reconciliation – such as “the withdrawal . . . of statues honoring or having honored the protagonists of

---

*Off. Visit to Belgium, 4-11 Feb. 2019* (Feb. 11, 2019), at ¶¶ 1-3 [hereinafter U.N. Hum. Rts. Statement], <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24153&LangID=E> [<https://perma.cc/8SXC-PNJ5>].

<sup>13</sup> *Id.* ¶ 13.

<sup>14</sup> *Id.* ¶ 14; *see also id.* ¶ 45 (“We welcome the renaming of the former Square du Bastion to Patrice Lumumba Square in June 2018 . . . and encourage . . . the removal of markers of the colonial period.”).

<sup>15</sup> BELGIAN PARLIAMENT, CHAMBRE DES REPRÉSENTANTS DE BELGIQUE, Doc 55 1462/001, *Commission Spéciale Chargée d’Examiner l’État Indépendant du Congo (1885-1908) et le Passé Colonial de la Belgique au Congo (1908-1960), au Rwanda et au Burundi (1919-1962), Ses Conséquences et les Suites qu’Il Convient d’y Réserver* [Special Commission to Examine the Independent State of the Congo (1885-1908) and the Colonial Past of Belgium in the Congo (1908-1960), Rwanda and Burundi (1919-1962); Their Consequences, and Actions That Should Be Taken], §§ 3.1, 3.2 (July 17, 2020).

colonization”<sup>16</sup>—but it is also charged to advise Parliament on substantive policy options.<sup>17</sup> This is a positive step, but to result in change, the commission must be well constituted, it must produce constructive guidance, and the government must finance and implement appropriate recommendations. Otherwise, it will risk falling short of the urgent mandate to reform the institutional legacy of colonialism.

In Africa, the Black Lives Matter movement has also found expression in the anticolonialism struggle, in former colonies of all stripes. Ugandan feminist, Rosebell Kagumire, describes how “[p]rotests ignited by Black Lives Matter action have gone beyond solidarity to put a spotlight on the work that remains unfinished at home.”<sup>18</sup> In some instances, such as the #EndSARS movement in Nigeria, the call for social justice has demanded an end to police brutality in African societies too. But as in other parts of the world, many actions have targeted symbolism and discourse.

For example, Kagumire cites an initiative to rename Ugandan streets bearing the names of colonizers, which attracted little attention in 2017 but which now is gaining

---

**16** *Id.* § 4.2 (author’s translation).

**17** *See id.* § 4.1 (building a more truthful historical record, the promotion of academic research on colonialism, and opening up and improving access to archives of colonialism in Belgium, Congo, Rwanda, and Burundi); *id.* § 3.6 (communications and trainings for the police and military to reduce racist and xenophobic violence); *id.* § 4.2 (financial support for related public initiatives, restitution of stolen patrimony, and the inclusion of victims in such processes (including when there are potential legal or financial consequences)).

**18** Rosebell Kagumire, *Black Lives Matter Resonates with Africans Pushing for Decolonisation*, GLOB. REPORTING CTR., IDEAS (June 29, 2020), <https://globalreportingcentre.org/ideas/black-lives-matter-resonates-with-africans> [<https://perma.cc/RS5D-STJ6>].



traction,<sup>19</sup> and petitioners seeking to remove colonial monuments in Cabo Verde.<sup>20</sup> Indeed, long before the Black Lives Matter movement arrived, African activists were calling for the removal of colonial monuments. Students at the University of Cape Town in South Africa, after lengthy protest, achieved the removal of the school's iconic statue of Cecil Rhodes in 2015.<sup>21</sup> Further north, a Cameroonian activist, André Blaise Essama, told the press, "I have

---

**19** See *id.* ("[I]n the wake of Black Lives Matter protests, a petition to change the street names has gained more than 5,000 signatures. It reads, 'we believe that the removal of visible vestiges of a colonial hegemony from public spaces is a crucial part of a process of decolonisation and ending an era of domination and impunity.'"). See also *Kampala, Uganda's Capital, is Littered with 'British' Roads, 55 Years Since Independence*, STORYTELD, <https://storyteld.net/kampala-ugandas-capital-is-littered-with-british-roads-55-years-since-independence/> [<https://perma.cc/NU7T-CX5Q>] (cited by Kagumire). See, e.g., *id.* at 1:54 ("55 years on, can we really claim we have independence if our capital city is littered with reminders of our former bosses").

**20** See Gilson Varela Lopes, *Remoção de monumentos pró-escravagistas e coloniais em Cabo Verde* [Removal of pro-slavery and colonial monuments in Cape Verde], PETIÇÃO PÚBLICA, <https://peticaopublica.com/pview.aspx?pi=PT100526> [<https://perma.cc/XFE2-E7YX>] ("[V]enho por este meio, solicitar a Vossa Excia. que se julgar competente na matéria, que ordene a retirada imediata da estátua de Diogo Gomes sita no Plateau, mesmo nas imediações do Palácio da Presidência, bem como os bustos/estátuas de exploradores coloniais como Alexandre Albuquerque (Plateau), Serpa Pinto (Fogo), Sá da Bandeira, Diogo Afonso e Sá da Bandeira em São Vicente (Mindelo).") ["I hereby request that your Excellency, deemed to have authority over the matter, order the immediate removal of the statue of Diogo Gomes located on the Plateau, in the vicinity of the Presidential Palace, as well as the busts / statues of colonial explorers such as Alexandre Albuquerque (Plateau), Serpa Pinto (Fogo), Sá da Bandeira, Diogo Afonso and Sá da Bandeira in São Vicente (Mindelo)."]

**21** See *UCT Council Votes in Favour of Removing Rhodes Statue*, UNIV. OF CAPE TOWN, NEWSROOM (Apr. 8, 2015), <https://www.news.uct.ac.za/article/-2015-04-08-uct-council-votes-in-favour-of-removing-rhodes-statue> [<https://perma.cc/CE3P-FTCU>] ("UCT Council has voted in favour of removing the Cecil John Rhodes statue from UCT's upper campus, at a special sitting held on 8 April 2015. This follows a month-long series of protests by UCT students which foregrounded the debate around statues, symbols and the impact these have on the climate of inclusiveness on the UCT campus.")

decapitated Leclerc's head seven times and toppled the statue at least 20 times."<sup>22</sup>

However, as scholars of contested monuments note, in the "long-term, the question remains: what does the removal or erasure of a statue or monument accomplish? . . . Without structural changes in justice, policing, social, and educational systems, removal will be a Pyrrhic victory, a purely symbolic act."<sup>23</sup>

As post-colonial societies explore avenues for channeling the movement into something deeper, targeting structural change, they may take interest in Rwanda's recent legal reform. Few others have addressed Belgian colonialism so profoundly. To be sure, law is not the only source that perpetuates colonial injury: some of the structural damage is also embedded in persistent economic inequality and harmful social norms. But the laws and institutions designed by colonial regimes remain in place in many countries. Those legal malignancies should also be excised.

This past year, Rwanda offered the world an example of a bold step. With a single wholesale repeal, the country once colonized by Germany and Belgium abolished *all* colonial laws that remained in force.

---

<sup>22</sup> Dickens Olewe, *André Blaise Essama: The Cameroonian Waging War Against a French War Hero's Statue*, BBC (July 1, 2020), <https://www.bbc.com/news/world-africa-53148608> [<https://perma.cc/XMK5-8744>].

<sup>23</sup> Marie-Louise Ryback Jansen & Steven Stegers, *Who Will Deal with the Real Issues Once the Statues Are Out of Sight?*, EUROCLIO (June 11, 2020), <https://www.euroclio.eu/2020/06/11/who-will-deal-with-the-real-issues-once-the-statues-are-out-of-sight/> [<https://perma.cc/R4SX-F9T4>]. See also U.N. Hum. Rts. Statement, *supra* note 12, ¶ 13 ("Credible efforts to counter racism require first overcoming" the "inequalities [that] are deeply entrenched because of structural barriers that intersect and reinforce each other.").

## II. RWANDA'S PATH TO LEGAL EMANCIPATION AND ITS ACHIEVEMENTS

### A. *The Context: Persistent Legal Barriers to Health, Human Rights, and Development*

In our article, *The Persistence of Colonial Laws*, we made a case for repealing all colonial laws in Rwanda.<sup>24</sup> Drawing upon first-hand experience, we described a number of ways in which these entrenched tools of the former oppressor perpetrate injustices against all citizens. Specifically, they perpetuate inequality through both the discriminatory policies that such laws were crafted to promote and their real discriminatory effects in practice.<sup>25</sup>

We pointed out colonial laws' wide-ranging deleterious effects on health, including a history of problematizing the public health response in outbreaks.<sup>26</sup> This is not a surprise—laws governing health were no exception to colonialism's perverse motives and prioritized a deliberate policy to subjugate, divide, and control African societies over their actual health and well-being. As described by Anne Cornet, a historian of Belgian colonialism, “the activities that were rolled out for a real health objective at the same time converged toward the colonial system's control, as a whole (State, missions, private sector), over the local populations.”<sup>27</sup>

---

<sup>24</sup> See *Persistence of Colonial Laws*, *supra* note 2.

<sup>25</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 57.

<sup>26</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 50.

<sup>27</sup> ANNE CORNET, POLITIQUES DE SANTE ET CONTROLE SOCIAL AU RWANDA: 1920-1940, at 462 (Karthala 2011) (authors' translation) (“[L]es activités déployées dans un objectif sanitaire bien réel convergeaient en même temps vers des emprises par le système colonial dans son ensemble (État, missions, secteur privé) sur les populations locales.”).

They reflected a racist occidental vision of African society, “a world where whites and blacks lived in parallel, but not together, a world where African society was essentially perceived as divided into social and ethnic groups.”<sup>28</sup>

Colonial health laws continued to interfere in governance through recent years. For example, we described how they delayed the Ministry of Health’s ability to implement international recommendations to address malnutrition, which in turn perpetuated harm to the health of people living in Rwanda.<sup>29</sup> We also detailed how they impaired the rule of law and separation of powers in Rwanda’s government by inviting officials to selectively enforce some colonial provisions but not others, damaging the health of the country’s modern institutions.<sup>30</sup>

We described the extraordinarily onerous task of locating antiquated laws, which would be impossible for some.<sup>31</sup> Especially in a post-conflict setting, obscure, hard-to-find laws are only accessible to people with the greatest resources, further reducing access to justice for the poor.<sup>32</sup> And we also

---

**28** *Id.* (authors’ translation) (“La separation des malades en divers groupes lors des consultations, traitements et hospitalisations est rélévatrice de la vision colonial de la société par les autorités médicales occidentales: un monde où la société africaine était elle aussi perçue comme divisée en groupes sociaux et ethniques.”).

**29** See *Persistence of Colonial Laws*, *supra* note 2, at 46.

**30** See *Persistence of Colonial Laws*, *supra* note 2, at 57.

**31** See, e.g., *Persistence of Colonial Laws*, *supra* note 2, at 51-53.

**32** See *Persistence of Colonial Laws*, *supra* note 2, at 56 (“As our team’s hunt for colonial statutes demonstrates, only those who have significant resources can dig up antiquated laws, which are hard to find. A government minister or a Stanford lawyer can deploy the resources to search the world and find one, but that access is not possible for most ordinary citizens. Yet an ordinary citizen could find herself defending against one such law in a court of law, where ignorance of the law is no defense. The effect is discriminatory, as it privileges some people who can cite laws that others cannot access.”).

highlighted the broader normative problem of building a more just system on a legal foundation that is discriminatory, incomplete and scattered.<sup>33</sup> Perhaps most importantly,

[a]s a matter of social justice, human rights, and due process, *no* Rwandan should *ever* be subjected to a decree of a colonial governor or even wonder if she might be. Even if a court correctly refuses to enforce a colonial law, the damage is already done: no citizen ... should be subjected to the indignity of standing before a judge to defend herself against a colonizer's decree, brought into the court by a creative opponent.<sup>34</sup>

In addition to the public policy concerns, we addressed legal problems presented by these colonial vestiges. “Across the board, every colonial law . . . is in conflict with certain provisions of Rwanda’s Constitution,” including problems relating to the country’s independent sovereignty; unconstitutional objectives promoted by colonial laws; discriminatory effects of keeping such laws on the books; the unconstitutional effect on the rule of law; and procedural defects inherent to laws not promulgated in accordance with the mechanisms permitted by the Constitution.<sup>35</sup>

Contemporaneously, the Chief Justice of Rwanda at that time, Professor Sam Rugege—a supporter of law reform in the country—also lent his voice to the cause. In his speech to open the new judicial year on October 10, 2017, he urged the government to consider the issue:

---

33 See *Persistence of Colonial Laws*, *supra* note 2, at 56-57.

34 *Persistence of Colonial Laws*, *supra* note 2, at 57.

35 *Persistence of Colonial Laws*, *supra* note 2, at 57-58.

It is not normal that after more than fifty years of independence, we still have on our statute books, laws promulgated by the King of Belgium and the Governor of Rwanda-Urundi which are obviously not in sync with the times and which sometimes are used capriciously in our courts. Competent institutions should examine whether it is not high time that Rwanda discarded these laws.<sup>36</sup>

To resolve this, we proposed several options to remove colonial statutes.<sup>37</sup> The country could wait for a revised code of Rwandan law to be completed, though lengthy delays were certain with that approach.<sup>38</sup> Alternatively, a task force could be created to review only the obsolete health laws, singled out as uniquely problematic, but we noted the costs and inefficiencies associated with that incomplete solution. We suggested that the most ambitious and effective approach would be a wholesale repeal of all colonial laws—a view supported by the Chief Justice as well.<sup>39</sup> Under that scenario, we noted the option to enumerate specific exceptions that might be saved. Finally, if legislative efforts fail, we identified grounds on which the Supreme Court could invalidate all colonial laws at once.

---

**36** Chief Justice Sam Rugege, Address Delivered at the Launch of the Judicial Year (Oct. 10, 2017) (Kigali, Rwanda) [hereinafter October Speech] (unpublished translation provided by Chief Justice Rugege, on file with authors).

**37** See *Persistence of Colonial Laws*, *supra* note 2, at 58-62.

**38** The Chief Justice agreed that “[t]o reform or to replace them through the normal process can take an inordinately long time.” October Speech, *supra* note 36.

**39** In his October Speech, the Chief Justice advised, “Rwanda can abrogate them immediately and replace them progressively as the need arises. This path would not create a vacuum because our law provides for what a judge must do in case of nonexistence of a law that deals with a particular issue. This method of getting rid of colonial law was applied in some countries like the United States and Singapore.” October Speech, *supra* note 36.

Rwanda went for the most ambitious option. In fact, the government did not even advocate for any enumerated savings.<sup>40</sup> If the law was imposed by a colonizer, it was out – no exceptions.

*B. The Rwanda Law Reform Commission Takes on the Fight Against Colonialism*

The Rwanda Law Reform Commission (“RLRC” or the “Commission”) coordinated the effort to topple colonial laws. The Chairman of the Commission at that time was Aimable Havugiyaremye. A legal academic who frequently lectures at the University of Rwanda, Havugiyaremye once led the country’s training programs for legal practitioners as the rector of the Institute of Legal Practice and Development. But as a former investigator of the *Gendarmerie Nationale*, who today serves as the country’s Prosecutor General, he would prove to be a formidable protagonist for prosecuting the case against the laws of Rwanda’s former oppressors.<sup>41</sup>

Havugiyaremye dispatched a team led by Alain Songa, Head of the Department of Research and Reform, to dig up all of the colonial laws they could possibly find. Well before the pandemic, the team donned face masks to descend into the dusty chambers of the Ministry of Justice’s basement. They

---

<sup>40</sup> Compare Law Repealing All Legal Instruments Brought into Force Before the Date of Independence, *supra* note 3, with Application of English Laws, Act § 5.1 (1993) (Sing.) (“Except as provided in this Act, no English enactment shall be part of the law of Singapore”). See *Persistence of Colonial Laws*, *supra* note 2, at 60 (describing Singapore’s approach, which “repealed all British statutes at once, except for just a few that were expressly singled out for preservation”).

<sup>41</sup> See *Newly Appointed Prosecutor General Commit to Fulfilling Responsibilities*, IGIHE (Dec. 4, 2019), <https://en.igihe.com/news/newly-appointed-prosecutor-general-commit-to> [https://perma.cc/QE7T-WQ44].

emerged from the excavation having unearthed over 1,000 pre-independence laws.<sup>42</sup> Indeed, the Commission confirmed that “some [were] still being used in court, like the law of 1888 related to contracts and conventions.”<sup>43</sup>

Despite the Commission’s extensive efforts, the lawyers could not verify that there were no colonial laws they may have missed; more could be lurking in other basements, in a Belgian archive, or even in the Stanford Law Library’s depository in the United States.<sup>44</sup> “It was difficult,” Havugiyaremye recalls, “you could find a list of the title of the laws, but . . . could not find the content.”<sup>45</sup>

This became an important consideration in Havugiyaremye’s decision to prepare a wholesale repeal of all pre-independence laws, rather than recommending that Parliament only repeal the list of laws that were retrieved.<sup>46</sup> Havugiyaremye later recounted, “the reason we had to repeal all colonial laws is that even though we were able to identify [over a thousand] colonial laws, the list is not exhaustive.”<sup>47</sup> For example, “because the colonial powers subjected Rwanda to all criminal laws in *Congo Belge*, there could still be more

---

<sup>42</sup> Based on the author’s discussions with Alain Songa and Aimable Havugiyaremye in December 2018, Kigali, Rwanda. The retrieved legal instruments are listed in the annex to Law Repealing All Legal Instruments Brought into Force Before the Date of Independence, *supra* note 3.

<sup>43</sup> Interview with Aimable Havugiyaremye, Chairperson, Rwanda L. Reform Comm’n, in Paris, France (July 14, 2019) [hereinafter July 2019 Interview with Aimable Havugiyaremye].

<sup>44</sup> Based on author’s conversations with the Rwanda Law Reform Commission. See *Persistence of Colonial Laws*, *supra* note 2, at 51-52 (describing the authors’ discovery of colonial laws in the Stanford Law Library’s off-site depository).

<sup>45</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

<sup>46</sup> Interview with Aimable Havugiyaremye, Chairman, Rwanda L. Reform Comm’n, in Kigali, Rwanda (Dec. 21, 2018).

<sup>47</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.



laws that one could invoke and say [they are] applicable in Rwanda, even though we are not even aware of [them].”<sup>48</sup>

Nevertheless, drafting the repealing law without saving any exceptions was a daring decision, especially as some stakeholders felt that colonial statutes were still of value. Legal advisors for the Ministry of Health, for example, were hesitant and had informed RLRC that they would like to retain several colonial-era laws.<sup>49</sup> The Commission decided not to endorse such requests, preferring to encourage ministries to propose new or revised laws wherever colonial rules were in use.<sup>50</sup> Asked why RLRC recommended a categorical approach, leaving no exceptions behind, Havugiyaremye shared that a primary motive was because “Rwandans were not the ones to pass those laws, so we don’t even know what was the intention behind [them].”<sup>51</sup> Further, he explained, “we have to find our own solutions to our own problems, instead of relying on others’ thinking about how we should solve our problems.”<sup>52</sup>

“Most of the matters that were provided for by colonial laws are now provided for by recent new laws,” the Law Reform Commission determined; therefore, any “gaps in terms of written laws are really very few.”<sup>53</sup> In any event, as we had argued before and as Havugiyaremye agreed, if

<sup>48</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43; for a brief discussion of merits of repeal despite these supposed “gaps” that could result, see *Persistence of Colonial Laws*, *supra* note 3, at 60-61.

<sup>49</sup> Based on author’s conversations with the relevant team at the Rwanda Law Reform Commission during their review of the excavated colonial statutes.

<sup>50</sup> Based on the author’s discussions with Alain Songa and Aimable Havugiyaremye in December 2018 in Kigali, Rwanda.

<sup>51</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

<sup>52</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

<sup>53</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

statutory “gaps” appear, the system has an ability to handle them: “we do have a legal basis for filling the gaps . . . when something is not provided for by written laws. The basis for that is the provision in the civil code.”<sup>54</sup> Indeed, where a matter is not addressed in a parliamentary statute, Rwandan procedure allows judges to decide cases based on “the rule they would have enacted, had they to do so, guided by judicial precedents, customs and usages, general principles of law and written legal opinions.”<sup>55</sup> In an interview with *The New Times*, Havugiyaremye described the Commission’s view that “our legal system now has sufficient legal instruments to regulate both civil and criminal matters,” citing judges’ ability to employ “logic, legal precedents, and common sense” to interpret the law where a statute may be silent.<sup>56</sup> In the event that such solutions would be needed, the Commission even saw a potential benefit for the further development of Rwanda’s hybrid legal system:

In the civil law system, it’s as though nothing can be done if there isn’t a written law behind it. Now judges will have to develop their legal thinking instead of only applying the law that is written . . . Laws should be considered as tools that can help you to solve problems or to render justice, but they

---

<sup>54</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

<sup>55</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 61 (describing Law N° 21/2012 of 14/06/2012 Relating to the Civil, Commercial, Labour and Administrative Procedure, Art. 6, now codified at Law N° 22/2018 of 29/04/2018 Relating to the Civil, Commercial, Labour and Administrative Procedure, Art. 9).

<sup>56</sup> Eugène Kwibuka, *Inside Colonial Laws: Among Other Things, Serving Alcohol for Free or on Credit Was Illegal*, *NEW TIMES* (July 1, 2019), <https://www.newtimes.co.rw/news/inside-colonial-laws-among-other-things-serving-alcohol-free-or-credit-was-illegal> [<https://perma.cc/L8X4-6NBH>].

aren't the only ones. There is [also] equity, in terms of what is just for society.<sup>57</sup>

Once the Commission prepared the draft law, it was presented to the President's cabinet, which approved its submission to Parliament. The public debate began.

### C. *The End of Colonial Laws*

With the cabinet's endorsement, local media reported: "It is here that the interesting debates will occur, as interested parties battle for complete removal of some laws. In other countries, such a process to repeal colonial laws has seen heated debates especially on laws of free expression and assembly, and women rights."<sup>58</sup> A local outlet, *The Chronicles*, laid out the stakes: "Rwanda will either be still in bondage" or freed from the "legacy of the 'colonialists'—often accused of setting in place the infrastructure that led to the 1994 genocide against the Tutsi."<sup>59</sup>

The Rwanda Law Reform Commission found that feedback from lawyers, in general, was less disturbed by the law's colonial legacy. "[Lawyers] were used to citing even entire books of law," without questioning the integrity of what lay within, Havugiyaremye says, describing how some attorneys broadly cite "'civil law book one,' but when you look

---

<sup>57</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43. Rwanda inherited a civil law tradition from German and Belgian colonizers, but subsequently introduced elements of common law traditions as it has crafted a hybrid legal system of its own design. The judiciary continues evolving in this "hybrid" direction, as the use of common law reasoning becomes more common.

<sup>58</sup> *Rwanda Begins Repealing ALL Pre-Independence Laws*, THE CHRONICLES (Apr. 4, 2019), <https://www.chronicles.rw/2019/04/04/rwanda-begins-repealing-all-pre-independence-laws/> [<https://perma.cc/7CFM-43XV>].

<sup>59</sup> *Id.*

at the actual law itself, you realize it was a [colonial] royal decree. Which means we were somehow blind.”<sup>60</sup> He suggests that full emancipation also requires a transformation in legal education so that lawyers are taught to think more critically about legal institutions, both those they inherit and those they themselves develop: “The way we were taught laws, lawyers kept a colonial mentality.”<sup>61</sup>

On the other hand, the Commission found that “the [general] population . . . couldn’t even believe that we . . . still use the colonial laws,” and most “comments and responses [expressed] surprise that we had not already repealed these laws.”<sup>62</sup>

In an editorial published in *The New Times*, the Rwandan newspaper warned, “[from] a legal point of view, the country could be sitting on a ticking time bomb. An example is the zoning law that reserved some neighbourhoods for whites only. Therefore, there is legal ground to evict some of the residents of upper Kiyovu.”<sup>63</sup> The press highlighted “[a]nother ridiculous law . . . enacted in 1930 [that] forbade bars from selling alcoholic drinks on credit,” which if enforced, could

---

**60** July 2019 Interview with Aimable Havugiyaremye, *supra* note 43. The Commission also determined that the constitutionality of those laws was suspect: Article 95 of the constitution describes the hierarchy of laws, and it does not mention royal decrees. No such royal decrees were issued pursuant to the process described in the Constitution, and the Constitution did not provide for any such exceptions. See CONSTITUTION OF THE REPUBLIC OF RWANDA OF 2003 REVISED IN 2015, Art. 95, [https://primature.gov.rw/fileadmin/user\\_upload/documents/Official%20Gazettes/2015%20Official%20Gazettes/Official\\_Gazette\\_no\\_Special\\_of\\_24.12.2015.pdf](https://primature.gov.rw/fileadmin/user_upload/documents/Official%20Gazettes/2015%20Official%20Gazettes/Official_Gazette_no_Special_of_24.12.2015.pdf)

**61** July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

**62** July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

**63** Editorial, *Editorial: How Did Colonial Laws Survive This Long?*, NEW TIMES (July 2, 2019), <https://www.newtimes.co.rw/opinions/editorial-how-did-colonial-laws-survive-long> [<https://perma.cc/7XV6-NT82>].

leave the proprietor with “no legal recourse in case someone defaulted.”<sup>64</sup> The paper cautioned that some colonial laws may “seem harmless, but it is prudent not to leave any loose ends . . . repealing all those colonial laws and orders is long overdue.”<sup>65</sup>

The media also cited a commonly discussed example: the Catholic Church’s “massive land grab,”<sup>66</sup> which made it “the biggest landowner in Rwanda” under a 1943 Belgian law transferring large tracts of land to its control.<sup>67</sup> Notwithstanding this expropriation, the Rwanda Law Reform Commission clarified that the Church is not obliged to surrender its property in Rwanda, “an acquired right under the country’s laws.” But RLRC identified the example to illustrate that colonial laws were not enacted with Rwandans’ interests in mind: “[they] were enacted in favour of some colonialists themselves or missionaries.”<sup>68</sup>

The proposed repeal came before the parliamentary standing committee on political affairs and gender in the Chamber of Deputies, the first step before being considered by the full Chamber. There, the State Minister for Constitutional and Legal Affairs, who at that time was Evode Uwizeyimana,

<sup>64</sup> *Id.* See also Kwibuka, *supra* note 56 (“Under that law of 1930, alcoholic drinks consumed on the spot of their sale had to be paid for at the bar and traders were not allowed to sell the alcoholic drinks on credit or provide them for free. One of the legal analysts at the Law Reform Commission told this newspaper that since that law on prohibition to sell alcohol on credit was never officially abolished; some stubborn revellers can still drink to their thirst and refuse to pay debts.”).

<sup>65</sup> Editorial, *supra* note 63.

<sup>66</sup> Kwibuka, *supra* note 56 (“[A] massive land grab by the Church was made possible by a decree.”).

<sup>67</sup> Editorial, *supra* note 63; see also Kwibuka, *supra* note 56.

<sup>68</sup> Kwibuka, *supra* note 56.

exclaimed: “These are not laws that we should be proud of keeping.”<sup>69</sup>

Unsurprisingly, one Belgian legal advisor to the former genocidal regime (which had retained the colonial laws), responded by writing to a Rwandan newspaper to dispute the repeal. He even encouraged keeping some of the colonial laws. He admonished that “it would be wise to review them one by one” and better to wait to “replace them by new legislation if and where necessary.”<sup>70</sup>

That approach had already been considered and rejected by the Commission. RLRC wanted to avoid what had happened in India.<sup>71</sup> In 2014, the Indian government renewed a stalled process to identify and review colonial laws one-by-one before repealing them. The process led to delays over many years.<sup>72</sup> India’s inefficient and torpid approach attracted

---

**69** Kwibuka, *supra* note 56.

**70** Filip Reyntjens, Comment to Editorial, *supra* note 63.

**71** See July 2019 Interview with Aimable Havugiyaremye, *supra* note 43; *Persistence of Colonial Laws*, *supra* note 2, at 59-60 (additional comparative examples of other countries’ experiences repealing colonial law). In addition to the comparative examples from other countries that are contained in *Persistence of Colonial Laws* at 59-60, RLRC’s internal research documents included analysis of how the application of colonial laws was terminated in various U.S. states, Singapore, and Ireland, along with India’s prolonged, piecemeal approach to repealing colonial laws. Materials on file with author.

**72** See L. COMM’N OF INDIA, OBSOLETE LAWS: WARRANTING IMMEDIATE REPEAL, at ii (Interim report) (Sept 2014) (acknowledging delays); *id.* at 4-5 (describing “methodology [for] . . . collating, classifying and . . . grouping [a] huge gamut of laws spread in vast corpus of enactments”); *id.* at 6 (“253 laws despite having been recommended for repeal in [1998] still exist on the statute-books [in 2014.]”); *id.* at 8 (describing process of examining “more than a thousand statutes,” categorizing them, and then “exhaustively study[ing] the statutes” before identifying “candidates for repeal”). Much as in Rwanda, the Law Commission of India identified discriminatory laws that were still on the books and long overdue to be repealed. See, e.g., *id.* at 14 (describing the Sonthal Parganas Act, Act 37 of 1855, which referred to a tribal population as an “uncivilized race of people,” language which the Law

a great deal of public criticism, including in the international press, which drew attention to colonial laws that were still being enforced in Indian courts during the multi-year, protracted reform process.<sup>73</sup>

On July 15, 2019, the final debate took place in the Lower House of Parliament. The chairperson of the Political and Gender Equality Committee (the “Committee”), Emma Furaha Rubagumya, advocated on behalf of the Committee to

---

Commission of India stated “has no place in the modern era” and “runs contrary to the spirit of the Constitution”). *See also* Anu Anand, *Indian Government Plans to Repeal Hundreds of Pre-Independence Laws*, THE GUARDIAN (Oct. 29, 2014), <https://www.theguardian.com/world/2014/oct/29/indian-government-repeal-pre-independence-laws> [<https://perma.cc/4ZQ7-WSLR>] (“If India’s new government has its way . . . legal relics of British rule . . . could soon be repealed in what may prove to be the biggest cull of laws since 1947, when India won its independence. “Some of the laws on our books are laughable. Others have no place in a modern and democratic India,” India’s law minister, Ravi Shankar Prasad, said.”); *but see id.* (citing one Indian advocate who contends, “The government is simply picking low-hanging fruit to give the perception that they are bringing change. What they should be doing is reforming the penal code.”).

**73** *See Justice in India: Dropping the Scales*, THE ECONOMIST (May 21, 2016) (“[Lawmakers] were arguing that a 156-year-old statute that holds defamation to be a criminal offence is both unconstitutional and a danger to free speech (which it is). The petition failed. A two-judge panel’s 268-page ruling on May 13th upheld the colonial-era law.”); *Government Plans to Repeal Archaic Laws Pertaining to MHA*, TIMES OF INDIA (Apr. 11, 2016), <https://timesofindia.indiatimes.com/india/Government-plans-to-repeal-archaic-laws-pertaining-to-MHA/articleshow/51782460.cms> [<https://perma.cc/789X-LCZP>] (describing government’s “embarrassment” when it lost track of its own process, presenting archaic laws for repeal that had already been repealed at its request); *Government’s Plan to Repeal Over 1,000 Archaic Laws Stuck in Rajya Sabha*, ECON. TIMES (Dec. 27, 2015), <https://economictimes.indiatimes.com/news/politics-and-nation/governments-plan-to-repeal-over-1000-archaic-laws-stuck-in-rajya-sabha/articleshow/50340866.cms> [<https://perma.cc/SE2V-33X8>] (describing same “embarrassment”); L. COMM’N OF INDIA, *supra* note 72 (describing how “logjam[s]” in the parliamentary process have resulted in prolonged delays for getting multiple, separate repeals enacted).

lead the attack against “legal colonialism.”<sup>74</sup> Rubagumya, a first-term Member of Parliament, was born in Tanzania in 1967, after her parents had fled ethnic violence in Rwanda.<sup>75</sup> Safeguarding her education, her family reportedly sent her to school over her grandfather’s conservative objections.<sup>76</sup> Now recognized as part of a generation of women lawmakers fighting for equity and progress,<sup>77</sup> Rubagumya took aim at the colonizer. She argued that so long as these laws remain on the books, Rwandans “are in an endless colonialism.”<sup>78</sup> She then pointed to examples of other jurisdictions that had already enacted a wholesale repeal of all pre-independence laws.<sup>79</sup> “[T]he best option,” she argued, was that “used . . . in other countries such as the United States of America, [where]

---

**74** Transcript of Parliamentary Debate, Chamber of Deputies of Rwanda (July 15, 2019) (English translation, on file with authors) [hereinafter Parliamentary Debate]; Daniel Sabiiti, *MPs to Scrap the Law that Annexed Rwanda to Congo-Belge*, KT PRESS (July 16, 2019), <https://www.ktpress.rw/2019/07/mps-to-scrap-the-law-that-annexed-rwanda-to-congo-belge/> [<https://perma.cc/GN9F-LS4C>] (describing proposal to repeal colonial laws tabled before the Lower House of Parliament and quoting Rubagumya’s denouncement of “legal colonialism”).

**75** See Biography of Emma Furaha Rubagumya, REPUBLIC OF RWANDA, PARLIAMENT, <https://www.parliament.gov.rw/index.php?id=125&width=650&detailId=410> [<https://perma.cc/MK26-3D8M>] (last visited Aug. 23, 2020); Rania Abouzeid, *How Women Are Stepping Up to Remake Rwanda*, NAT’L GEOGRAPHIC (Oct. 15, 2019) (describing Rubagumya’s upbringing).

**76** See Abouzeid, *supra* note 75 (describing Rubagumya’s upbringing).

**77** See Abouzeid, *supra* note 75 (describing Rubagumya as part of a generation of Rwandan women advocating for progress and quoting her vision for the future: “We have the frameworks, we have policies, we have laws, we have enforcement mechanisms . . . We’ve walked a journey, we’ve registered good achievements, but we still need to go further to make sure that at some point we shall be totally free of all imbalances.”).

**78** Sabiiti, *supra* note 74.

**79** See Sabiiti, *supra* note 74.



Virginia . . . and New Jersey . . . repealed all the laws enacted by the British using one law.”<sup>80</sup>

Rubagumya advanced a broadside attack against the entire system of colonial laws, arguing that such “laws are inconsistent with the principles set out in the Constitution of the Republic of Rwanda as some of those laws are found to be based on discrimination.”<sup>81</sup> She acknowledged the impracticality of enforcement of some colonial laws that would now be deemed unconstitutional.<sup>82</sup> Rubagumya also maintained that the Constitution leaves no room for “laws enacted for the territory called Rwanda-Urundi or Belgian Congo” and “no sound justification . . . for application in a fully independent nation.”<sup>83</sup> She conveyed that the Rwanda

---

**80** Parliamentary Debate, *supra* note 74. See also *Persistence of Colonial Laws*, *supra* note 2, at 59 (“One wholesale repeal of all pre-independence statutes would be efficient and definitive. The choice is not unprecedented. The former American colonies continued using British statutes for a period of time after independence, while developing a legal tradition of their own. In time, however, states responded to the growing need for certainty about the body of valid positive law in their jurisdictions. That need led to the repeal of all British statutes that had not been affirmatively re-enacted after independence: in 1788, for example, just 12 years after declaring independence from England, the New York legislature repealed all British statutes. Virginia did the same in 1792. As did New Jersey in 1799. And more followed.”). See also Sabiiti, *supra* note 74 (“MP Rubagumya defended the proposal saying that similar initiatives have been done in the USA in the states of New Jersey for example and this can happen in Rwanda with a single law decreeing scrapping of colonial laws.”).

**81** Parliamentary Debate, *supra* note 74; see also *Persistence of Colonial Laws*, *supra* note 2, at 57 (“Across the board, every colonial law, no matter the content, is in conflict with certain provisions of Rwanda’s Constitution, just by virtue of its ignoble provenance.”).

**82** See Parliamentary Debate, *supra* note 74; *Persistence of Colonial Laws*, *supra* note 2, at 57 (describing problems with enforcement of colonial laws).

**83** Parliamentary Debate, *supra* note 74; *Persistence of Colonial Laws*, *supra* note 2, at 57 (“[L]aws imposed by foreign sovereigns . . . reflect an unconstitutional infringement on the Republic’s sovereignty by a past colonial power.”).

Bar Association had confirmed “that these laws are outdated and do not address issues faced by Rwandan citizens.”<sup>84</sup> The Committee found additional reassurance from the Private Sector Federation, which “indicated to [the Committee] that, as private operators, they do not see any problem in repealing [the colonial] laws.”<sup>85</sup>

To assuage doubts about potential gaps in the statutory law, the Committee pointed to the civil procedure provisions that “grant[] the judge the power to adjudicate according to the rules that he/she would establish if he/she had to act as a legislator for matters not provided for by the law,” as a means for resolving issues “not . . . provided for by the laws enacted after . . . Independence.”<sup>86</sup> The Committee also pointed to the tools described by Havugiyaremye to manage any potential gaps, such as “the possibility to rely on case law (precedents), customs, general principles of law and doctrine” to interpret statutes or to reach equitable solutions.<sup>87</sup>

As the parliamentary debate unfolded, it primarily centered around the possible unintended effects that a wholesale repeal might have on the legal system. Parliamentarians considered whether there could be a

---

**84** Parliamentary Debate, *supra* note 74.

**85** Parliamentary Debate, *supra* note 74.

**86** Parliamentary Debate, *supra* note 74. *See also* Law N° 22/2018 of 29/04/2018 Relating to the Civil, Commercial, Labour and Administrative Procedure, Art. 9 (“A judge adjudicates a case on the basis of relevant rules of law. In the absence of such rules, the judge adjudicates according to the rules that he/she would establish if he/she had to act as legislator, relying on precedents, customs, general principles of law and doctrine.”). *See also supra* p. 10 and note 48; *Persistence of Colonial Laws, supra* note 2, at 61 (describing Law N° 21/2012 of 14/06/2012 Relating to the Civil, Commercial, Labour and Administrative Procedure, Art. 6. (Article 9 of the 2018 revision)).

**87** Parliamentary Debate, *supra* note 74.

destabilizing effect on the larger statutory regime in which colonial laws were integrated, on settled jurisprudence, or even on matters of international law. Those arguments were ultimately defeated by counterarguments that either refuted the risk of such hypothetical, unintended consequences or that asserted normative and deontological principles that the dignity of a sovereign society outweigh any possible negative effects of the repeal.<sup>88</sup>

Specifically, the debate ultimately focused on four concerns. First, one Member of Parliament questioned repealing all colonial laws when the inventory of retrieved laws was not exhaustive. He suggested additional laws “[could] be found in countries that once colonized Rwanda if only sufficient time had been [taken] . . . [T]hey must be hidden somewhere.”<sup>89</sup> Encouraging an extraterritorial expedition to find laws still enforceable in Rwanda, he cautioned, “we may find ourselves having repealed legal instruments that could be of certain importance to the country.”<sup>90</sup> Rubagumya responded that the difficulty of accessing such laws was precisely the reason why the Committee recommended a wholesale repeal: “because there is no method of accessing all those laws . . . [that] is now the reason” for “using one law to repeal [them] all.” The Committee made clear that it indeed had considered but rejected the MP’s proposed approach of reviewing laws one-

---

**88** See Parliamentary Debate, *supra* note 74.

**89** Parliamentary Debate, *supra* note 74 (statement of Deputy Nyirahirwa).

**90** Parliamentary Debate, *supra* note 74.

by-one, noting the inefficiency other countries faced using that method.<sup>91</sup>

The then State Minister for Constitutional and Legal Affairs, Evode Uwizeyimana, pointed to the arguments that enforceable colonial laws are in tension with the rule of law because they are not readily accessible, except for the privileged few who have the resources to scour the earth. He noted the absence of a reliable database or repository of the primary texts that had once been imposed in African colonies.<sup>92</sup> He challenged the MP, “what is then the point if those laws are not available? Where does the person using those laws get them from?” Defending the need to abolish (rather than search for and exhaustively inventory) “any law that the colonialist took with him [or] her in his [or] her bag,” the former State Minister went on, “[h]e may still be keeping it in Belgium and will later come back. If ever he comes back, it is our duty to tell him that the law is among those we have repealed.”<sup>93</sup>

---

**91** See Parliamentary Debate, *supra* note 74 (“As for us, we have [considered] the approach of proceeding with one law after the other which is the approach opted for by the Republic of India and I think [that] country is still using the same approach . . . we have specifically opted [to] us[e] one law to repeal all [colonial] laws” so as not to fail “to repeal certain laws simply because we do not know those laws did exist.”).

**92** See Parliamentary Debate, *supra* note 74 (“There is no related database” for colonial legal texts that are hard to locate.); *Persistence of Colonial Laws*, *supra* note 2, at 53 (“[I]n the absence of a gazette publication of such law” there remains “a degree of uncertainty” about “the content of the law . . . and about what . . . provisions may otherwise still resurface another day.”).

**93** Parliamentary Debate, *supra* note 74; see also *Persistence of Colonial Laws*, *supra* note 2, at 53 (“So long as the colonial era laws continue to be recognized as possibly valid and enforceable, we cannot rule out the possibility that other problematic health laws will emerge at an inopportune moment. Nor can we pronounce with certainty what the body of positive law is that governs health in Rwanda.”). Nevertheless, Deputy Nyirahirwa was among the very few MPs to remain unpersuaded. He continued to insist on the need to first pursue a Sisyphean task of

Second, another Member of Parliament, Deputy Nyirarukundo, questioned the impact that repealing colonial statutes would have on prior judicial opinions, issued in reliance on those laws.<sup>94</sup> Uwizeyimana asserted that jurisprudence would not be invalidated just by virtue of the fact that the laws it addressed were repealed, because the decisions were issued by lawfully constituted courts of an independent Rwanda.<sup>95</sup> Furthermore, he assured Parliament, “anything that was done pursuant to the law in force at that time” will remain valid even if Parliament subsequently repeals the law.<sup>96</sup> To illustrate the example, he argued: “[M]ost of you may have attended . . . the former National University of Rwanda,” which has been replaced by the University of Rwanda; “Should we say that degrees of those who attended the National University of Rwanda are not valid these days? The answer is simply no.”<sup>97</sup>

Third, Deputy Nyirarukundo also suggested, in passing, that some of the colonial laws may be harmless. The comment inspired a forceful refutation from those in favor of wholesale repeal. Rubagumya cited the example of land reform that had

---

creating an exhaustive inventory of all these hard-to-find colonial laws. Parliamentary Debate, *supra* note 74 (statement of Deputy Nyirahirwa) (“This is exactly where we still find the gap because we do not yet know the inventory of those laws.”).

**94** See Parliamentary Debate, *supra* note 74 (statement of Deputy Nyirarukundo) (“[I]f a judge cannot invoke a law of that period, he/she shouldn’t either use as a reference, any decision made pursuant to that law. This means that we will also consider repealing those decisions.”).

**95** See Parliamentary Debate, *supra* note 74 (“[The] decisions were made by the Courts of Rwanda. These are constitutional courts.”).

**96** Parliamentary Debate, *supra* note 74.

**97** Parliamentary Debate, *supra* note 74.

been considered during the development of the legislation.<sup>98</sup> When a new land law was promulgated several years ago, one of the issues it had to resolve was a colonial holdover from a 1920 law which assigned ownership to whomever held title to the land, even when such title had been obtained through fraud. Uwizeyimana added, “[T]hose who worded the article are the very ones who came and obtained ownership title, but . . . citizens at that time were not aware.”<sup>99</sup> Though Parliament had already done away with that particular land provision, Rubagumya and Uwizeyimana took aim at the whole lot.<sup>100</sup> Uwizeyimana argued, “these laws pose a serious problem because they take us back into the colonial era. Of course they cause a problem . . . because we are a sovereign country . . . that recovered its political independence and . . . [enjoys] legislative autonomy.”<sup>101</sup> He elaborated:

We have royal decrees which are in force in a country which has no kingdom, but [in] a country with a republic. I do not think anyone has an explanation [for] this . . . As of today, what does “Ruanda-Urundi territory” stand for? As of today, what does “the Belgian Congo territory” stand for? Who rules over this territory? . . . We should not even start a debate over these issues because we would even feel ashamed to see committee clerks taking minutes of debates over those issues!<sup>102</sup>

---

**98** See Parliamentary Debate, *supra* note 74 (“[E]ven after . . . independence and recently, many laws were enacted aimed at addressing issues facing Rwandan society as it is depicted nowadays, such as issues related to privileged use of land.”).

**99** Parliamentary Debate, *supra* note 74.

**100** See Parliamentary Debate, *supra* note 74 (Rubagumya: “We no longer need laws dating back to the colonial era.”).

**101** Parliamentary Debate, *supra* note 74.

**102** Parliamentary Debate, *supra* note 74.

Fourth, the debate addressed questions about the effect on international law in Rwanda. One MP sought clarification as to whether international treaties previously ratified would be affected by the repeal of colonial laws.<sup>103</sup> Another raised concerns about territorial integrity. Pointing to “the Berlin Conference of 1885, which established boundaries,” the MP asked if, by repealing pre-independence laws, “we would be removing boundaries.”<sup>104</sup> The Committee reassured the Chamber that international treaties would not be affected because they are excluded from the definition of repealed “legal instruments.”<sup>105</sup> Additionally, Rubagumya responded that “issues related to repealing international treaties, are channeled through another process . . . conducted with the assistance of the Ministry of Foreign Affairs.”<sup>106</sup> The country’s boundaries would not be affected, she asserted, because they are also defined by Rwanda’s constitution.<sup>107</sup> Uwizeyimana

---

**103** See Parliamentary Debate, *supra* note 74 (statement of Deputy Nyirarukundo).

**104** Parliamentary Debate, *supra* note 74 (statement of Deputy Mussolini).

**105** Parliamentary Debate, *supra* note 74 (“[Among] terms listed for definitions under this law, the term ‘international treaties’ was not part of the definitions.”); see also Law Repealing All Legal Instruments Brought into Force Before the Date of Independence, *supra* note 3, Art. 2.1 (defining “legal instruments” as laws, decree laws, decrees, legislative ordinances, law-ordinances, ordinances, ordinances of Ruanda-Urundi, royal orders, decrees of the Governor General, orders of the Resident and Special Resident, regulations, presidential orders, ministerial orders, edicts and declarations”).

**106** Parliamentary Debate, *supra* note 74.

**107** See Parliamentary Debate, *supra* note 74 (“[T]here is a new law determining boundaries of the territory of the Republic of Rwanda and . . . it is in article five on boundaries of the country which is determined by the Constitution of the Republic of Rwanda.”) (citing CONSTITUTION OF THE REPUBLIC OF RWANDA OF 2003 REVISED IN 2015, Art. 5).

concurrent: “[T]his issue is beyond the jurisdiction of this Parliament . . . [which] cannot remove those boundaries.”<sup>108</sup>

Parliament’s debate about the persistence of colonial laws depicts a moment in the country’s history where society grappled with questions about its modern identity. As Rwanda marked the twenty-fifth anniversary of the genocide that had once torn it apart, its elected representatives continued to reach further back in time, taking aim at the colonial roots of the country’s past conflict. They emerged from the debate with a resounding decision that those relics have no place in Rwanda’s future: with 56 votes in favor and no votes against, the law repealing all colonial laws passed.<sup>109</sup>

The repeal was signed into law by the President of the Republic on August 22, 2019, and on September 23, 2019, the Official Gazette published Law N° 020/2019 of 22/08/2019 Repealing All Legal Instruments Brought into Force Before the Date of Independence.<sup>110</sup> The many dangers outlined in *The Persistence of Colonial Laws* were finally laid to rest: There would be no more searching high and low for missing statutes. No more wondering how to adapt the law’s written references to the colonial *gouverneur général* or to *les indigènes*.<sup>111</sup> No more ministers or prosecutors contemplating whether or not to enforce this one or that one. No more time

---

**108** Parliamentary Debate, *supra* note 74.

**109** See Parliamentary Debate, *supra* note 74 (“The Law repealing all the laws established before the Independence date is voted for by 56 Deputies, nobody voted against, no abstention, two invalid votes, the law is therefore passed.”).

**110** Law Repealing All Legal Instruments Brought into Force Before the Date of Independence, *supra* note 3.

**111** See *Persistence of Colonial Laws*, *supra* note 2, at 46 (“This legal arrangement, still in force until 2012, was created by a colonial precedent: prior legal instructions regarding micronutrients had been signed by the Governor of Congo-Rwanda-Burundi in 1940.”).



spent postulating the intention of a policy behind the colonizer's law. No one in Rwanda ever again asked for her defense against King Leopold's decree.

#### *D. The Path Ahead*

With the repeal executed, the anticipated trade-offs will now become real. Courts will need to consider how to resolve conflicts that were once governed by a colonial rule that no longer applies. Reliance on other applicable rules, precedents, or even considerations of equity may need to provide a bridge to new rules. With time, if any such new rules crystalize, once established they should become easier to anticipate.

So far, there have not been formal complaints related to how to fill “gaps”; the legal system seems to be adapting. No doubt, some will express frustration by the uncertainty of the new approach. One question that has already arisen in legal circles in the months following the repeal is a question about how to interpret laws that were enacted after independence, but which refer to colonial laws. For example, Law N°45/2011 of 25/11/2011 Governing Contracts provides that the Decree of 30/07/1888 on contracts or conventional obligations applies for certain “no[n-]contractual obligations, special contracts, civil liabilities, [and] limitations.”<sup>112</sup> Legal practitioners have expressed uncertainty about how to understand the “gap” left by abrogation of the colonial decree.

For statutory interpretation problems such as these, other law reforms that are underway may help. The RLRC has been

---

<sup>112</sup> Law N°45/2011 OF 25/11/2011 Governing Contracts, Art. 162 (Official Gazette n° 04bis of 23/01/2012), <https://gazettes.africa/archive/rw/2012/rw-government-gazette-dated-2012-01-23-no-4%20bis.pdf> [https://perma.cc/8G8S-EGHP].

working to identify and fill any statutory gaps in need of new legislation. A planned interpretation act may also help: Draft Law N°..... Of ..... Governing Interpretation of Laws had already been prepared by the Commission prior to repealing the colonial laws. If it is eventually passed, that draft law provides basic rules for interpreting references to repealed or substituted laws.<sup>113</sup> It would also codify a general savings provision, which would preserve accrued rights and obligations when laws are repealed (much like the rule the Commission's statement referenced regarding land the Church expropriated).<sup>114</sup>

#### CONCLUSION: AN EXAMPLE FOR OTHER POST-COLONIAL COUNTRIES

Rwanda's action may have come just in time. Eradicating all colonial public health laws just a few months before the emergence of the COVID-19 pandemic, Rwanda may have spared itself from costly delays. Liberated from having to navigate through any colonial rules, Rwanda has been able to respond with remarkable agility to a public health emergency of international concern. Gone are the days when government agencies had to seek presidential-level decisions to supersede the obsolete minutiae of colonial decrees, such as those once required by the Ministry of Health to implement international recommendations to combat malnutrition.<sup>115</sup> The old morass

---

<sup>113</sup> The text will become available upon passage. See Draft Law N°..... Of ..... Governing Interpretation of Laws, Art. 39.

<sup>114</sup> See *supra* pp. 12-13.

<sup>115</sup> See *Persistence of Colonial Laws*, *supra* note 2, at 46-47 (describing the need for the Ministry of Health to seek presidential orders to supersede colonial laws in order to implement changes in vitamin fortification); *id.* (describing colonial laws that

of laws, which had to be circumvented in modern times, had even provided for discriminatory treatment between white Europeans and black Africans when imposing quarantine and isolation rules.<sup>116</sup> Describing the country's COVID-19 epidemic response to the World Health Organization, the Minister of Health acknowledged, “[a]ny health system is only as strong as its weakest link.”<sup>117</sup> That includes its legal underpinnings. Rwanda's effective response has even attracted international media attention, as some ask what other countries might learn from it.<sup>118</sup>

By contrast, in India—where the country has undertaken a prolonged investigation into colonial laws before repealing them in piecemeal fashion—not only has the approach been

---

codified discriminatory practices in the control of infectious diseases and outbreak response).

**116** See *Persistence of Colonial Laws*, *supra* note 2, at 50 (describing examples of discriminatory rules for isolation and infection control).

**117** *COVID-19 in Rwanda: A Country's Response*, WORLD HEALTH ORG.: NEWS STORY, (July 20, 2020), <https://www.afro.who.int/news/covid-19-rwanda-countrys-response> [<https://perma.cc/K34T-5BNY>].

**118** Such successes are of course not attributable only to legal reforms alone; importantly, there have been concerted investments in strengthening the health system over many years. See, e.g., *Why Rwanda Is Doing Better Than Ohio When It Comes to Controlling COVID-19*, NAT'L PUB. RADIO, at 00:04 (July 15, 2020), <https://www.npr.org/sections/goatsandsoda/2020/07/15/889802561/a-covid-19-success-story-in-rwanda-free-testing-robot-caregivers> [<https://perma.cc/W3BB-R6DE>] (“[O]ne country on the [African] continent, Rwanda, has managed to keep the virus in check”); *id.* at 03:34 (suggesting Rwanda's response can serve as “an example to other low-income countries.”); *How Rwanda Is Successfully Dealing with Coronavirus*, CNN, at 00:01 (July 22, 2020), <https://edition.cnn.com/videos/world/2020/07/22/rwanda-africa-coronavirus-covid-19-pandemic-testing-tracing-technology-busari-lkl-intl-ldn-vpx.cnn> [<https://perma.cc/KV3G-7CEB>] (“Although Rwanda is the mostly densely populated country in mainland Africa, with limited resources as a low income country, it is emerging as one of the few nations that has effectively managed coronavirus and contact tracing”). See also *COVID-19 in Rwanda: A Country's Response*, *supra* note 117 (describing control measures).

criticized for the reasons described above, but despite the noble effort, the colonial laws continue to impact health. While the government urgently fights an outbreak that has expanded into one of the world's largest COVID-19 epidemics, critics have argued that a colonial law, the Epidemic Disease Act of 1897, may be hindering the central government's ability to implement and enforce control measures.<sup>119</sup> The law, which has been described by critics as “the most draconian colonial legislation,” was originally enacted by British authorities to combat an outbreak of bubonic plague. On one hand, some

---

**119** See Shantanu Nandan Sharma, *How India Is Fighting Coronavirus with a Colonial-Era Law on Epidemics*, ECON. TIMES (Mar. 22, 2020) <https://economictimes.indiatimes.com/news/politics-and-nation/how-india-is-fighting-coronavirus-with-a-colonial-era-law-on-epidemics/articleshow/74752473.cms> [<https://perma.cc/WDR5-7V74>] (“The main legal weapon the government possess today is the Epidemic Disease Act of 1897, a hurriedly drafted short legislation to stonewall the bubonic plague that devastated life in Bombay in 1896 . . . [T]he law does not bestow the [central government] any power beyond issuing advisories and coordinating. It cannot even regulate the transfer of biological samples.”); GOV'T OF INDIA, NAT'L DISASTER MGMT. AUTH., NATIONAL DISASTER MANAGEMENT GUIDELINES: MANAGEMENT OF BIOLOGICAL DISASTERS, § 3.1 (July 2008) (“The Epidemic Diseases Act was enacted in 1897 and needs to be repealed . . . It has to be substituted by an Act which takes care of the prevailing and foreseeable public health needs including . . . cross-border issues, and international spread of diseases. It should give enough powers to the central and state governments and local authorities to act with impunity, notify affected areas, restrict movement or quarantine the affected area, enter any premises to take samples of suspected materials and seal biological sample transfer, biosecurity and biosafety of materials/laboratories.”). *But see* Rituraj Tiwari et al., *Covid-19: Antique Laws Return to Fight a Modern Disease*, ECON. TIMES, (Mar. 21, 2020), <https://economictimes.indiatimes.com/news/politics-and-nation/covid-19-antique-laws-return-to-fight-a-modern-disease/articleshow/74741315.cms> [<https://perma.cc/P63N-ZJMG>] (“The Covid-19 outbreak has breathed life into antiquated laws, including a 19th century colonial statute that gives [state-level] authorities extraordinary powers to do just about anything to anybody to combat a contagious disease while offering no legal remedy . . . The 1897 law, introduced by the British to combat Bubonic Plague, has been described by historians as the most draconian colonial legislation.”).

claim it does not allow the central government sufficient authority to coordinate an agile and effective response to the pandemic.<sup>120</sup> On the other hand, it is also criticized by those who feel that it hands unchecked power to state governments, failing to account appropriately for human rights and civil liberties.<sup>121</sup>

Other post-colonial countries might find a valuable example in Rwanda's experience. For example, colonial mental health laws, vagrancy laws, and witchcraft laws are among the many relics across the region that perpetuate structural violence and even abusive policing. Some have already taken notice.

In another part of Africa, in Côte d'Ivoire, one presidential candidate in the recent election initiated the debate in that country, citing Rwanda's repeal as an inspiration for Côte d'Ivoire to consider doing the same<sup>122</sup>:

I applauded last month when I saw President Kagame of Rwanda denounce, and commit to change, a thousand laws that had been issued during the colonial period. That's

---

**120** See, e.g., Sharma, *supra* note 119.

**121** See, e.g., Tiwari et al., *supra* note 119.

**122** Mamadou Koulibaly, a presidential candidate, proposed the reform during a web address on October 10, 2019. See Mamadou Koulibaly, *Jeudi, c'est Koulibaly! Le Bon Tyran et l'Abrogation des Lois Coloniales*, YOUTUBE, at 05:33 (Oct. 10, 2019), <https://www.youtube.com/watch?v=5K5WMX2VMnk> [<https://perma.cc/DBP5-V53X>]. See also Mamadou Koulibaly, *Appelle à l'Abrogation des Lois Coloniales en Côte d'Ivoire*, ABIDJAN.NET (Oct. 10, 2019), <https://news.abidjan.net/h/664558.html> [<https://perma.cc/XF7P-XELA>] (“L’opposant ivoirien Mamadou Koulibaly a appelé jeudi à Abidjan les autorités ivoiriennes à abroger ‘complètement’ toutes les lois coloniales encore en vigueur dans le pays, estimant que ‘nous avons eu l’indépendance sans rompre avec le droit colonial’”) [“The Ivorian opposition candidate, Mamadou Koulibaly, on Thursday called on the Ivorian authorities in Abidjan to ‘completely’ repeal all the colonial laws still in force in the country, arguing that ‘we had independence without breaking with colonial law’”].

enormous for Rwanda. A thousand laws that defined everything and they were still there [in the country] after the colonizers departed, and [those laws] continued to preserve the colonial system. That's what we are doing here [in Côte d'Ivoire] . . . [w]ith monetary affairs, as well as with property affairs, military affairs, educational affairs, administrative affairs, judicial affairs, socio-cultural affairs, sporting affairs, and we should look at these texts and throw all that away and conserve those texts which match our needs, which match our orientation, which match the direction that we want to take. And that is what will bring independence . . . it's with that rupture that we should truly commit to our independence.<sup>123</sup>

Moreover, even if the suggestion is raised by a politician, it does not need to become a partisan one. Rwanda's experience shows that colonial laws can be abolished without unwinding all rights previously accorded to one group or another.<sup>124</sup> If disagreements happen to arise about specific laws that some groups wish to preserve—especially any which may be

---

<sup>123</sup> Koulibaly, *Jeudi, c'est Koulibaly!*, *supra* note 122, at 05:33 (authors' translation) ("J'ai applaudi le dernier mois quand j'ai vu le Président Kagame du Rwanda dénonçait et s'engageait à modifier un millier de lois issues de la période coloniale. C'est énorme pour le Rwanda. Mille lois qui définissaient tous et puis ils étaient là dedans depuis les colons sont partis et eux continuaient à persévérer le système colonial. C'est ce que nous faisons ici . . . Aussi bien pour les questions monétaires, les questions foncières, les questions militaires, les questions scolaires, les questions administratives, les questions judiciaires, les questions socio-culturelles, les questions sportives, et [il nous faut] regarder ces textes et puis virer tout ça et conserver des textes correspondants à nos besoins, correspondants à notre orientation, correspondants à la direction que nous voulons prendre. Et c'est ça que sera l'indépendance . . . c'est avec cette rupture que nous devons vraiment engager notre indépendance.")

<sup>124</sup> See *supra* p. 13; text accompanying *supra* note 66 (describing the rationale to not revoke the Catholic Church's historic "land grab" and other property rights accrued under colonial laws).

particularly sensitive in the national context—then compromising to save a list of exceptions need not stand in the way of removing all the rest. Those few exceptions could be managed later, through different reform processes, and on their own timeline. In the meantime, to confront inequality and structural violence in post-colonial societies, the general validity of colonial legal instruments, in aggregate, deserves to be debated as an important normative and non-partisan matter.

Alice Wairimu Nderitu, an expert on the Kenyan National Committee for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination, applauded Rwanda’s decision to “repeal[] laws left over from German and Belgian colonial rule era, designed with one central purpose to separate the races, particularly the white and black people, and to subjugate the latter.”<sup>125</sup> She too has encouraged others to do away with laws “designed to subjugate Africans [that] still lurk in some African statutes.”<sup>126</sup>

However, like Aimable Havugiyaremye,<sup>127</sup> Nderitu also points to education reform as an essential component of achieving emancipation from colonial law. She suggests “[t]he thoroughness of the colonial enterprise’s educational systems forms part of the reason post-independence governments are not getting rid of colonial laws.” Such reform, she argues, is necessary for future generations to “challeng[e] hateful

---

<sup>125</sup> Alice Wairimu Nderitu, *None But Ourselves Can Free Minds from Mental Slavery*, EAST AFR. (Oct. 10, 2019), <https://www.theeastafrican.co.ke/tea/oped/comment/nderitu-none-but-ourselves-can-free-minds-from-mental-slavery-1429086> [<https://perma.cc/QN36-UXKR>].

<sup>126</sup> *Id.*

<sup>127</sup> July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.

beliefs” embedded in colonial laws, which can “lead to targeted violence[,] such as understanding the importance of not only knowing why almost one million people were killed in the Rwandan Genocide Against the Tutsi [sic] but more importantly, why ordinary people were convinced it was okay to kill.”<sup>128</sup> Indeed, the story of Rwanda’s reform shows that scholarship can contribute to supporting real world changes.

Education and scholarship will also be essential for Rwanda and other countries to more fully heal from those harms that cannot be resolved by eradicating the colonial laws. Though legal reform is important to remove the harms lurking in old laws, education and scholarship is necessary to prevent the next generation of policymakers from inadvertently perpetuating colonial *objectives* through the recycling of the same colonial policies in newly drafted laws.<sup>129</sup> In addition, education and scholarship is necessary for understanding what, if any, prior practices and solutions were destroyed through colonial legislation but which might warrant restoration in today’s context.<sup>130</sup>

Reflecting on Rwanda’s experience, Aimable Havugiyaremye says, “sovereignty should be understood even

---

**128** Nderitu, *supra* note 125.

**129** For example, scholars have pointed to how the colonial authorities’ eugenics agenda has been carried over into modern legislation on mental health. *See, e.g.*, Mohamed Ibrahim & Marina Morrow, *Weaning Off Colonial Psychiatry in Kenya*, J. ETHICS MENTAL HEALTH (SPECIAL THEME ISSUE I), at 2-3 (June 17, 2015), [https://jemh.ca/issues/v9/documents/JEMH\\_Open-Volume\\_Article\\_Theme\\_Colonization\\_Weaning\\_June2015.pdf](https://jemh.ca/issues/v9/documents/JEMH_Open-Volume_Article_Theme_Colonization_Weaning_June2015.pdf) [<https://perma.cc/7SZA-VT7Y>], (describing eugenics policies carried over into Kenya’s 2014 Marriage ACT and Mental Health ACT of 1989).

**130** *See, e.g., id.* at 3 (“The French doctors saw Moroccan midwives as a threat to their privilege and power over the dominance of women bodies . . . [The French colonial administration] regulated and disbanded the traditional Moroccan midwifery practices and finally outlawed them.”).



in the context of making laws. We are a sovereign country, we know our problems, we should be the ones to solve our problems. In the process of making laws, you are addressing your issues, so you should be the one to make those laws. [Our experience] should even be a lesson for other countries.”<sup>131</sup> As communities continue to challenge institutional violence and racism all around the world, perhaps other post-colonial countries will find inspiration in Rwanda’s decision to not only topple the monuments, but to also tear down the legal structures of past oppression.

---

**131** July 2019 Interview with Aimable Havugiyaremye, *supra* note 43.