ASSESSING THE ROLE OF THE PARLIAMENT IN GENOCIDE PREVENTION: THE EXPERIENCE OF RWANDA (1994-2013)

MASTER OF ARTS IN
GENOCIDE STUDIES AND PREVENTION.

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Kigali, July, 2016

ACRONYMS

ANT: Assemblée Nationale de Transition (National Transitional Assembly).

BBC: British Broadcasting Corporation.

CASS: College of Arts and Social Sciences

CCM: Centre for Conflict Management

CIA: Central Intelligence Agency.

CNLG: Commission Nationale de Lutte contre le Génocide (National Commission for the Fight Against Genocide).

E.g.: Exempli gratia (For the sake of an example).

FDLR: Forces Démocratiques pour la Libération du Rwanda (Democratic Forces for the Liberation of Rwanda).

GDP: Gross Domestic Product.

HRW: Human Rights Watch.

ICTR: International Criminal Tribunal for Rwanda.

INILAK: Independent Institute of Lay Adventists of Kigali.

INRS: Institut National de Recherche Scientifique.

JRLOS: Justice, Reconciliation, Law and Order Sector.

KIE: Kigali Institute of Education.

MDR: Mouvement Démocratique Républicain (Democratic Republican Movement).

MINALOC: Ministry of Local Government.

MINIPLAN: Ministry of Plan.

MNRD: Mouvement National Républicain pour le Dévelopement (National Republican Movement for Democracy and Development).

MPs: Members of Parliament.

n.d.: No date.

NGO: Non-Governmental Organization.

n.p.: No Publisher.

NURC: National Unity and Reconciliation Commission.

OAU: Organization of African Unity.

OPM: Office of the Prime Minister.

RGB: Rwanda Governance Board.

RLRC: Rwanda Law Reform Commission (RLRC)

RPF: Rwanda Patriotic Front.

RTLM: Radio-Télévision Libre des Mille Collines.

PS Imberakuri: Parti Social Imberakuri/Social Party Imberakuri.

RTUC: Rwanda Tourism University College.

Rwf: Rwandan Francs.

SNJG: Service National des Juridictions Gacaca/National Service of Gacaca Jurisdictions.

UN: United Nations.

UNDPKO: UN Department of Peacekeeping Operations.

UNAMIR: United Nations Assistance Mission for Rwanda.

UNR: Université Nationale du Rwanda.

VRS: Army of the Republika Srpska.

ACKNOWLEDGEMENTS

During the time of writing this thesis I received invaluable assistance and support from many people, and for this I am sincerely grateful.

In particular, I am profoundly indebted to my supervisor, Professor Paul Rutayisire, who not only has given me excellent guidance and advice throughout the whole period, but he has also presented me with extraordinary research opportunities of which few students are granted. Special thanks also go to Ernest Mutwarasibo for providing valuable comments and advice on earlier drafts, but also for reviewing some of the chapters.

I would like to use the opportunity to thank different people who facilitated the access to the Parliament's archives. Fieldwork and data collection in Gasabo District has been facilitated by various local authorities to whom I send a big thank you.

The current manuscript also benefitted greatly from the input and comments from various colleagues, to whom I am very grateful. My children have provided non-stop moral support during all phases of the study, and at this occasion I would like to thank them all.

Finally, I express my sincere thanks to all friends and fellow students at CCM, MA in Genocide Studies and Prevention, at University of Rwanda; and last but by not means least, to my family for their constant encouragement and support.

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KIGALI, July 2016

ABSTRACT

During the last century, more than forty million lives were lost around the world, caused by different ethnical conflicts and Genocides. Examples of these human tragedies are abundant. For Rwanda, in mid-1994, in a period of just hundred days between April and July, up to one million Tutsi were killed in the Genocide against Tutsi. During this genocide, many women were raped; infrastructures were decimated, and the genocide left the country's population traumatized.

Could this genocide have been prevented? This is one of many questions I have been asking myself during this research.

At the end of this genocide, Rwandans decided that these atrocities will never happen again. In this work, I wanted to show what local people think should be done to prevent the genocide in the future, but also the role played by the Parliament in fighting against deniers. Thus, Rwanda has now adopted the Rwandan Constitution of 2003 revised in 2015 and different Laws on punishing the crime of the genocide, genocide minimization and negationism 'genocide ideology and other related offences, with aim to punish the crime of the genocide but also to prevent genocide in the future and reinforcement Unity and reconciliation mechanism

Again regarding Rwandans' perception on the legislation preventing genocide in Rwanda, the fieldwork I conducted in Gasabo district of written sauces and questionnaire was used to collect information from different people proved that most Rwandans understand why Rwanda needs such legislation, however, there still some work to do to make the legislation known, especially for not educated people living in rural areas.

Conclusion and recommendation

The colonial legacy had a profound influence in Genocide against Tutsi, as the racial prejudice based on ethnic identity introduced by colonial powers, was a deliberate strategy used by genocidal Hutu extremists to legitimize their acts.

The international community also has significant responsibility for the Genocide committed against Tutsi. Thus, it was very clear in the months leading up to April 1994 that Genocide was being prepared against Tutsi. The international community, with clear knowledge of what was unfolding, turned a blind eye, withdrew United Nations troops and allowed the Genocide, organized by the state, to overtake the country. Governments and intergovernmental bodies, including the United Nations and the Organization of African Unity (now the African union), dramatically failed to act to prevent the genocide as it unfolded in 1994. When the RPF forces defeated the genocidal government on July 4th 1994, the country was in ruins.

After Genocide against Tutsi, Rwanda has gone through a rapid process of socio-economic development. Rwanda today presents a model for hope, justice, innovation,human development and security

Genocide ideology has not died completely, and the few with the ideology can later grow it and cause mayhem. Genocide deniers are currently using social media, television, newspapers, and academic journals. Beside the punishments provided by the Rwandan legislation, Rwandans should also write about the Genocide, use music, film, poems and other channels to testify.

I am convinced that it is a great thing to have laws against genocide, but at the same time I think that Rwanda still lack proper coordinated means to deal with genocide denial especially outside Rwanda. This can be achieved however, especially by using or engaging the Rwandan Diaspora, Embassies, or/and friends of Rwanda, to fight the deniers in their countries of residence. beside the legislation path, Rwanda should continue putting efforts in education of local population and reinforcement Ndi Umunyarwanda program

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CHAPTER I. INTRODUCTION

During the twentieth century, the world experienced different ethnical cleansings that are now estimated to have led to the loss of forty million lives (Midlarsky 2005; Martin 2009). Examples of these human tragedies from the last century are abundant, and one can only mention here one and a half million Armenians killed during the Armenian Genocide (Medz Yeghern) in the Ottoman Empire in 1915 (Fox 2005; Alayarian 2008); the Genocide against the Jews of Europe (Holocaust/Shoah) between 1941-1945 during which period around six millions European Jews were killed (Burrin 1989); the Cambodian Genocide committed by the Khmer Rouge regime led by Pol Pot between 1975-1979 and during which around two millions of Cambodians were killed (Ciorciari 2006; Chandler 2000; Dy 2007; Mesterharm & Mayer 2008); the Bosnian Genocide between 1992-1995, committed by Bosnian Serb forces, which took around one hundred thousand Bosnian lives, mainly Bosnian Muslim men and boys were killed in Srebrenica by units of the Army of the Republika Srpska (VRS); the Genocide against Tutsi in Rwanda in 1994; and the Genocide against black-Africans in Darfur-Sudan since 2003 (Mildlarsky 2005).

This study aims not to discuss the causes or consequences of the Genocide against Tutsi in Rwanda, but to assess the contribution of the Rwandan Parliament in handling effects of the 1994 Genocide against Tutsi. Thus, origin, causes, consequences, and involvement of different parties in this genocide, have been analyzed and described by different researchers (See Lemarchand 2014). However, most of this literature so far published on the Genocide against Tutsi in Rwanda has focused on the involvement of the executive power, and less attention was given to the legislative power.

Thus, the role of the central government (Des Forges 1999; Rutayisire & Ndahiro 2010), administrative entities and armed forces (Guichaoua 1994; Rwanda CNLG 2010); resistance to Genocide (Smith 2004) has been for example extensively documented. The role of different churches, especially the Catholic Church (Bizimana 2001); local and international media (Chrétien 1995; Martin 2009); the involvement of some international organizations and countries in this genocide (Coret & Vershave 2005; Wallis 2006; Melvern 2000; Ensign & Bertrand 2010); the participation of the local population (Reid 2001; Kimonyo 2008; Verwimp 2013); the "*Akazu regime*" or politicians and military officers from the North and

close to former president Juvenal Habyarimana (Stanton 2004; Ndengeyinka 2013); the culture of impunity (Ensign & Bertrand 2010), or the colonial administration that divided the Rwandan population along ethno-racial lines for their own interests when in fact Rwandan are the same people (Rutembesa 2003; Shyaka 2005; Ensign & Bertrand 2010); all these roles and causes have been detailed and documented.

Currently additional information are also being provided through different reports such as the report of the investigation into the causes and circumstances of and responsibility for the attack on the Rwandan presidential aero-plane[1] (Rwanda 2009) and information gotten through Gacaca, ICTR or the classical tribunals in Rwanda.

1.1. Background of the study

In mid-1994, in a period of just one hundred days between April and July, up to one million Tutsi and some Hutu who opposed the organized killing and the forces that directed it, were killed in the Genocide against Tutsi (Prunier 1995; Stanton 2004; Adelman 2005; Esses 2009; Ensign & Bertrand 2010; Rutembesa 2011; UN 2012; Haverman 2012; Verwimp 2013). As Human Rights Watch (2014) writes, it was one of the most efficient and terrifying episodes of targeted ethnic violence in recent international history. During this genocide against Tutsi in Rwanda, as many as 250,000 women were raped (UN 2012), infrastructures were decimated, and the genocide left the country's population traumatized. Many children witnessed the killings, rapes, and other atrocities during the Genocide. The Genocide committed against Tutsi presents also a particularity, since so much of the killing was carried out in open, without concern about hiding the atrocities.

To illustrate the gruesomeness of the Genocide against Tutsi, Butamire (2010) argues that there are close to five thousand women in the country who were raped during the Genocide and found themselves pregnant at the end of it. They are currently mothers to an equal number of beautiful 20-and 21- year-old now, but they have carried the agony of being mothers to the blood of the mass-murderers of their families during the Genocide against Tutsi.

[1] Also known as Mutzinzi report.

The report by the Rwandan Ministry of Local Government (2001) suggest that there has been exactly 1,074,014 victims of this genocide, of whom 93.7% were Tutsi, and Rutembesa (2011), based on statistics from the SNJG, estimates these victims of genocide committed against Tutsi at 1,050,000. The Gacaca courts on their side identified around 254,913 survivors (41% men, 59% women), including 74,642 orphans, 27,733 widow/widower and 12,074 persons disabled by the genocide (SNJG).

Could this genocide have been prevented? It is obvious that the international community utterly failed to prevent and stop this atrocity while it seemed easy to be stopped (Ensign & Bertrand 2010; UN 2014). Some researchers analyzed the role of the international community on two levels: the passivity and the complicity (Melvern 2000; Adelman 2005; Esses 2009; Rutembesa 2011), and Maritz (2012) enumerated numerous interconnected and complex factors that led to international inaction, such as a misguided view of African conflict, the bureaucratic nature of the United Nations and peacekeeping fatigue in general.

Thus, at the time of the Genocide against Tutsi in Rwanda, the "*Shadow of Somalia*" was still present and made states as well as the UN secretariat unwilling to engage in another Peace Operation in Africa (Maritz 2012). After the failure of the mission in Somalia, some politicians in western countries were concerned about losing face, and preferred to satisfy voters at their homes instead of stopping the killings of Tutsi.

At the beginning of the genocide, the Belgian troops who composed a key component of the UNAMIR contingent, were immediately targeted by the planners of the genocide who wanted Belgian peacekeepers out of the country as soon as possible. According to Tripodi (2006), these Hutu extremists were fully aware that the "*Shadow of Somalia*" or "*Mogadishu effect*" would make an impact on the government in Brussels as they knew that once the Belgians had gone, there was very little that the remaining peacekeepers could do to stop the genocide project. Thus, this UNAMIR soldiers, although they were certain that Tutsi were going to be killed, showed no serious determination to protect them.

The inaction was also due to the lack of interests. Some countries such as the United States, decided not to intervene in Rwanda simply because there was no interest at stake (Maritz 2012). Not only there was a lack of interest, but there was also a lack of political will (Stanton 2004). Hence, major actors such as Belgium, the United States, France and the UN

Secretariat knew that there was genocide underway in Rwanda, meaning they should have prevented or stopped it, but they did nothing.

There were plenty of what Stanton (2004) called "*early warnings*" of the "*Rwandan*" genocide, but they were systematically ignored (See also OAU 2000; UN 2014). For example, as early as 1993, CIA studies warned of imminent massacre with up to 500,000 potential victims (Des Forges 2000; Power 2003), and in this regard the word "*Genocide*" was already mentioned (Haverman 2012). In 1992, the Belgian ambassador in Rwanda, Johan Swinner warned his government that the *Akazu* was planning the extermination of the Tutsi of Rwanda (Melvern 2000; Stanton 2004).

In January 1993, the United Nations had established an independent international commission to examine the growing violence in Rwanda and had concluded that a "*climate of terror*" existed in Rwanda, and that the government was doing nothing to stop it (Ensign & Bertrand 2010). In April 1993, the UN Special Rapporteur on Summary, Arbitrary, and Extrajudicial Executions, René-Dégni-Ségui, conducted a mission to Rwanda and reported to the UN Human Rights Commission in August 1993 that the trial massacres of Tutsi, already begun then, constituted genocide under the Genocide Convention (Stanton 2004).

Prior to the Genocide against Tutsi, General Roméo Dallaire, commander of the UNAMIR, warned the UNDPKO that Hutu extremists were planning a campaign to exterminate Tutsi (Dallaire 2004). Still, when the genocide erupted, the UN responded to it by reducing its commitment and allowing the million to be butchered.

The international community knew about the nature of the killings (OAU 2000) and had the capacity to prevent and stop this genocide (Adelman 2005; Esses 2009; Maritz 2012), instead after ten Belgian peacekeepers were killed on April 7th, one day after the genocide had begun, they preferred to withdraw even their few soldiers who were in Rwanda under the UNAMIR mission[2] (Des Forges 1999; African Rights 1995). Tripodi (2006) argues that people at the UN were fully aware that the departure of these troops would contribute to the speed of the genocide. To make it even worst, some of these powers, such as France, although they knew there was a genocide going on in Rwanda they continued to give military and political

[2] On April 14, 1994, Belgium announced the withdrawal of its contingent from the UNAMIR, in Kigali, leaving thousands of civilians to be murdered. The next day, on April 15, Madeleine Albright, the US ambassador to the UN, requested UNAMIR's complete withdrawal.

support to the interim government and the Interahamwe militias, only because they were worried about their "*prestige and international stature*" (Prunier 1995; Melvern 2000; Uvin 2001; Wallis 2006; Maritz 2012).

For example the Opération Turquoise, a purported French-led military humanitarian operation in 1994, provided a cover for the Interahamwe militia and genocidal government forces as the latter fled the country. French forces did not care about arresting perpetrators of the massacres who had taken refuge in their area and later crossed over to the then Zaire, now DR Congo. Once in Zaire, the perpetrators of the Genocide against the Tutsi were even facilitated to re-organize.

Lastly, few reports made by international community and international media failed to report on the genocide against Tutsi. Thus, reporting on the genocide would have made pressure from citizens that may have influenced policy makers, as under the 1948 Genocide Convention, the international community has an obligation to act if genocide occurs anywhere in the world. Even when the genocide was stopped by the RPF at the end of July 1994, the international community first refused to call it Genocide, mainly because beside moral obligations, they also failed vis-à-vis legal requirements.

On the other side however, even if the international community allowed the genocide to happen in Rwanda (Stanton 2004), it should not be the only institution to take the blame of not doing enough to prevent and stop the Genocide against Tutsi. I here assume that if Rwandan different institutions stood against genocide, it would not have been executed with the same magnitude that it took in 1994 or could even have been prevented. However, one should be aware that there was a commitment of the State, including all its organs.

By all means the Genocide against Tutsi was stopped by Rwandans themselves, and since it was stopped, Rwandans stood up and collectively said "*Never again*" (Forsyth 2014). A number of world leaders acknowledged, and some apologized for their failure to halt the genocide in Rwanda. They include former US president Bill Clinton, former UN Secretary General Kofi Annan, who was Under-Secretary General for Peacekeeping at the time of the Rwandan genocide, and former Belgian Prime Minister Guy Verhofstadt (see Human Rights Watch 2014).

Today the motto among all Rwandans is to prevent the genocide and to eradicate the genocide ideology with all its roots[3]. To achieve this target, certain measures are being taken so that the genocide never happens again in Rwanda. The Rwandan Constitution gives measures to be taken in fighting against genocide and in promoting human rights.

1.2. Problem Statement

This study aims to present the Rwandan legislation on genocide prevention, but also analyses the involvement or the role of the Rwandan Parliament in the genocide prevention.

Thus, the understanding of both the magnitude and occurrence of genocide contributes to better understanding of the importance of legislation on prevention of Genocide in the future. It is against this background that this research on Legislation on Genocide Prevention in Rwanda, and the role of the National Parliament in genocide prevention has been undertook. In this way, it is important to highlight to what extent a key institution such as the National Parliament should be playing to save the memory and the non-repetition of the genocide horror. Besides, the Rwandan government has enacted different laws against genocide and genocide ideology, but still cases, both inside and outside the country, of genocide denial. This study will thus analyse the importance of these different laws enacted in preventing genocide, but most important, will analyse the role of the National Parliament in fighting against genocide, denial of the Genocide against Tutsi, as well as fighting the genocide ideology.

1.3. Research questions and hypotheses

In order to explicitly explore different angles of the Rwandan legislation on Genocide prevention, the role of the National Parliament in preventing the genocide, and different perceptions towards the anti-genocide legislation in Rwanda, the following research questions were posed:

- What are the key elements composing the Rwandan anti-genocide legislation?
- How local population and the international community perceive the legislation on genocide prevention?
- How different is the Rwandan legislation against genocide, compared to other existing anti-genocide legislations on international level?

[3] See Itorero Policy for instance.

- What are the challenges related to the implementation of this legislation in Rwanda?
- What should be the role-played by the National Parliament in sensitizing or educating local population on legislation against Genocide?

Different hypothesis were formulated from these research questions:

- The local population does not know much about what compose the Rwandan legislation against genocide, because it is less informed about it.
- As a country that experienced genocide, Rwanda needs a specific legislation against genocide so that this never happens again in the future.
- The better collaboration between the National Parliament and local people can improve the way local populations understands the anti-genocide legislation.

1.4. General and specific objectives of the study

The main goal of this research is to investigate on the major anti-genocide legislation existing so far in Rwanda, and what are the major perceptions towards anti-genocide legislation in Rwanda. The research investigates also on challenges related to implementation of this legislation, and compares this legislation to the other existing anti-genocide legislations around the world. At the same time, the research investigates how this legislation helps to eradicate the culture of impunity, the denial, and the minimization of the genocide.

1.5. Study area and period

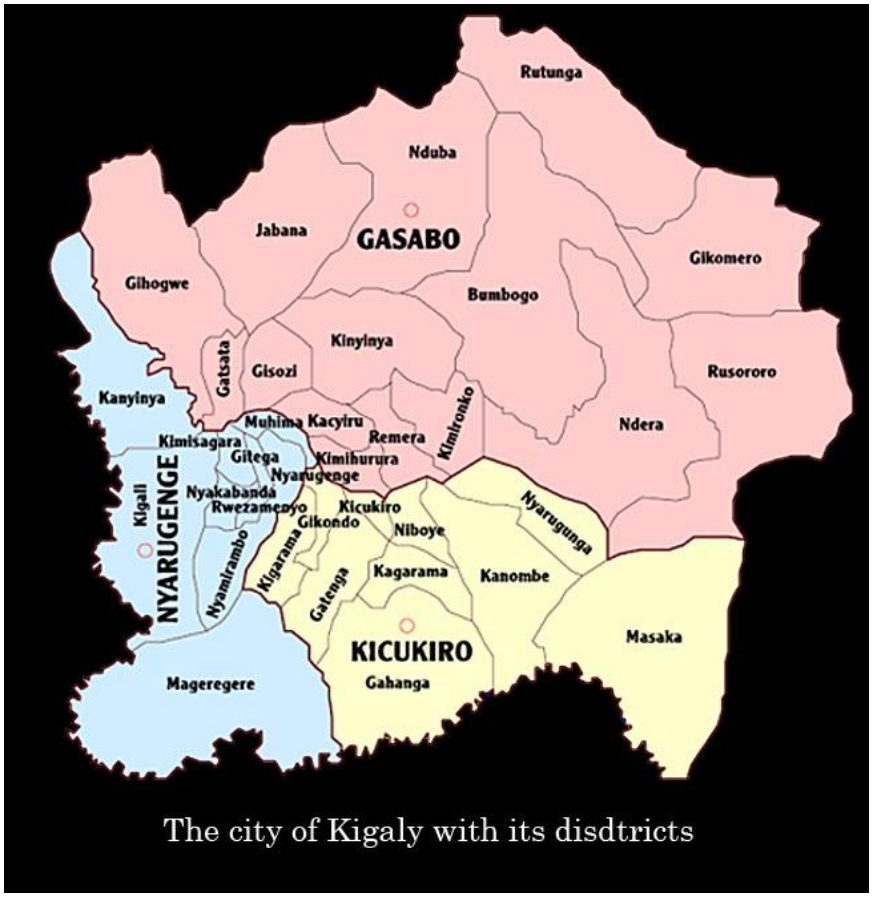
The study covers the whole country. However, in order to answer the research questions outlined above, the district of Gasabo was selected as a case study. This district was mainly selected because of it groups both urban sectors and rural sectors. The district of Gasabo thus occupies the northern half of Kigali, and represents both rural and urban areas, grouped into fifteen sectors: Bumbogo, Gatsata, Jali, Gikomero, Gisozi, Jabana, Kinyinya, Ndera, Nduba, Rusororo; Rutunga, Kacyiru, Kimihurura, Kimironko, and Remera. My research mainly focused on Kimironko and Rutunga sectors.

Figure 1: The district of Gasabo

Source Google.

This research covers the period between 1994 and 2013. 1994 was chosen especially because it is the period that for the first time Rwanda was going to have legislation related to Genocide prevention and punishment of the crime of Genocide. 2013 coincides with the end of the second legislature of the Chamber of Deputies. Thus, after the transitional period (1994-2003), the new members of a bicameral Parliament were sworn in on October 10th 2003: the eighty members of Chamber of Deputies, and twenty-Six Senators. The first legislature of the chamber of deputies commenced in 2003 to 2008, and the second legislature commenced in 2008 and ended in 2013. On the Senate side, the first legislature of the Chamber of Senate commenced in 2003 to 2011.

Figure 2: The city of Kigali with its districts



Source Google map

1.6. The Justification of the study

Between May 1998 and March 1999, the idea of re-introduction of Gacaca courts in Rwanda, came through discussions hold in Urugwiro Village by different researchers and politicians (Rwanda, Perezidansi ya Repubulika 1999). By the end of 2012, the Gacaca courts closed their activities after 10 years of activities, and they have been what Mugesera (2012) called "*a sure bet*". They have for the rest imposed themselves for the only reason that there was no other possible alternative. On the other hand, the desire to build a rule of law was associated with the eradication of impunity, and thus with the judgment of suspects even if they were millions.

Gacaca was an old treasure buried deep in our national culture. It was drafted there and updated with all the necessary amenities. Its main role was not so much to punish as to reconcile the conflicting parties. Different publications have been made on Gacaca courts, and I can only mention here the work of Rutayisire (2012) on uniqueness and achievements

of Gacaca; Kamuzinzi (2012) and Mugesera (2012) made different studies that analyzed if Gacaca achieved its mission; while Bizimana (2012) studied the juridical aspects of Gacaca.

The same, there have been some works on genocide prevention, for example Musafiri (2012) studied the role of the Rwandan army in fighting genocide negationism; Ntashamaje (2012) analyzed the negationism done on web; Rutayisire (2012) studied of the origins of the denial of the genocide against the Tutsi; but none of these studies has so far analyzed the role of the National Parliament in genocide prevention.

This research, coming just after the end of Gacaca courts, which had mission of conciliating Rwandans, and at the time that the ICTR is preparing to close its activities, is very important and unique. Thus, this work will help to assess the importance of the Rwandan legislation on genocide prevention, but also to have people's reaction on that legislation.

Meanwhile, the last year, 2015, Rwandans marked the 21st anniversary of the Genocide against the Tutsi. Among others activities organized in memory of victims of this genocide, there activities aimed to fight Genocide denial and ideology, especially denial beyond the Rwandan borders (Musoni 2015a, 2015b; Tashobya 2015). Thus, commemoration events this year have been held under the Kwibuka pillars of Remember, Unite, Renew, with a special focus on combating genocide ideology and denial of the 1994 Genocide against Tutsi. Appearing before the Senatorial Standing Committee on Political Affairs and Good Governance in February 2015, the then CNLG's executive secretary Jean de Dieu Mucyo said that the activities to mark the 21st commemoration of the Genocide against Tutsi would focus on tackling denial and ideology (Tashobya 2015).

According to the current executive secretary of the CNLG, Dr Jean Damascène Bizimana, most of the 1994 Genocide against Tutsi deniers are based in foreign countries, and they include scholars mostly with ties with the genocidal regime, some politicians, activists with malicious intent, and perpetrators of the Genocide, who have for two decades eluded capture (Musoni 2015). It is now also clear that genocide denial is on rise, even if it is difficult to quantify its extent.

Talking to news conference at the beginning of the last year, President Paul Kagame argued that the best way to tackle genocide ideology and denial is "*by looking at the bigger picture*

and attending to the real issues faced by those most affected by the 1994 Genocide the Tutsi". Thus, the question today is not whether Genocide denial exists or not, but how to deal with it.

Some experts argue that one of the ways to counter genocide denial is to criminalize it (Wallis cited by Musoni 2015a). This implies that countries need to put in place laws against genocide denial. Others, such as the Chairperson of the parliamentary Standing Committee on Unity, Human Rights and fight against Genocide, Francois Byabarumwanzi, one of dealing with denial is continual sensitization since the deniers seem to have an organized way of operating (cited by Musoni 2015a). This research comes as a contribution on the analysis on how and what Rwanda is doing in dealing with the genocide committed against Tutsi denial, twenty-one years after it was committed.

1.7. The Presentation of the study

Chapter one presents the background to the study, the problem statement, the research questions and hypotheses, the objectives of the study, the significance, the area and the period of study, and the thesis structure. The same chapter also gives an introduction on genocidal context in Rwanda, which this study forms a part of.

Chapter two is about conceptual and theoretical framework as well as the literature review. Thus, this chapter discusses genocide definitions, the notion of denying and minimizing the genocide, as well as theories related to genocide prevention. In meanwhile, the chapter discusses the mission of the Rwandan Parliament.

Chapter three presents the methodology and the tools used during this research, while chapter four presents in details the Rwandan legislation on genocide prevention. Besides, this chapter four will discuss the international perception on this legislation, and discusses the role of the Rwandan Parliament in elaborating and informing the community about legislation.

The chapter five presents and discusses results from the research. The chapter thus includes discussion on the reaction of local population on the anti-genocide legislation; but also discusses different channels of information that people use to know about genocide prevention. The thesis ends with a concluding chapter with different recommendations.

CHAPTER II. THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1. Definition of key concepts

This chapter introduces key concepts that will be used in this study. For this chapter I have chosen to talk about Genocide, Prevention of genocide, and Parliament vis-à-vis genocide punishment and prevention.

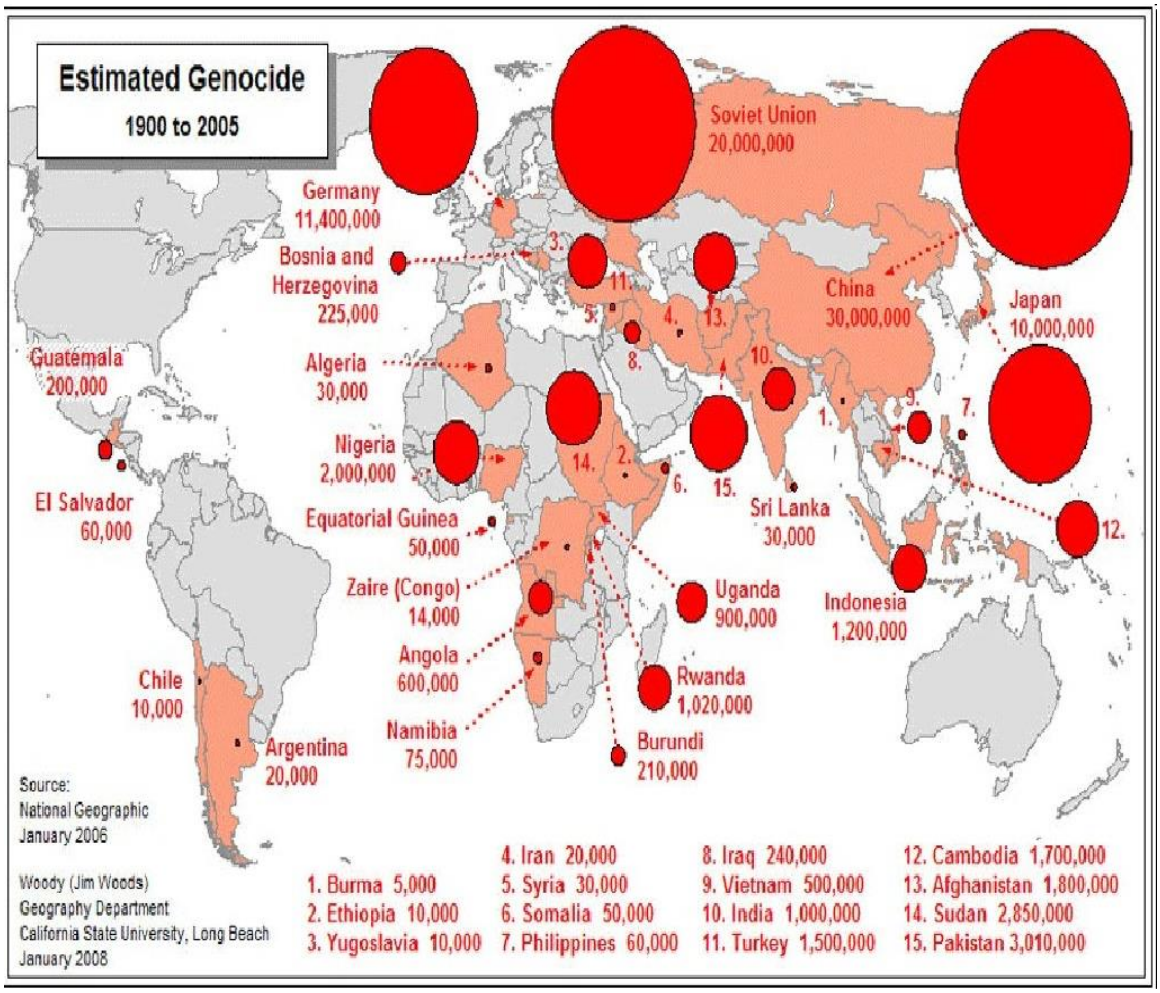
2.1.1. Genocide

According to the United Nations' convention on the Prevention and Punishment of the crime of Genocide, any "*acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group*" would be sufficient to be called genocide (Midlarsky 2005). But in the absence of state policy allowing wholesale extermination, any massive killing would not be called genocide. It is understood to be systematic massive massacre of innocent and helpless men, women, and children denoted by a particular ethno-religious identity, with the objective of exterminating a given group from a particular geographical or political territory.

The term "*Genocide*" was coined by the Jewish Philologist-lawyer Raphael Lemkin[4], and it is a neologism derived from the Greek word '*genos'* (race) and the Latin word '*caedere*' (killing). He used this term for the first time in his book *Axis Rule in Occupied Europe* (1944), and then campaigned for its inclusion in international law leading to the "*Convention on the Prevention and Punishment of the Crime of Genocide*" of the United Nations, which was signed on December 09th 1948 and entered into force on January 12th 1951. After the Convention was promulgated in 1951, countries were supposed to prevent and punish actions of genocide in war and in peacetime.

[4] Lemkin himself fled his home country Poland to escape first to Sweden and then to the United States in the early 1940s, but lost most family members in the Holocaust.

Figure 3: Estimated Genocide (1900-2005)



Source Koscik 2010.

This 1948 Convention on the Prevention and Punishment of the Crime of Genocide, also known as the "*Genocide Convention*", defines genocide as any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group the conditions of life calculated to bring about its physical destruction in whole or part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

Thus, genocide is committed through planned intent and organized effort by a controlling authority or government because only it can muster sufficient means and capabilities to carry

out such systematic and often, very large-scale violence. Second, all such crimes are preceded and accompanied by the promotion of exclusionary ideologies which deliberately target a group of people on account of their ethnic, social, religious or other distinctive aspect of identity. Third, such crimes happen in autocratic settings. Though bad things can, of course, happen in any country, history has proven that only dictatorships commit mass atrocities by design. Fourth, impunity for crimes against humanity creates a sure climate for their recurrence.

The definition provided by the Genocide Convention has been criticized by some writers (Akhavan 2012; Graef 2012; Milanovic 2006; Shaw 2007; Totten & Bartrop 2009) for several reasons, among them the exclusion of political groups, which conflict with Lemkin's original draft, the difficulty to prove a perpetrator's intent and the definition of 'partial destruction', but to this day it remains the only official definition and the basis on which the countries of the world will ever apply themselves seriously to the question of confronting genocide.

2.1.2. Stages of Genocide

In 1996, Gregory Stanton[5] presented a brief paper he called "*The 8 Stages of Genocide*" at the United States Department of State (Stanton 1998, 2004). In this presentation, Stanton suggested that genocide develops in eight stages that are predictable but not inexorable (Stanton 1998). According to him, each of these stages of genocide has distinctive warning signs, and there are however, at each stage, specific strategies to prevent and stop the genocidal process. These stages are Classification, Symbolization, Dehumanization, Organization, Polarization, Preparation, Extermination and Denial (See also Koscik 2010). In 2013 however, Stanton officially added two new stages, Discrimination and Persecution, to his original theory, which make it now a "*Ten-stage theory of Genocide*" (Stanton 2013).

Based on this theory, one can attempt to examine the ten stages of the Rwandan Genocide against Tutsi:

Stage 1: *Classification*: At this stage, usually social groups are classified into "*us versus them*" by ethnicity, race, religion, or nationality: German and Jew, Hutu and Tutsi. Thus, in Rwanda Tutsi were portrayed as foreign invaders who had dispossessed Hutu of rightful

[5] Gregory Santon is the president of the Genocide Watch.

control over Rwanda. The main preventive measure at this early stage is to develop universalistic institutions that transcend ethnic or racial divisions, that actively promote tolerance and understanding, and that promote classifications that transcend the divisions. The Catholic Church could have played this role in Rwanda, had it not been riven by the same ethnic cleavages as Rwandan society.

Stage 2: *Symbolization*: At this stage the classifications are symbolized. Names or other symbols are given to the classifications, and people are distinguished by colors or dress; and symbols are applied to members of groups. Examples in Rwanda can be drawn from the anthropological works done by the former INRS in Butare (Hiernaux 1954, 1968; Maquet 1952, 1953, 1954, 1961) where its researchers tried to demonstrate that Rwandans are physically different. The other example is the implementation of identification cards that indicated whether you were Hutu or Tutsi. According to Stanton (1998), to combat symbolization, hate symbols can be legally forbidden, as can hate speech.

Stage 3: *Discrimination*: At this stage, a dominant group uses law, customs and political power to deny the rights of other groups. Here the example is how Tutsi were discriminated in schools and at work. In order to prevent discrimination, Stanton (2013) suggested that individuals should have the right to sue the state, corporations, and other individuals if their rights are violated.

Stage 4: *Dehumanization*: At this stage the victim group is dehumanized, called the names of animals or likened to a disease. One group denies the humanity of the other group. Members of it are equated with animals, vermin, insects or diseases. Dehumanization overcomes the normal human revulsion against murder. For the genocide planners this stage is important since it helps to overcome the normal human revulsion against murder: If the other group is not human, then killing them is not murder. In Rwanda for example, Tutsi were called "*Inyenzi*" or cockroaches, vermin that were less than human. At this stage, hate propaganda in print and on hate radios is used to vilify the victim group. Here one can remember the role played by hate media such as Kangura and RTLM in genocide against Tutsi (Chretien 1999; Martin 2009). In combating this dehumanization, Stanton suggests that incitement to genocide should not be confused with protected speech. Local and international leaders should condemn the use of hate speech and make it culturally unacceptable. Leaders who incite genocide should be for instance banned from international travel and have their foreign

finances frozen. Hate radio stations should be shut down, and hate propaganda banned. Hate crimes and atrocities should be promptly punished (See also Koscik 2010).

Stage 5: *Organization*. Genocide is always organized, usually by the state, often using militias to provide deniability of state responsibility (for example the Janjaweed in Darfur). Sometimes organization is informal or decentralized (Stanton 1998). Special army units or militias such as Interahamwe or Impuzamugambi, are often trained and armed. Plans are made for genocidal killings. Propaganda institutions such as the hate medias are also strengthened and funded. In Rwanda, the then government led by the MRND, used some media for their propaganda, and coordinated attacks against Tutsi were organized. To combat this stage, membership in these militias should be outlawed (Stanton 1998). Their leaders should be denied visas for foreign travel (Stanton 2013). The U.N. should impose arms embargoes on governments and citizens of countries involved in genocidal massacres (Koscik 2010), and create commissions to investigate violations, as was done in post-genocide Rwanda.

Stage 6: *Polarization*: At this level, "moderates" are targeted and assassinated (Stanton 1998, 2013, Koscik 2010). For the genocidal forces, either you are with them or you are against them. There is no middle ground. For example among the first persons to be killed by the radical militia and the presidential Guards, immediately after the crash of the airplane of President Habyarimana on April 06th 1994, were political opponents of the radical Hutu parties, that is everybody who allegedly sympathized with the RPF (Haverman 2012). At the same time, when the President's plane crashed, the Interahamwe used propaganda and media to blame the Tutsi for the clash, and spread their "*Hutu power ideology*". Thus, for the Hutu extremists, the Hutu were better than the Tutsi. Prevention may mean security protection for moderate leaders or assistance to human rights groups. Assets of extremists may be seized, and visas for international travel denied to them. Coups d'état by extremists should be opposed by international sanctions.

Stage 7: *Preparation*: Preparation is the seventh stage of Genocide. Here lists of victims are compiled, members of victim groups are forced to wear identifying symbols, their property is expropriated, they are often segregated into ghettoes, deported into concentration camps, or confined to a famine-struck region and starved. Trial massacres are conducted to both train militias but also test the community's response. If the murderers get away with their crimes

or if there is impunity, it is looked as a green light to finish the genocide. In Rwanda, victims were identified mainly through the identity cards that the government had previously implemented. Trial massacres such as in Kibirira in 1990, Kinigi in 1991, Bugesera in 1992, were committed around the country (Nkaka 2012). At this stage, a Genocide Emergency must be declared. According to Stanton (1998, 2013) and Koscik (2010), if the political will of the great powers, regional alliances, or the U.N. Security Council can be mobilized, armed international intervention should be prepared, or heavy assistance provided to the victim group to prepare for its self-defense. Otherwise, at least humanitarian assistance should be organized by the U.N. and private relief groups for the inevitable tide of refugees to come.

Stage 8: *Persecution*: victims are identified and separated out because of their ethnic or religious identity (Stanton 2013). Examples here are abundant but one can still remember what happened at Nyange School in 1997 (Ntayombya 2013). At this School killers ordered teenagers to separate according to their supposed ethnical appurtenance, and when the last refused, they were shoot to die by the militias.

Stage 9: *Extermination*: At this stage, the killing legally defined as genocide begins. It is "*extermination*" to the killers because they do not believe their victims to be fully human. When it is sponsored by the state, the armed forces often work with militias to do the killing. In Rwanda for example, when the signal was given, the Interahamwe conducted a deliberate, coordinated attack on the Tutsi and Hutu from opposition. The targets were systematically attacked, and in a period of 100 days, millions of lives were lost.

At this stage, only rapid and overwhelming armed intervention can stop genocide (Stanton 1998). Real safe areas or refugee escape corridors should be established with heavily armed international protection. The U.N. Standing High Readiness Brigade, EU Rapid Response Force, or regional forces … should be authorized to act by the U.N. Security Council if the genocide is small. For larger interventions, a multilateral force authorized by the U.N. should intervene. If the U.N. is paralyzed, regional alliances must act. It is time to recognize that the international responsibility to protect transcends the narrow interests of individual nation states. If strong nations will not provide troops to intervene directly, they should provide the airlift, equipment, and financial means necessary for regional states to intervene.

Stage 10: *Denial*: During and after every genocide, the perpetrators would deny their crime. They would try to justify the killings, and try to blame the victims, claiming that victim's own behavior brought on the killing (Lemarchand 2006; Martin 2009). At the same time, they would try to minimize the number of victims (Straus 2004). For example in Rwanda killers alleged that Tutsi were helping rebels, and they used this to justify the mass targeting of innocent people (UN 2014). Another good example is the BBC's October 1st 2014 documentary, '*Rwanda's Untold Story*.' In the documentary, the American professor, Allan Stam, directly denies that the Genocide happened when he claims that '*random violence happened and hundreds of thousands of people died for no particular purpose*.' Denial is among the surest indicators of further genocidal massacres. The perpetrators of genocide dig up the mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. They deny that they committed any crimes, and often blame what happened on the victims. They block investigations of the crimes, and continue to govern until driven from power by force, when they flee into exile. There they remain with impunity, like Pol Pot or Idi Amin, unless they are captured and a tribunal is established to try them. The response to denial is punishment by an international tribunal or national courts. There the evidence can be heard, and the perpetrators punished. Tribunals like the Yugoslav or Rwanda Tribunals, or an international tribunal to try the Khmer Rouge in Cambodia, or an International Criminal Court may not deter the worst genocidal killers. But with the political will to arrest and prosecute them, some may be brought to justice.

For the Rwandan context, the Genocide committed Against Tutsi was defined as the "*biggest bloodbath of the second half of the last century*" (Lemarchand 2006). Rutembesa (2011) explains the why this Crime is called the Genocide committed against Tutsi and not Rwandan Genocide. For him it is because of two main elements: First, the targeted group was clearly defined as an ethnical group, and its destruction was massive. Second, killers identified themselves as Hutu, and they targeted members of a group they had identified as Tutsi.

Currently the Genocide committed against Tutsi is a crime recognized, even if there are still a great number of people trying to deny obvious facts. Thus, since 1994, reports by UN experts have established that "*the qualification of the genocide must already be accepted with regard to Tutsi. It is different when it comes to the killings of the Hutu"* (Degni-Segui 1994). The International Criminal Tribunal for Rwanda (ICTR) confirmed these reports and established the existence of this genocide right from its first judgment rendered on 2 September 1998

against Jean-Paul Akayesu. Paragraph 18 of this judgment asserts firmly: *"It then appears clearly that the massacres committed in Rwanda in 1994 had a specific target: to exterminate Tutsi, selected specifically because they belonged to the Tutsi ethnic group and not because they were RPF fighters (...). What transpired in Rwanda in 1994 was genocide against the Tutsi as a group".*

In 2006, ICTR brought to a close once and for all the debate as to the existence of the genocide against the Tutsi by underscoring that this genocide was henceforth a fact of common knowledge whose existence, both in terms of facts and law, was no longer subject to denial (ICTR 2006). This judgment put to rest the numerous attempts by the defense counsels in Arusha who denied the existence of the genocide against the Tutsi before this Tribunal. However, it did not stop the criminal fertile imagination of the Negationists outside the court of Arusha.

2.2. Denying and minimizing the Genocide

Genocide denial is an attempt to deny or minimize statements of the scale and severity of an incidence of genocide. Thus, according to Hovannisian (2009), denial is the final phase of genocide: "*Following the physical destruction of a people and their material culture, memory is all that is targeted as the last victim. Complete annihilation of a people requires the banishment of recollection and the suffocation of remembrance. Falsification, deception, and half-truths reduce what was to what may have been or perhaps what was not at all. History becomes something that never happened, written by someone who wasn't there. (...) By altering or erasing the past, a present is produced and a future is projected without concern about historical integrity. The process of annihilation is thus advanced and completed by denial*".

Thus, during this phase of denial, as discussed above, the perpetrators of genocide dig up the mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. They deny that they committed any crimes, and often blame what happened on the victims (Martin 2009). Denial is also defensively protecting information from being shared or claiming facts are untrue. Protection can include both physical security, and prevention techniques such as blame shifting, censorship, distraction, and media manipulation.

The extremely serious nature of the crime of genocide, along with the terrible reputation it creates, and potential repercussions that may come against a nation as a result of committing it, ensures that whenever genocide is charged, there will be parties that attempt to avoid or divert blame.

Charny (1999),[6] and Stanton 2005, outlined tactics and ways commonly used to deny genocide. These include question and minimize the statistics; attack the motivations of the truth-tellers; claim that the deaths were inadvertent; emphasize the strangeness of the victims; rationalize the deaths as the results of tribal conflict; blame the "*out of control*" forces for committing the killings; avoid antagonizing the genocidists, who might walk out of the peace process; justify denial in favor of current economic interests; claim that the victims are receiving good treatment; claim that what is going on does not fit the definition of genocide; blame the victims; and say that peace and reconciliation are more important than blaming people for genocide (see also Martin 2009).

Other researchers however, think that the denial starts even when the genocide is being committed (Martin 2009). Thus, during the genocide, organizers would try to "*cover-up*" their true role in the killings. In Rwanda, even if many killings were carried without concern about hiding, most of leaders of the genocide operation disguised their own role, having set up Interahamwe militias that were already trained. At the same time, many of the killings, held in remote areas, were denied, especially that the communication was not possible in many areas at the time, telephone wires were cut and survivors were hiding or not allowed to leave the area.

The media, who usually play an important role in disseminating information, their coverage was both limited and biased, allowing much of the killing to continue without being reported. Very few foreign journalists remained in Rwanda during the period of Genocide, however most of foreign news media were slow to take an interest (Melvern 2000; Martin 2009).

Several western governments, as already discussed in this thesis, especially the Belgian, French and US governments aided in this cover-up. These governments knew what was happening and had enough evidences (Des Forges 1999; Dallaire 2004), but preferred to

[6] Executive Director of the Institute on the Holocaust and Genocide in Israel.

abandon the people, closed their embassies and withdrew their nationals who otherwise would have been influential witnesses of what was happening. At the end, they resisted the language of genocide because it would have suggested greater obligation.

"*Devaluation*" is also another form used during the genocide to deny it. Killers humiliated and tortured their victims, for example by stripping them naked, raping them, cutting off their body parts, forcing them to kill their own family members, and preventing bodies from being buried. According to Lindner (2006) who published a work on the role of humiliation in genocide, killing and devaluation during Genocide against Tutsi, reinforced each other.

There is also the "*Reinterpretation*". Here numerous techniques were used that portrayed what was happening in a deceptive way, including self-serving frames, lies, and assignment of responsibility. One of the most pervasive reinterpretation at the time was to conflate the genocide with the war against the RPF. The then prime minister even claimed that killings were due to grief over President Habyarimana's death (Des Forges 1999). Rwandan diplomats described what was happening as "interethnic fighting" or "tribal violence", gave low figure for the number killed, and falsely claimed the killing was over (African Rights 1995). Some explanations were even bizarre. For example, Tutsi who had been killed were said to have committed suicide and to have caused their own misfortune (Martin 2009). Killers tried to shift the blame from themselves.

Killers also *used Official and non-official* channels to deny that the genocide was being committed. Thus, the then government and the hate media among them the RTLM, reinterpreted the events using lies, misleading frames and allocation of blame. This means that the government was using its authority to promote the genocide.

"*Intimidation and bribery*" are also techniques used by killers to deter the expression of outrage over killing. Thus, in the aftermath of April 6th, in some parts of Rwanda, officials resisted encouragement to unleash restrains against killing. To achieve their goals, Soldiers and Interahamwe militias made threats against opponents of the killing, including these administrators, and sometimes forced participation in killing (Des Forges 1999; Martin 2009). In other parts of the country, administrators using militias, acted against those who refused to kill by burning their houses or physically threaten them. In parallel with

intimidation of resisters was bribery to encourage cooperation. Incentives included food, drink, marijuana, money and opportunity for looting.

The other form of denial is illustrated in "*historical revisionism*". Historical revisionism is either the legitimate scholastic re-examination of existing knowledge about a historical event, or the illegitimate distortion of the historical record. This distortion of history, if it constitutes the denial of historical crimes, may also be called *negationism*. Negationism on its side is the denial of established historical facts, and the term is used particularly in regards to denying the crimes of World War II and the Holocaust.

In attempting to revise the past, illegitimate historical revisionism uses techniques inadmissible in proper historical discourse, such as presenting known forged documents as genuine; inventing ingenious but implausible reasons for distrusting genuine documents; attributing conclusions to books and sources that report the opposite; manipulating statistical series to support the given point of view; and deliberately mis-translating texts. In modern times, negationism may be propagated via new media, such as the Internet (Ntashamaje 2012).

Historical revisionism is conducted to influence a target's ideology or politics for a particular purpose. Sometimes the purpose is as innocent as wanting to sell more books or attract attention with a startling headline. Often, however, that purpose is to achieve a nation's aims by transferring war guilt, demonizing an enemy, providing an illusion of victory, or preserving friendship. Broadly understood, there are two motivations behind revisionist history: the ability to control ideological influence and to control political influence.

Most, if not all, of the techniques used in historical revisionism are for deception or denial. The specific techniques of historical revisionism vary from using forged documents as genuine sources (or inventing reasons to distrust genuine documents), to exploiting opinions by taking them out of their historical context. Other techniques include manipulating statistical series to support the given point of view, and deliberately mis-translating texts into other languages. Instead of submitting their work to peer review, revisionists rewrite history to support an agenda, and often use fallacies to obtain the desired results. Because historical revisionism can be used to deny, deceive, or influence explanations and perceptions, it can be regarded as a technique of propaganda. Finally, techniques of historical revisionism operate

within the intellectual battle-space in order to advance an interpretation or perception of history.

Deception is offensively using falsified information, lying, and obscuring the truth to manipulate information or opinion. Revisionist historians use deception techniques to help achieve their political or ideological goals.

Different forms are used to deny or minimize the genocide against Tutsi (Murwanashyaka 2006, 2011; Rutembesa 2011; Musafiri 2012; Mugesera 2012; Ntashamaje 2012; Rutayisire 2012; Bizimana 2013). However, all these forms can be summarized into three main forms:

a. Trivialization and denial of the crime;
b. The theory of double genocide (refers to the belief that Hutu, as well as Tutsi, were victims of genocidal violence);
c. Publications and different revisionists speeches.

In Rwanda, the Denial/Negationism intensifies as each annual commemoration day draws near (Murwanashyaka 2011); then, it takes on changing and innovative forms depending on the times. In the first days following the genocide, Negationism was expressed in the form of absolute denial of this crime and its specificities. As time went by, the supporters of Negationism failed due to the undisputable evidence of the genocide, its judicial recognition by ICTR and the United Nations. Since then, they have adopted new strategies and other courses of action and nuisance. They succeeded to win over the sympathy of judicial institutions of some Western States, NGOs and international organizations, using them for political and Negationist ends (Bizimana 2013).

Another novelty is found with the campaigners of this Negationism. At the beginning, these were found among the killers and Rwandan or foreign lobbyists of the Hutu Power theory. Today, supporters of Negationism are also found among groups of people who were not directly involved in the genocide, among them some Tutsi (Bizimana 2013). These groups or individuals hide behind the claim of the freedom to exercise their civil and political rights to preach Negationism, the genocide ideology and to incite directly people to overthrow the Rwandan Government and commit a second genocide.

The outbursts of hatred poured out by Bernard Ntaganda, Ingabire Umuhoza Victoire, and some journalists of Umurabyo and others, as well as the heinous acts of Kayumba Nyamwasa, Gahima Gerard, Karegeya Patrick and Rudasingwa Théogène and company, reflect all this new face of Negationism. It uses the language of hatred against the Head of State of Rwanda, H.E. Paul Kagame, to openly incite the people to commit genocide and political assassinations once again. This is a new criminal phenomenon which perpetuates the line of theses upheld by genocide perpetrators and Negationists (Bizimana 2013).

2.3. Prevention of Genocide

Preventing future genocides "*Never Again*" that is what leaders in the United States and throughout the world declared after the Holocaust. Yet tragically, in Cambodia, Bosnia, Rwanda and Darfur millions of people lost their families or were forced to flee their homes. Preventing mass atrocities requires political will first and foremost. Perpetrators of genocide and mass atrocities cannot succeed without the support of other governments and corporations.

On the 7th April 2004, the tenth anniversary of the Genocide perpetrated against Tutsi, the then UN Secretary-General Kofi Annan suggested or outlined a five-point action plan for preventing genocide (UN 2014):

1. Prevent armed conflict, which usually provides the context for genocide;
2. Protect civilians in armed conflict, including through UN peacekeepers;
3. End impunity through judicial action in national and international courts;
4. Gather information and set up an early-warning system; and
5. Take swift and decisive action, including military action.

In Rwanda, besides the Justice and legislative tools, the National Unity and Reconciliation Commission (NURC) was established in 1999, with a mission to promote unity, reconciliation, and social cohesion among Rwandans and build a country in which everyone has equal rights and contributing to good governance.

The National Commission for the Fight against Genocide (CNLG), an independent, national and permanent institution, was created by Law No 09/2007 of 16/02/2007, but this commission started operating in April 2008. This commission has mission to prevent, fight

against genocide and genocide ideology; address genocide consequences both within and outside Rwanda.

2.4. The Rwandan Parliament

The Parliament is a body elected by the population and entrusted with acting on behalf of the population. Main functions and powers of the Parliament are representing the population, passing legislation, scrutinizing and overseeing executive action.

In Rwanda, the mission of Rwanda Parliament, as defined by the National Constitution article 62, is to deliberate and pass Laws. It has also mission to legislate and oversee action of the executive in accordance with the procedure determined by the Rwandan Constitution. The vision of this Parliament is a "*State governed by the rule of law based on the respect of fundamental rights of the person, democracy and good governance whereby the Parliament catalyzes optimum participation of the population*".

The Rwandan Parliament[7] is bicameral. It consists of two chambers: The Senate, whose twenty-six elected and appointed members have the title of Senators; and the Chamber of Deputies whose eighty members have the title of Deputies.

The 26 senators come from the following places:

- 12 elected by provincial and sectorial councils;
- 8 appointed by the President of the Republic to ensure the representation of historically marginalized communities;
- 4 appointed by the Consultative Forum of Political Organizations;
- 2 elected by the staff of the Universities (1 from private and 1 from public University).
- Former presidents may request to become a member of the Senate.

The Chamber of Deputies on its side is composed by:

- 53 members elected in universal suffrage through a secret ballot;
- 24 women elected by specific women's councils all over the country;
- 2 members elected by the National Youth Council;

[7] For the history of the Rwandan parliament, see for example Makuza, A. 1963; Twagirumukiza, W. 1999; Kamanzi, E. 2001; or Rutazana, P. 2005.

- 1 member elected by the Federation of the Associations of the Disabled.

Members of the Senate, with the exception of former Heads of State who become members of the Senate in accordance with Article eighty-two of the Rwandan constitution, serve a term of eight years, which is not renewable. Members of the Chamber of Deputies on their side are elected for a five-year term. After the transitional period (1994-2003), the first legislature of the chamber of deputies commenced in 2003 to 2008. The second legislature commenced in 2008 and ended in 2013. The third legislature commenced in 2013 and will end in 2018.

The first legislature of the Senate commenced in 2003 and ended in 2011; the second legislature of the Senate commenced in 2011 and will end in 2019. Besides voting on different laws, the Senate shall also have power to:

1) Approve the appointment of the president, the vice presidents and the judges of the Supreme Court, the president and vice president of the High Court and of the Commercial High Court, the prosecutor General and the Deputy Prosecutor General;
2) Approve the appointment of the chairperson and members of National commissions, Ombudsman and his/her Deputies, the Auditor General of the State Finances and his/her Deputy, Ambassadors and permanent Representatives to International Organizations, provincial Governors and Heads of public Institutions and Para-state Organizations which have legal personality;
3) Approve the appointment of other public officials as determined by an organic Law where necessary (see the Rwandan Constitution Art. 88).

The article 64 of the Rwandan Constitution states that every Member of Parliament represents the whole nation, and not just those who elected or nominated him or her or the political organization on whose ticket he/she stood for election (See also Article three of the Organic Law No 06/2006 of 15/02/2006).

The Internal rules indicate that Members of Parliament, before taking office, shall take an oath (Rwanda, Parliament 2011), and it provides the structure of the Parliament:

- Plenary Sitting: the Plenary Sitting is the high body that takes decisions related to adopt different projects of laws, control of government actions and other Parliament's responsibilities. It is formed by eighty Deputies for the Chamber of Deputies, and for

the Senate it is formed by twenty-six Senators. For the plenary sitting to be held, a quorum is required, otherwise the plenary sitting is adjourned. For the sittings of the Chamber of Deputies the quorum required is at least three fifths (3/5) of its members, meaning forty-eight members.

- The Bureau of the Chamber of Deputies /Senate. This bureau is composed by the Speaker of the Chamber of Deputies/Senate, and two deputies: Deputy Speaker in charge of Legal Affairs and Control of Government Actions, and Deputy Speaker in Charge of Finance and Administration.
- Conference of chairpersons: This is formed by Bureau members, and Presidents of Standing Committees.
- Committees.

Thus, each chamber establishes among itself Standing Committees. It may also establish temporary Committees. If we take an example from the Chamber of deputies, every Deputy has to register in only one Standing Committee, and each permanent Committee is composed of at least six Deputies (See Section 3 of Internal rules). Each Committee has its Bureau comprised of a Chairperson and a Deputy Chairperson who act as its spokesperson. One of these committees is the Committee on National Unity, Human rights and fight against Genocide.[8]

Besides these Standing Committees, upon request by the Speaker or at least by five Members of Parliament, and upon approval by the Plenary Sitting, ad hoc Committees may be established for the purpose of examining certain bills of law or obtaining information regarding explanations of certain issues or events. The mandate of such ad hoc committees is terminated when the Plenary Sitting makes a decision on its report (See Article 41-43 of the Internal rules of procedure of the chamber of Deputies in the Parliament as modified and complemented to date). The same internal rules also point out the establishment of the committee in charge of Assessment of the Chamber of Deputies Activities, Deputies' Conduct and Legislative Immunity (see article 55-56).

Most of projects of laws related to Genocide prevention are discussed through the Committee on National Unity, Human Rights and Fight against Genocide. Thus, this Committee is responsible for issues relating to:

a) Unity and reconciliation of Rwandans and human rights;

[8] Up to 2011 there were eleven Standing Committees at the Chamber of Deputies, but they are currently nine.

b) Prevention and fight against the ideology of genocide, minimization and denial of genocide and all its manifestations;
c) Follow up and search for solution of effects of the genocide against Tutsi;
d) Fight against discrimination in speeches, writings, in actions and any other forms;
e) All issues relating to harmonization of Rwandan laws and international conventions on human rights ratified by Rwanda, except for those that fall under the responsibilities of other Committees;
f) Human rights organizations;
g) Functioning of the structures of administration that have relationship with respect of human rights;
h) Consideration of the National Commission for the Fight against Genocide and that of the National Commission for Human Rights and preparation of draft recommendations within six months of the date of submission of such reports to the Plenary Assembly (See Article 38 of the Internal rules).

The Organic Law No 06/2006 of 15th February 2006 establishing Internal rules of procedure of the Chamber of Deputies in the Parliament as modified and complemented to date, especially in its Article 53, indicates that Standing Committees shall submit their reports to the Plenary Sitting. These reports should contain a summary of debates and conclusions thereof.

2.5. Theories and Literature review on Genocide denial

As discussed above, Genocide is a sustained purposeful action by a perpetrator to physically destroy a collectivity directly or indirectly, through interdiction of the biological and social reproduction of group members, sustained regardless of the surrender or lack of threat offered by the victim (Fein 1993; Martin 2009).

The UN definition includes attempts to exterminate ethnic groups using means such as preventing births and transferring children, whereas most attention subsequently has been on mass killing. The UN definition excludes mass killing for political reasons whereas many scholars count this as genocide, and example being Cambodia 1975-1979.

According to some estimates (Martin 2009), during the twentieth century more people died in genocides than in wars, yet genocide, except for the Holocaust that is widely known, receives relatively little attention compared to war. In this section thus, I am discussing the role of the

Parliament in preventing genocide, but I also want talk about the state responsibility in genocide.

Starting with the State responsibility for genocide, I should mention here that in the past years, the international law has mainly focused on the individual responsibility for crimes committed against this international law. However, in recent years, we have seen examples where the international law deals with the state responsibility for the genocide. We recently have seen the example in the case brought before the International Court of Justice by Bosnia and Herzegovina against Serbia and Montenegro (Milanovic 2006). The latter was accused for its responsibility for genocide committed during the Bosnian conflict following the break-up of the former Social Federal republic of Yugoslavia.

In this case, Bosnia argues that the totality of all crimes committed during the conflict amounts to genocide, while Serbia claims that only crimes against humanity and war crimes were committed during the war, and not genocide. I will letter comeback on the distinction between genocide and crimes against humanity.

Individual versus State responsibility has also been a long debate between Functionalist and Intentionalist. Functionalism and Intentionalism are two terms coined in 1981 by Timothy Mason, a British historian (Browning 1986; Bessel 2003). The debate between functionalists and intentionalists was basically focused on the origin of the Holocaust and the role played by both Hitler and the Third Reich. Two points were at the center of this debate:

- Was there a master plan on the part of Nazis to launch the Holocaust? Intentionalists argue there was such a plan, while functionalists argue there was not.
- Did the initiative for the Holocaust come from above with orders from Hitler or from below within the ranks of the German bureaucracy? Although neither side disputes the reality of the Holocaust, nor is there serious dispute over the premise that Hitler, as Führer, was personally responsible for encouraging the anti-Semitism that allowed the Holocaust to take place, intentionalists argue the initiative came from above, while functionalists contend it came from lower ranks within the bureaucracy.

Thus, it has been always difficult to prove the State responsibility for genocide. After the World War II for example, Germany and Italy did pay some compensation to the victims of Nazi and fascist atrocities, but this only happened after long and arduous process. In fact, the realities of international relations being what they are, it is far too easy to accuse states for their responsibilities in Genocide. To give another example, Milanovic (2006) has shown

how, because of their selfish interests, some members of the United Nations Security Council fail to put an end to the ongoing atrocities in the Sudan. In addition, the moral and social stigma carried by the word genocide is one of the primary reasons why states and other political actors use it in international discourse, or more often desperately try not to use it.

Regarding other international crimes, some researchers think that genocide and crimes against humanity are simply different as a matter of international law (Milanovic 2006), while the moral condemnation every sane person must attach to such atrocities should not depend on the outcome of legal academic debates. Thus, murder, extermination or deportation are all crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population and with knowledge of the attack. They only become genocide if the perpetrator commits them with the intention of physically or biologically destroying a protected group, in whole or in part. Organization, planning or number of deaths make genocide legally distinct from crimes against humanity.

But the question here, as stated above, can a state commit a crime? Yes and no! Thus, according to some researchers (Milanovic 2006), a state can do nothing by itself. It can only act through individuals, who would in the overwhelming majority of cases be its de jure organs. But just as individuals can commit international crimes when acting in their official capacity, so can their criminal acts be attributed to a state. Yet, many of the historical examples of genocide were precisely those of a state committing atrocities against its own nationals, such as the Khmer Rouge atrocities against members of their own ethnic group, the massacre of its Armenian population by Turkey during World War I, the 1994 genocide against Tutsi in Rwanda, or the ongoing massacres in Darfur-Sudan.

On the other side, the Genocide Convention, under article IX, states the State responsibility. Thus, under this convention, states not only have a fundamental duty no to commit genocide, but also have a number of other, ancillary obligations, such as the duties to prevent and punish genocide. This mean that states can be responsible for genocide, but also that all state parties to the Genocide Convention have an obligation to prevent genocide.

In Rwanda, some researchers (Kanamugire 2003) worked on the role of the state in genocide against Tutsi. Thus, some researchers have studied how the negationism of the genocide of Tutsi has developed through the history. To them some French political leaders should be considered as pioneers of negationism. For example, Bizimana (2013) analyses different

speeches by Mitterand where the former French president suggested that both the FAR and the RPF had each committed genocide.

In addition, former Rwandan authorities are also among people who are behind the negationism of the genocide against Tutsi. Thus, there no doubt that the Government of Rwanda, which was ruling the country in 1994 is directly responsible for the genocide against the Tutsi and political assassination carried out at the time. Immediately after their defeat, in July 1994, those former leaders embarked an absolute denial of the crimes they had just committed in the country (Bizimana 2013).

The other group of negationists of the Genocide against Tutsi includes some "*Hutu intellectuals and officials*" (see Bizimana 2013), who do not accept to lose exclusive powers founded on ethnic monopoly to which they were used since 1962. Together with the perpetrators of the genocide in exile, this group is the active core, which spreads negationism under the pretext of political opposition.

Some foreign authors and writers, especially from academic and media circles are also among people who preach some negationism ideas (Lemarchand 2014). Thus, immediately after the genocide was stopped, some foreign authors embarked on publishing negationist writings with unprecedented virulence (Bizimana 2013). The negationist arguments of these individuals have been appearing regularly in the press and in bookshops, in conferences and seminars in Europe, in America and elsewhere. Notwithstanding this campaign, the genocide against the Tutsi has been recognized internationally and, today, it has been confirmed worldwide. Consequently, negationist lobbies have realized and use other means.

Among these new methods is the manipulation of courts, especially in Europe, for Negationist ends. They have thus resorted to use courts to deny the existence of the genocide, for example by accusing the authorities in Rwanda who put an end to the genocide. The most cited examples are Jean-Louis Bourguière, a French investigating magistrate; Fernando Andrew Merelles, a Spanish judge; or through the UN reports such as the UN Mapping Report published in 2010.

CHAPTER III: METHODOLOGY

The research results have been generated by a review of written sources, and a questionnaire was used to collect information from different people.

3.1. Methodological approaches

As mentioned above, this thesis is largely based on literature from several fields of study. Not all of the chosen literature concerns Rwanda in particular, but I find that a broader perspective is useful when examining the prevention of genocide. When discussing the role of the National parliament, different reports made by the last were very useful. The literature spans from the early 1900s up until today in order to include past perspectives, for instance colonial, in the discussion of the different steps of the Rwandan genocide. Thus, libraries such as the University of Rwanda, National library and the library at the National Parliament were used during my research. In addition to this literature, a fieldwork in Gasabo district creates the foundation of the discussions concerning the perception of local people on the Rwandan genocide prevention legislation.

I was able to conduct some interviews with local communities in this district. People I interviewed were found in their villages, and the interviewees were talking largely uninterrupted. All interviewed persons are people possessing a lot of knowledge related to genocide prevention and on legislation in general. In addition to these interviews, I had a lot of interesting and informal conversations with different experts in genocide studies. All of these experts were aware of the reason for my conversations with them. These conversations were of the kind that takes place between friends or acquaintances sharing a drink, and are not to be considered as structured interviews.

However, these interviews revealed so many interesting aspects and elements of genocide prevention that I wish to incorporate some of them in my discussion of the role of National Parliament in genocide prevention in Rwanda. Because of the nature of the conversations, meaning that they were not conducted as structured interviews, I will not reveal who the persons are in order to secure their anonymity.

I also used the questionnaire during my research. Thus, a questionnaire was given to the judges of Supreme Court, Rwanda Law Reform Commission, and Judges and Prosecutors of Primary Court in Kacyiru. Besides, eighty questionnaires, meaning forty questionnaires in Kimironko sector and the same number in Rutunga sector, were distributed in the district of Gasabo. These two categories of people were chosen because I wanted balanced point of view: On one hand have people's general opinion, and on the other hand, have an opinion from professionals (lawyers), people who use the legislation on regular basis.

The literature, questionnaire, interviews and conversations are combined with personal observation from the field visits.

3.2. Methods of collecting data and Sampling design

To collect data, different methods from content analysis of documents to observation, passing by interviews and use of questionnaire were used. Thus, regarding sampling, I have used both probability sampling and non-probability sampling. For example, the Random sampling was used while questioning people working for the Rwanda Law Reform Commission, Judges at the Supreme Court and at the Primary Court in Kacyiru. On the other side, the convenience or opportunity sampling was used when collecting data from local people in Gasabo district.

Sampling is usually defined as the process of selecting participants from the population. For the random sampling everyone in the entire target population has an equal chance of being selected. It was possible to use this method with judges and people working for the Rwandan Law Reform Commission as they form a small group. However, for the large group I preferred to use the opportunity sampling because of the advantages it provides to the researcher.

The opportunity sampling uses people from target population available at the time and willing to take part into the research. Thus, I first asked participants if they were interested and if they were willing to be part of the research. This method is known to have advantage of being a quick and easy way of choosing participants, but it has been also accused by some researchers of being sometimes biased and not always providing a good representative sample (McLeod 2014). It is also regarded as being less demanding on researchers, in terms

of resources or expertise, than other methods of sampling (Mason 2002; Brady 2006). I then used this method being aware of its limitations and appropriateness.

Regarding the sample size, some researchers and webpages are now suggesting the size of participants a research should have to be accepted (www.gpower.hhu.de/). For most of qualitative researchers, saturation should be the only criteria of the size. For others (Sandelowski 1995; Baker & Mason 2010; Edwards 2012), determining adequate sample size is in qualitative research is ultimately a matter of judgment and experience in evaluating the quality of the information collected against the uses to which it will be put, the particular research method and purposeful sampling strategy employed, and research product intended.

However, most of researchers agree that sample for qualitative studies are generally much smaller than those used in quantitative studies, and that frequencies are rarely important in qualitative research (Mason 2010). Thus, qualitative samples must be large enough to assure that most or all of the perception that might be important are uncovered, but at the same time if the sample is too large data becomes repetitive and, eventually, superfluous. Mason (2010) also suggested that studies that use more than one method require fewer participants, as do studies that use multiple interviews with the same participant.

It is against the arguments above that a sample of eighty participants has been selected in the district of Gasabo. Of course, as in all forms of research, it would have been ideal to test the entire population of Gasabo, but in this Case it was not posible to interview the entire population. Seeing nothing new in newly sampled units was coming out, I decided to stop the number of participants at eighty in Gasabo. The technique of convenience sampling has been used here because it was basically fast, easy and inexpensive. Local authority would help to identify respondents to the questionnaire, especially individuals willing to participate into my research.

To collect data, I also used the observation but as an outsider. During the observation I focused on elements that I thought were relevant to my investigatory purposes. To give an example in 2014 I have been able to observe people reaction after the BBC documentary film was released. Thus, at this period, most of people went on strike to publicly accuse BBC of genocide ideology and revisionism.

3.3. Documentation and data treatment

As mentioned above, to collect necessary data for this thesis, more than one source of information were used. Thus, documentary evidence was used to supply interviews, conversations and questionnaire distributed to local people. Existing empirical or legal studies and reports were also consulted. The use of documentation methods helped me especially to compare the Rwandan legislation and other legislations already existing around the world.

Thus, Genocide studies and studies of other types of mass violence may be either comparative or non-comparative. Non-comparative studies often seek to describe a particular situation or event. Here the general question is "*what happened here*?" Comparative studies examine different instance of genocide or mass violence and attempt to determine what they have in common and how they differ. In genocide research the goal of comparative studies is often to identify a set of characteristics or conditions that explain or may even predict genocide. Often, the researcher's explicit goal is to identify situations in which genocide is likely to occur so that the atrocity may be prevented.

Comparison as a scientific method, on the other hand, juxtaposes two or more events or processes in order to find similarities and differences, which "*give insights into each particular case that would have remained unrevealed had they been studied in solution*" (Graef 2012). Comparison, then, serves as both a way of looking at things and a tool (Cohen & O'Connor 2004). With regard to genocide studies, then, two things are essential: the insight that each genocide, notwithstanding its specific features, 'is related to all others in certain ways' and the difficulty of translating this theoretical approach into empirical studies.

However, trying to consolidate, develop and expand the concept of genocide through the comparison of genocide is problematic because despite the fact that comparisons generally depend on conceptual categories, genocide as a particular category is itself further developed through the use of the comparative method. This notion of "*Uniqueness*" urges to describe every case as too unique. Uniqueness does not assume superiority, and comparison does not necessarily imply hierarchy.

For example Lemarchand (2003) compares the genocides in Rwanda, Cambodia and Bosnia with regard to the number and identity of victims as well as the domestic and international context in which these killings happened. Lemarchand (2003) identified both similarities and differences, thereby building binary oppositions.

On his side, the historian Levene (2009), in his article "*Connecting Threads: Rwanda, the Holocaust, and the Pattern of Contemporary Genocide*", proposes that comparison of genocides helps to identify "*patterns of genocide in the modern world, and that these patterns tell us not only something about the nature of genocide itself but, more importantly, something about the nature of contemporary history and society*". Levene (2009) uses comparison both as historical methodology and scientific method in order to make his contribution to the prevention of genocide.
During my research I used the comparative history method, because I wanted to compare the Rwandan legislation with other anti-genocide legislations around the world, especially laws established after the Holocaust. Thus, the documentation helped this work in comparing with other works around.

Regarding data treatment, different methods of analysis, both statistical and non-statistical were used for this study. Usually statistical approaches to studying genocide have three key characteristics:

- They seek to gather large amount of representative data rather than examine a single case in great detail,
- They use various statistical procedures to identify patterns within the data,
- They interpret the findings: a good statistical study does not just present the numbers and expect that they automatically make sense.

However, many studies present information or evidence without being able to carry out statistical analysis. This is not necessarily a defect as statistical analysis is inherently limited in the degree of detail is can provide. Non-statistical approaches may be able to get at a level of detail and interpretation not available through statistical approaches.

Statistical methods of sampling and data analysis are not necessarily used to the exclusion of other methods. To give an example, one study on the genocide in Rwanda can combine

methods, using surveys plus micro-comparative methods that drew on documentary evidence to understand how the violence unfolded at the local level.

Thus, in this study I used both statistical and non-statistical methods. The statistical methods were used during the analysis of results from the questionnaire, and during the interpretation of results I got from the Supreme Court, Rwanda Law Reform Commission, Judges and prosecutors of Based Tribunal in Kacyiru. On the other hand, non-statistical methods were used for comparing the Rwanda legislation with the other existing genocide preventing legislations.

CHAPTER IV: RWANDAN LEGISLATION ON GENOCIDE PREVENTION

Introduction

In the years following the genocide, Rwandans devoted to prevent the genocide in the future and to combine their efforts for unity and reconciliation among them, but also to eradicate the culture of impunity. To achieve these goals, Justice was the first tool. This was not an easy task since, for the years just following the genocide, more than 120,000 people were detained and accused of bearing criminal responsibility for their participation in the killings[9] (UN 2012).

The first law on genocide was published as early as 1996[10]. This law created specialized chambers within the "*first instance*" or primary courts[11] and military courts with exclusive jurisdiction to try genocide-related cases. This law also introduced the categorization of crimes and the guilty plea, two aspects that have remained cornerstones of the genocide trials.

Thus, to deal with such an overwhelming number of perpetrators, a judicial response was pursued on three levels. The first level was the national court system (Modern or classic justice). Rwanda's national courts prosecuted those accused of planning the genocide or of committing serious atrocities such as rape. The second level was the Gacaca court system. In 2005, the Rwandan government re-established the traditional community court system "*Gacaca*" to help or complete the National court system which could not finish before hundreds years, thousands cases of accused people. This is how more than twelve thousands community-based courts were established and they have tried more than 1.2 million cases throughout the country[12] (Ingelaere 2008; Brehm et al. 2014; Human Right Watch 2014).

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[9] The information-gathering phase of the Gacaca made clear that over 800,000 persons were suspected of involvement in the genocide. As of 2011, the gacaca trials had heard more than 1.2 million cases related to the genocide (SNJG).

[10] Organic Law No 08/96 of August 30th 1996 on the Organization of Prosecutions for Offences Constituting the Crime of Genocide and Crimes against Humanity committed since October 01st 1990.

[11] Tribunaux de première instance.

[12] See the Organic Law No 40/2000 of 26/01/2001 setting up Gacaca jurisdiction and organizing prosecution for offences constituting the crime of Genocide or crime against humanity committed between October 1, 1990 and December 31, 1994. See also Organic Law 13/2008.

The Gacaca trials served also to promote reconciliation by providing a means for victims to learn the truth about the death of their family members and relatives. They also gave perpetrators the opportunity to confess their crimes, show remorse and ask for forgiveness in front of their community. The Gacaca courts officially closed on May 4th 2012.

The third level was the International Criminal tribunal for Rwanda. The UN's Security Council established the ICTR on November 8th 1994. The tribunal had a mandate "*to prosecute persons bearing great responsibility for genocide and other serious violations of international humanitarian law committed in Rwanda between January 1st and December 31st 1994*". The ICTR was expected to conclude its work by the end of 2014, after twenty years of existence and fifty finished trials. However, the UN decided to extend its mission for one more year.

4.1. Role of the parliament in genocide prevention

Introduction

Before I discuss the role of the parliament in genocide prevention, I would like to shortly discuss the role of the same parliament in genocide preparation. Mildlarsky (2005) and Kanamugire (2003) emphasized the fact that the genocide would not have occurred without the government's sponsor and support. As an institution in charge of controlling the government's actions, the involvement of the government implies either the weaknesses to control and ensure safe regulations and protection of the population, or its own implication in preparation and execution of the genocide.

The state sponsor and authorization to commit genocide is not particular only to Rwanda. Thus, the German government, after the invasion of the former Soviet Union, immediately commissioned specially trained groups of soldiers called "*Einsatzgruppen*" to murder Jews throughout the conquered areas of the Soviet Union. State sponsored construction and equipping gassing facilities, shootings, death camps, starvation activities that took away the lives of six million Jews (Mildlarsky 2005).

As we argued it in the second chapter, Genocide is not something that happens overnight or without warning. Genocide requires organization and constitutes in fact a deliberate strategy and one that mostly carried out by governments or groups controlling the state apparatus. For the Rwandan case, human and material resources of the government were given to killers

during the genocide. There are three main points that illustrate the involvement of the government in the genocide against Tutsi. First, the fact that the government did not want to prevent, or punish people who were involved in killings of a part of its population. Second, most of victims were killed in official or public buildings, and were killed by the government forces. Lastly, there is removal, killing or isolation of political and military leaders who were against the perpetration of the genocide (Rutembesa, 2011).

Nowadays the role of the Parliament is to first understanding the way genocide occurs and learning to recognize signs that could lead to genocide. This is important to make sure that such horrors do not happen again. Thus, the role of the Parliament in preventing Genocide is not only limited in adopting legislation preventing genocide, but also taking other important measures related to prevent conflict among people. For example, as we have discussed it previously, the government played an important role in the organization and perpetration of the genocide. The Rwandan Parliament has now taken some measures to control the actions of the government so that this one does not take actions that may lead to the genocide.

4.1.1. The Control of the Government's actions

The control of the government action is very important in this case, since the government is the one usually accused in preparation and organization of the genocide. If this control is well done, and that members of the parliament are not themselves involved in these preparations, it would be possible to stop or alert about genocide.

To obtain information and exercise oversight of activities of the government, the article 128 to 132 of the Rwandan Constitution establishes methods to be used by both the Chamber of Deputies and members of the Senate (Rwandan Constitution).

The article 134 suggests that the Prime Minister shall, once in a session of the Parliament, inform both Chambers of Parliament in a joint session, of government activities. The following article stipulates that the President of the Republic may address the Chambers of Parliament together or separately, either in person or by a message read on his/her behalf by the Prime Minister. The same article specifies that there shall be no debate on such communication (see also Article 129bis of the Organic Law No 06/2006 of 15th February

2006 establishing internal rules of procedure of the Chamber of Deputies in the Parliament as modified and complemented to date).

On the other side, Members of Parliament have a responsibility of visiting the population in order to acknowledge the good services rendered to them, their achievements and to hear their problems. The articles 130-135 of the Organic Law establishing internal rules (Rwanda, Parliament 2011), provide details on how these visits should be organized.

Parliament organized different seminars and conferences related to genocide prevention or democracy in general. Here are some examples:

Table 1: Seminars and conferences related to genocide organized by the Parliament

Date	**Topic**
November 21st 2008	National policy on Unity and Reconciliation, and the role of the Parliament in promoting unity and reconciliation.
March 17th 2009	Preparations of the 15th commemoration of the Genocide Against Tutsi in Rwanda.
September 22nd 2009	Democracy and tolerance in politics.
November 9th-10th 2009	Organization of elections.
November 27th 2009	Gacaca courts activities and its termination
March 28th 2012	Seminar with Members of CNLG on preparations of the 18th commemoration of the Genocide against Tutsi
June 19th 2013	Conference on the denial of the Genocide committed against Tutsi.

Source: Rwanda, Inteko Ishinga Amategeko 2013.

4.1.2. The Transitional period (1994-2003)

The National Transitional Assembly had studied and took measures to fight everything that may harm the unity among Rwandans, and be at the origin of the genocide. For example, between December 2002 and March 2003, the National Transitional Assembly studied the problem of the MDR Party, which was accused of promoting and disseminating genocide ideologies (see e.g. Rwanda, ANT 2003). Some researchers (e.g. Haverman 2012), still

consider the re-establishment of MDR in 1991 as a continuation of the old MDR-Parmehutu of Kayibanda. An extraordinary commission, led by Honorable Mukama Abbas, was established with a mission to investigate the MDR problem. In its final report, and among other suggestions, the commission asked the government to ban the MDR Party because of genocide ideology, and take to justice some of its leaders who were behind the dissemination of genocide ideology (Rwanda, ANT 2003). The report named 47 individuals as responsible for discrimination and division, and the Umuseso paper was reported as being propagandist of division. In meantime, the new constitution was elaborated with a great contribution from the National Parliament, and different legislations related to genocide prevention such as the 2001 Law punishing offenses of discrimination and sectarianism, were adopted.

4.1.3. The First legislature period (2003-2008)

Between 2003 and 2008, the Chamber of Deputies adopted two hundred eighty-six projects of laws. If we group all these projects of laws according to the four government's pillars[13], they will end into following categories: Fifty-one of them (18%) were related to good governance; one hundred twenty-seven (44%) were related to the country's economy; forty-nine (17%) related to Justice; and fifty-nine (21%) were related to social welfare. At the end of this first term in 2008, two hundred twenty among these adopted laws were already published in the Official Journal, while the remaining sixty-six was still being examined by the Senate.

Among these eight-six projects of laws, one can cite here projects directly or indirectly related to prevent the genocide in Rwanda. First there are projects of law aimed to reform the justice system in the country to judge people accused of crimes related to Genocide, then laws aimed to put in place institutions that can help in preventing genocide. This was important, because as mentioned in Prime Minister's Order 123/03 (2010)[14], Rwanda seeks to have a healthy legal system, which has many functions in addition to maintaining security, law and order.

- Law No 33bis/2003 of 06th September 2003 repressing the crime of Genocide, crime against Humanity and war crimes;

[13] Good governance, Economy, Justice, and Social welfare.

[14] Prime Minister's Order No 123/03 of October 13th 2010 Establishing the justice Sector and Determining its Mandate, Structure and Functioning (Official Gazette No 43, October 25th 2010).

- Law No 08/2004 of 28th April 2004 on the establishment organization, duties and functioning of the National Services in charge of follow-up, supervision and coordination of the activities of Gacaca jurisdictions;
- Organic Law No 16/2004 of 19th June 2004 establishing the organization, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1st, 1990 and December 31st, 1994 (Official Gazette, Special Number of June 19th 2004)[15];
- Organic Law No 05/2005 of 14th April 2005 establishing an Independent National Commission responsible for collection of evidence indicating the role of the French State in the Genocide that was perpetrated in Rwanda in 1994;
- Law No 09/2007 of 16th February 2007 on the attributions, organizations and functioning of the National Commission for the Fight Against Genocide;
- Organic Law No 11/2007 of 16th March 2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and other States[16];
- Organic Law No 31/2007 of 25th July 2007 relating to the Abolition of the Death Penalty;
- Law No 65/2007 of 31st December 2007 authorizing the lifting of reservation of the Republic of Rwanda on article 9 of the convention on the prevention and punishment of the crime of Genocide, adopted in New York on 9 December 1948;
- Law No 66/2007 of 31st December 2007 authorizing the lifting of reservation of the Republic of Rwanda on article 22 of the International Convention of the elimination of all forms of racial discrimination, adopted in New York on 21st December 1965;
- Law No 18/2008 of 23rd July 2008 Relating to the punishment of the crime of Genocide Ideology;
- Organic Law No 66/2008 of 21st November 2008 complementing the Organic Law 31/2007 of 25th July 2007 relating to the Abolition of the Death Penalty;
- Law No 56/2008 of 10th September 2008 governing Memorial Sites and cemeteries of victims of the Genocide Against the Tutsi in Rwanda;

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15 Amended by Organic Law No 28/2006 of June 27th 2006 (O.G. Special Number of July 12th 2006; Organic Law No 10/2007 of March 01st 2007 (O.G. No 5 of March 01st 2007) and Organic Law No 13/2008 of May 19th 2008 (O.G. No 11 of June 01st 2008).

16 Modified and Complemented by Organic Law No 03/2009/OL of May 26th 2009.

All the voted and amended laws and have helped to improve the jurisdiction sector in Rwanda. For example, this had an impact on the transfer to Rwanda of some cases related genocide crimes by different countries and the ICTR.

In January 2004 was established a parliamentary commission to investigate killings of several genocide survivors in Gikongoro region. This commission found the genocide ideology behind these killings and also found out that a host of international organizations, such as Trocaire, CARE International, and Norwegian People's Aid were sowing divisions among local people, and were supporting genocidal ideas (Rwanda 2004).

In June 2006, the Rwandan Senate published a report on Genocide ideology in Rwanda and strategies for its eradication. Besides defining "Genocide ideology", it identified several international organizations, such as Amnesty International, as involved in the dissemination of genocide ideology (Rwanda Senate 2006).

The National Assembly was also concerned with the incidents of hate speeches and genocide ideology in schools. Thus, in 2007 a parliamentary commission was established to investigate the question. The commission identified cases of genocide ideology in schools manifested as hurtful comments and tracts against survivors, destroying or stealing school material of survivors and defecating in the beds of survivors (Rwanda National Assembly 2007).

4.1.4. The Second legislature of the Parliament (2008-2013)

Between 2008 and 2013, the National Parliament continued its mission, which is to adopt different bills of laws, and control the actions of the government. During this term, the Chamber of Deputies also focused on actions related to good governance, Genocide ideology eradication and fight against consequences left behind by the Genocide against Tutsi, promoting human rights, and other activities related to economy and social welfare.

Between October 06th 2008 and August 13th 2013, three hundred ninety-three (393) bills of laws brought to the Chamber of Deputies (Rwanda, Inteko Ishinga Amategeko 2013). Among these three hundred ninety-three bills brought to the Chamber of Deputies, three hundred and twelve were adopted by the Chamber, and published in the Official Gazette of the Republic

of Rwanda (Rwanda, Inteko Ishinga Amategeko 2013). Here is the table summarizing the bills adopted and published in the official Gazette during this period:

Table 2: Bills of laws brought the Chamber of Deputy (2008-2013)

	Economy	**Social welfare**	**Good governance**	**Justice**	**Total**
2008 (From October-December)	1	0	0	1	2
2009	33	7	8	5	53
2010	30	4	13	3	50
2011	47	14	11	3	75
2012	23	8	15	10	56
2013 (January-August)	35	9	20	12	76
TOTAL	169	42	67	34	212

Source: Rwanda, Inteko Ishinga Amategeko (2013).

From this table, we read that 54% of these bills were related to economy, 22% related to good governance, 13% were related to social welfare, and the remaining 11% related to justice and Genocide issues.

Besides adopting these bills of law, the Parliament was also asked by the government to provide more detailed explanations on some laws, such the organic law No 11/2007 of March 16th 2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and other states, or the Organic Law No 31/2007 of July 25th 2007 relating to the abolition of the Death Penalty. In both cases the National Parliament finds the text very clear. Here is a list of laws and organic laws adopted between 2008 – 2013, related to prevention of Genocide, justice and good governance:

- Law No 68/2008 of December 30th 2008 authorizing the ratification of the Agreement between the Government of the Republic of Rwanda and the United Nations on the enforcement of sentences of the International Criminal Tribunal for Rwanda, signed at Kigali in Rwanda on March 04th 2008 (Official Gazette No 12Bis of March 23rd 2009);
- Law No 69/2008 of December 30th 2008 relating to the establishment of the Fund for the Support and assistance to the survivors of the Tutsi Genocide and other crimes against humanity committed between October 01st 1990 and December 31st 1994, and

determining its organization, powers and functioning (Official Gazette, Special Number of April 15th 2009)

- Organic Law No 03/2009/OL of May 26th 2009 modifying and complementing the Organic Law No 11/2007 of March 16th 2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal tribunal for Rwanda and other States (Official Gazette, Special Number of May 26th 2009);
- Organic Law No 02/2010 of June 09th 2010 on the organization, jurisdiction, competence and functioning of Mediation committee, Repealing the Organic Law No31/2006 of August 14th 2006 on the organization and functioning of the Mediation committee;
- Organic Law No 01/2012/OL of May 02nd 2012 instituting the Penal Code (Official Gazette, Special Number of June 14th 2012);
- Organic Law No 04/2012/OL of June 15th 2012 terminating Gacaca courts and determining mechanisms for solving issues which were under their jurisdiction (Official Gazette, Special Number of June 15th 2012);
- Law No 25/2012 of June 15th 2012 terminating the National Service in Charge of follow-up, supervision and coordination of the activities of Gacaca Jurisdiction (Official Gazette, Special Number of June 15th 2012);
- Organic Law No 03/2012/OL of June 13th 2012 determining the Organization, functioning and Jurisdiction of the Supreme Court (Official Gazette No 28 of July 09th 2012);
- Organic Law No 07/2012/OL of September 19th 2012 determining the Organization, powers and functioning of the High Council of the Judiciary;
- Law No 11/2012 of January 18th 2013 modifying and complementing Organic Law No 04/2011/OL of October 03rd 2011 determining the organization, functioning and competence of the National Public Prosecution Authority of the Military Prosecution Department (Official Gazette No 10 of March 11th 2013);
- Organic Law No 01/2013/OL of February 07th 2013 modifying and complementing Organic Law No 03/2012/OL of June 13th 2012 determining the organization, functioning and Jurisdiction of the Supreme Court (Official Gazette No10 of March 11th 2013);

- Law No19/2013 of March 25th 2013 determining mission, organization and functioning of the National Commission for Human Rights (Official Gazette No 14Bis of April 8th 2013);
- Law No 40/2013 of June 16th 2013, modifying and complementing Law No 35/2008 of August 08th 2008 determining the organization and functioning of the National Unity and Reconciliation Commission;
- Organic Law No 07/2013/OL of June 16th 2013 repealing Organic Law No 05/2005 of April 14th 2005 establishing an Independent National Commission responsible for collection of evidence indicating the role of the French state in the genocide that was perpetrated in Rwanda in 1994 (Official Gazette, Special Number of June 16th 2013);
- Organic Law No 08/2013/OL of June 16th 2013 modifying and complementing Organic Law No 31/2007 of July 25th 2007 relating to the abolition of the death penalty as modified and complemented to date (Official Gazette, Special Number of June 16th 2013);
- Law No 30/2013 of May 24th 2013 relating to the code of criminal procedure (Official Gazette No 27 of July 08th 2013);
- Law No 39/2013 of July 22nd 2013 establishing the Rwandan Elders Advisory Forum and determining its mission, organization and functioning (Official Gazette No 29 of July 22nd 2013);
- Law No 40/2013 of July 22nd 2013 modifying and complementing Law No 35/2008 of August 08th 2008 determining the organization and functioning of the National Unity and Reconciliation commission (Official Gazette No 29 of July 22nd 2013);
- Law No 41/2013 establishing the National Itorero Commission (NIC) and determining its mission, organization and functioning (Official Gazette No 29 of July 22nd 2013);
- Law No 83/2013 of September 11th 2013 establishing the Bar Association in Rwanda and determining its organization and functioning (Official Gazette No 44 of November 04th 2013);

Regarding its mission to legislate and oversee action of the Executive, the Parliament has been informed by the Prime Minister about actions and plans of the Government, and different ministers were also invited to share, explain and inform the Parliament. In this chapter I will only mention, as examples, different occasions where ministers were invited to

talk about matters related to genocide prevention. Thus, on October 10th 2011 for instance, the Minister of Sports and culture discussed with the Parliament how the museums in Rwanda can be restructured and be used to educate youth about their past/history.

Oral questions related to maintenance, reparation, and management of genocide Memorials, especially Murambi genocide Memorial, were addressed the Minister of Sports and Culture, and the Minister of foreigner affairs and cooperation on March 31st 2009. These two ministers were also orally asked questions related to the burial of victims' bodies found in Victoria Lake. The Plenary Setting was not satisfied by the explications given by these two ministers and decided to send written questions to them. The minister of sports and culture answered to written questions related to burying victims of Genocide against Tutsi, and management of Memorial sites on April 28th 2009; while the Minister of Foreigner Affairs and cooperation responded, on June 23rd 2009, to questions related to officially burying victims of Genocide against Tutsi.

Committees and groups of Member of Parliament made various visits on field, to observe themselves what the government is doing, to prevent and fight the ideology of Genocide. Such visits, how they are organized and reported, are established and described by the organic law establishing internal rules of procedures of both chambers (see above). Thus, on November 03rd 2008, The Committee on National Unity, Human Rights and Fight against Genocide visited Kamonyi district to investigate the killing of Virginie Bavugamenshi and her four children. This commission reported to the Plenary Sitting on December 01st 2008. The same committee visited Nyabihu District, Mukamira Sector on January 29th 2009. Members of this committee aimed to investigate the complaint of Alphonse Gashabizi. The committee presented its report to the Plenary Sitting on March 25th 2009.
A group of Members of Parliament visited Murambi Genocide Memorial in southern Rwanda on December 03rd 2008, to understand problems these Genocide Memorials are facing in the country. Their report, presented to the Plenary Sitting on December 15th 2008, made suggestions on what to do in preserving and well treat the Memorial.

From January 12th-16th 2009, the Committee on National Unity, Human rights and Fight against Genocide visited government's institutions, which have human rights promotion and fighting against Genocide in their responsibilities. These visits aimed to investigate and discuss with these institutions the problems they face. This committee visited, from August

02nd-13th 2009, all Provinces of Rwanda and Kigali City, to investigate and understand problems related to Human Rights violations, and fighting against Genocide.

Members of Parliament, individually, made various visits aimed to investigate what the government is doing to develop local communities, but also to identify different problems that people are facing. For example between 2008-2013, members of the Chamber of Deputies made two thousand and nine hundred ninety-six visits among population. During these visits, members of Parliament participated in Gacaca courts activities, and also in activities aimed to remember victims of the 1994 Genocide against Tutsi.

A part from these visits, people also submitted their personal or communal problems to the Parliament. Before 2011, there was a Standing Committee in charge of receiving, answering or relocating such questions to the institutions in charge, but since 2011, each committee has responsibility to receive and respond to the questions/problems related to their responsibilities.

To have an example, between 2008-2013, the Chamber of Deputies received 324 queries from different people, and at the end of this mandate, the Chamber of Deputies had taken care or found solutions to them. Among these 324 queries, 22 were presented to Plenary Sittings by Deputies, while the 302 remaining were written by people themselves to the Parliament. The following table tries to put these queries into categories:

Table 3: Queries received by the Chamber of Deputies (2008-2013)

Query	**Number**
Right to property: Land, buildings, expropriation of a purpose deemed to be in the public interests.	101
Public and private service: Salaries, insurances, pension, corruption during job exams/offers, being illegally fired from one's job	48
Justice in general: corruption, cases which had been in courts for long period…	46
Gacaca: restoration of property destroyed during Genocide against Tutsi, people who want to appeal against Gacaca decisions…	36
Good governance: procurement processes, documents not given on time…	30

Education and health services	23
Conflicts in family: conflicts between spouses, Men with many wives, inherit…	20
Security	20
TOTAL	**324**

Source: Rwanda, Inteko ishinga Amategeko (2013)

The table shows that 31.1% of people's queries were related to rights to property, but also we read from this table that queries related to Gacaca decisions occupied 11.11% of all these queries. By the end of second mandate of the Chamber of Deputies in 2013, 35% of these queries had found permanent solution, 37% had been redirected to other institutions such as courts, while 28% were still being analyzed by the Parliament (Rwanda, Inteko Ishinga Amategeko 2013).

The Rwandan Parliament has also summoned different politicians to explain themselves about accusations related to genocide ideology. To give an example in 2010, the Political and Good Governance Commission of the Senate extensively studied the case of the former President of PS Imberakuri, Bernard Ntaganda. After thoroughly scrutinizing his inflammatory words, the Commission led by the Senator Joseph Karemera, recommended that Bernard Ntaganda should be investigated by relevant authorities for his inflammatory language and propagating hatred amongst Rwandans[17] (Bishumba 2010).

Regarding the program of Unity and reconciliation, from January 10th – 15th 2010, Members of Parliament, both Senate and Chamber of Deputies hold a seminar on the Unity and Reconciliation among Rwandans. One of the conclusions at the end of this seminar, was that each Parliament member will receive a list of four sectors around the country, to assist through this program, and that an evaluation should be done each six months.

During this seminar, some of the elements that members of the Parliament should take into consideration during their assistance, were listed:

[17] The commission also accused Bernard Ntaganda of being disrespectful in his responses to its questions, so that it failed to find the appropriate words to describe him (Bishumba 2010).

1. Follow-up on how decisions made by Gacaca courts, especially decisions related to restore destroyed properties, are being executed;
2. The welfare of Genocide survivors;
3. The problem of some elders who still have Genocide ideology and that are transmitting this to their children;
4. Assist the youth to know their history and cultural values;
5. Teaching programs related to Unity and reconciliation in Rwandan schools;
6. Keep focusing on development of local people and assist people in necessity;
7. Follow up on the problem of Rwandan refugees;
8. The problem of some politicians who may lead population in conflicts again.

4.1.5. Informing and collaboration with local population

Since December 2010, the Rwandan Parliament organizes an open day, where every Rwandan is invited/allowed to visit and be informed on the Parliament's activities. Thus, on December 03rd 2010 for instance, a group of local journalist and people working in private sector visited the National Parliament; On October 04th 2011 visitors from the Women Council and Youth Council visited the Parliament; On March 30th 2012, people working for private sector representing all Rwanda sectors, visited the Parliament; On December 05th 2012, Heads, researchers and Professors from all Universities in Rwanda, both public and private, visited the Parliament.

These were some examples, but from these visits it was noted that most of visitors were not aware that the plenary sittings, or committees activities are open to public. Visitors were also not aware that they actually could contribute to the analysis or give their thoughts or expertise on bills being studied by the Parliament.

Besides these open days, individuals or group of people may apply or ask to visit the Parliament. Here are some examples of groups of people who visited the Parliament through this process:

Table 4: Groups of people who visited the Parliament

Date	Category	Number	Address
March 07th 2012	Pupils and their teachers	90	La Colombière-Kigali
March 22nd 2012	Administrative council	30 30	Nyamasheke District Burera District
November 28th 2012	Administrative council and the "Joint Action Development Forum"	40	Bugesera District
March 21st 2013	University students	50	INILAK-Kigali Campus
March 22nd 2013	University students	80	KIE
April 04th 2013	University students	30	RTUC-Rubavu Campus
May 16th 2013	Students and their teachers from secondary school	127	CORNERSTONE Leadership Academy
June 13th 2013	Pupils and their teachers	400	Wisdom Nursery & Primary School – Musanze district
June 21st 2013	Pupils, parents and teachers	60	Ntoma primary school–Nyagatare District
June 27th 2013	Secondary school students	160	ISETAR-Runda

Source: Rwanda, Inteko Ishinga Amategeko (2013)

Different medias are also used to inform the public about the Parliament's activities. Thus, the Parliament had its own newspaper[18], which was informing the public about plans and activities of the National Parliament. The newspaper also published general information, especially related to the development of the country. Between 2008-2012, this newspaper had released twenty-one issues.

[18] This newspaper is currently facing budget problems and is not publishing regurally.

National radio and Television have also been used to inform the public about plans, activities and structure of the National Parliament. The same media were used again to cover different ceremonies hold by the Parliament. The Parliament had even its own Radio, the "Radio Inteko", but since 2013 this Radio has been fused together with the National Radio so that its programs can cover the entire national territory. Besides, the Parliament uses Press conferences, social medias and its webpage to inform the public.

The Parliament also financially supported survivors of the 1994 Genocide against Tutsi. Here are some of the example were the Parliament supported survivors of the 1994 Genocide against Tutsi:

Table 5: Parliament support to Genocide Survivors

Period	**Type of the support**	**Beneficiaries**	**Value in Rwf**
2008-2009	The construction of eight houses	Survivors of the 1994 Genocide against Tutsi, in Masaka Sector – Kicukiro District	31,073,600
2009	Support for construction of a complex that will accommodate homeless genocide orphans	"One Dollar Campaign"	2,000,000
2009	Support for the maintenance of a genocide memorial	Murambi Genocide Memorial, located in Southern Province	1,000,000
2009	Support for organization of the 15th commemoration of the 1994 Genocide against Tutsi	IBUKA association	2,000,000
2011	28 cows	Genocide survivors from Kansi Sector – Gisagara District	3,500,000

Source: Rwanda, Inteko Ishinga Amategeko (2013)

4.2. The Rwandan Laws on Genocide prevention

At the end of the genocide committed against Tutsi in Rwanda, Rwanda adopted different laws on punishing the crime of the genocide, genocide ideology and other related offences. This legislation aims to punish the crime of the genocide but also to prevent genocide in the country. Thus, the importance of this legislation resides in the facts that there are still in Rwanda people who, given the opportunity, would commit genocide again. For example there are some politicians who are still preaching divisions among Rwandans, but also there are armed groups such as FDLR, in the region that intend to commit genocide again (Ngoga 2011; Bizimana 2013). The local population is continuously being educate but is not educated enough to the extent that they would not be manipulated again.

4.2.1. The Constitution of the Republic of Rwanda of 2003 Revised in 2015[19]

The Rwanda Constitution of 2003 has recently been revised and passed by the national referendum of 18th December 2015. The Constitution then came into force upon its promulgation by the President of the Republic and its publication in the Official Gazette of the Republic of Rwanda. However, since I limited my subject to the period between 1994-2013, my main focus here will be the 2003 Constitution before it was revised in 2015. With this new constitution, Denial and minimalization of the 1994 genocide against Tutsi and incitement to divisionism become criminal offences. In its preamble paragraphs, this constitution states that the People of Rwanda are "*committed to preventing and punishing the crime of genocide, fighting genocide negationism and revisionism, eradicating genocide ideology and all its manifestations, divisionism and discrimination based on ethnicity, region or any other ground*." The article ten of the chapter on fundamental principles states that the State of Rwanda commits itself to conform to the following fundamental principles and to promote and enforce the respect thereof:

1. Prevention and punishment of the crime of genocide, fighting against denial and revisionism of genocide as well as eradication of genocide ideology and all its manifestations;
2. Eradication of discrimination and divisionism based on ethnicity, region or on any other ground as well as promotion of national unity.

[19] Official Gazette N° Special of December 24th 2015.

Article eleven of the 2003 Constitution (before revision of 2015) outlaws all forms of discrimination, including ethnic discrimination, and the article thirteen of the same Constitution states that "*revisionism, negationism and trivialization of genocide are punishable by the law*". The article 37 of Constitution condemns all forms of divisionism, and stipulates that "*freedom of thought and opinion*" is guaranteed but "*propagation of ethnic, regional, racial discrimination or any other form of division is punishable by law*".

Besides, the Rwandan Constitution of 2003 establishes measures related to good governance, and as discussed above, the good governance is regarded as an arm to fight divisions among Rwandans. For example the article 140 establishes the "*National Dialogue Council*" (Called "*National Umushyikirano Council*" in the revised Constitution of 2015. See article 140), which shall bring together the President of the Republic and representatives of Councils of local administrative entities with legal personality elected by their peers. This dialogue shall meet at least once a year, and shall be chaired by the President of the Republic and be attended by members of the Cabinet and Parliament, and such others as may be determined by the President of the Republic. The Council debates, among others, issues relating to the state of the Nation, the state of local governments and national unity.

Different National Commissions, Special Organs, National Councils and Public Institutions are also established by the Rwandan Constitution, with the aim of promoting good governance and fight against genocide[20].

As stated above, this research focused on the Rwandan legislation and the National Parliament before 2013, however, I should mention here that the revision of the Rwandan Constitution in 2015 emphasized the importance of fighting against genocide. For example, the article 16 states that "*discrimination of any kind or its propaganda based on, inter alia, ethnic origin, family or ancestry, clan, skin colour or race, sex, region, economic categories, religion or faith, opinion, fortune, cultural differences, language, economic status, physical or mental disability or any other form of discrimination are prohibited and punishable by law*".

[20] See The Constitution of the Republic of Rwanda, from article 176 to 188.

The same Constitution guarantees the freedom of conscience and religion (article 37), as well as freedom of association such as freedom to joining a political organization (article 55). However, this freedom does not allow people to organize propagation of ethnic, regional, racial discrimination or any other form of division. This kind of propagation is punished by law (article 37).

For political organizations, they have obligations to always reflect the unity of Rwandans as well as equality and complementarity of men and women in the recruitment of members, in establishing their leadership organs, and in their functioning and activities (see article 56). They are then prohibited from basing themselves on race, ethnic group, tribe, lineage, region, sex, religion or any other division which may lead to discrimination (see article 57). In case of violation of these obligations, the revised Constitution of 2015 gives power to the Senate to hold accountable a political organization which has then grossly violated its obligations (article 58). Thus, depending on the gravity of the violation identified, the Senate may request institution in charge of political organizations to take any of the following measures against that political organization:

1. Formal warning;
2. Suspension of its activities for a period not exceeding two years;
3. Suspension of its activities for the entire parliamentary term;
4. Cancellation of the certificate of registration of a political organization.

On the other side, according tot his Constitution (article 50), the government has obligation to help needy survivors of the genocide against Tutsi. Thus, the State, of course within the limits of its means and accordance with the law, has the duty to undertake special actions at the welfare of the needy survivors of the genocide against Tutsi. In the same vain, the Constitution stipulates that the State and everyone have the duty to preserve and safeguard memorial sites of the genocide against Tutsi (article 52).

4.2.2. The 2001 Law punishing offenses of discrimination and sectarianism

The penalties for violating the constitutional provisions described above are enshrined in the Law No 47/2001 of December 18th 2001 on Prevention, Suppression and Punishment of the crime of discrimination and sectarianism (divisionism)[21]. The article one of this law defines

[21] Law No 47/2001 published in Official Gazette of the Republic of Rwanda, 41 (4).

discrimination as "*any speech, writing, or actions based on ethnicity, region or country of origin, the color of the skin, physical features, sex, language, religion or ideas aimed at depriving a person or group of persons of their rights as provided by Rwandan law and by International Conventions to which Rwanda is a party*".
According to article three, 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 mentioned in article 1".*

Article 5 states: "*Any person guilty of the crime of discrimination or sectarianism (...) is sentenced to between three months and two years imprisonment and fined between 50,000 and 300,000 Rwandan francs or only one of these sanctions*". If, however, the offender happens to be a government official in a non-government organization, he/she is sentenced to between one year and five years of imprisonment and fined between 500,000 to 2,000,000 Francs or one of those two sanctions.

Article 6 applies to "*any association, political party, or non-profit making organization found guilty of offences of discrimination*", in which case penalties are raised to a fine of between five and ten million Rwandan francs and a suspension of between six months and a year. However, "*depending on the seriousness of the consequences of that act of discrimination on the population, the court may double the penalty, or decide to dissolve the concerned association, political party or non-profit making organizations*".

Articles 7, 8 and 9 of this Law specify the penalties applying to any person who "*masterminds or helps mastermind a plan to discriminate, who uses picture or images or any symbols over radio airwaves and television (...) with the aim of discriminating people, who through education sows discrimination or sectarianism*".
Article 10 stipulates the death penalty[22] or life imprisonment for "*anyone who kills, plot to kill or attempts to kill another person because of discrimination or sectarianism*". The article 15 indicates that: "*The crime of discrimination and that of sectarianism are not time bound*".

[22] The death penalty has been abolished by the Organic Law No 31/2007 of 2007 Relating to the abolition of the death penalty.

4.2.3. The 2003 Rwandan Law repressing the crime of Genocide, crimes against humanity and war crimes

In 2003, Rwanda enacted Law No 33 Bis/2003 repressing the crime of Genocide, crimes against Humanity and War crimes. It was adopted a few months after the Constitution in 2003. The 2003 Law was intended to provide sanctions for crimes related to those listed in a number of international conventions Rwanda became party to, including the 1948 Genocide Convention.

This Rwandan law, in its article three, defines Genocide ideology as "*any deliberate act, committed in public whether orally, written or video means or by other means which may show that a person is characterized by ethnic, religious, nationality or racial-based with the aim to:*

1) *Advocate for the commission of genocide;*
2) *Support the genocide*.[23]"

The article four creates a penalty of ten to twenty years of imprisonment for any person who will have publicly shown, by his or her words, writings, images, or by any other means, that he or she has negated the genocide committed, rudely minimized it or attempted to justify or approve its grounds, or any person who will have hidden or destroyed its evidence.

4.2.4. The 2008 Law punishing the Crime of Genocide Ideology

In 2008, Law No 18/2008 relating to the Punishment of the Crime of Genocide ideology was introduced (Rwanda, OPM 2008). It defines "*Genocide ideology*" in article 2 as:
"*An aggregate of thoughts characterized by conduct, speeches, documents and other acts aiming at exterminating or inciting others to exterminate people basing on ethnic group,*

origin, nationality, region, colour, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war".
Article 3 outlines what type of behavior characterizes the crime of genocide ideology:

[23] The Article 14 of the Organic Law No 16/2004 of June 19th 2004 on Gacaca, as amended by Organic Law No10/2007 of March 01st 2007, stipulates that "Ideology of genocide consists in behavior, a way of speaking, written documents and other action meant to wipe out human beings on the basis of their ethnic group, origin, nationality, region, color of skin, physical traits, sex, language, religion or political opinion".

1) Threatening, intimidating, degrading through defamatory speeches, documents or actions which aim propounding wickedness or inciting hatred;
2) Marginalizing, 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;
3) Killing, planning to kill or attempting to kill someone for purposes of furthering genocide ideology.

Any person convicted of the crime of genocide ideology, this law, in its article 4, states that he/she shall be sentences to an imprisonment of ten years to twenty-five years, and a fine of two hundred thousand to one million Rwandan francs. Disseminating genocide ideology in public through documents, speeches, pictures, media or any other means, this law provides a sentence of an imprisonment from twenty to twenty-five years and a fine of two to five million Rwandan francs (Article 8).

However, if the person guilty of the ideology of genocide is also convicted of the crime of Genocide, he/she shall be sentenced to life imprisonment (Article 5). In case the perpetrator of the crime of genocide ideology is a leader in public administrative organs, political organization, private administrative organs, or a non governmental organs, a religious leader, or a former leader in such organs, he/she shall be sentenced to an imprisonment of fifteen years to twenty five years, and a fine of two to five million Rwandan francs (article 6).

If an association, political organization or non profit making organization is convicted of the crime of the ideology of genocide, this law says that it shall be subject to a punishment of its dissolution in accordance with legal provisions relating to dissolution of associations, political organizations and non profit making associations and a fine of five to ten million Rwandan francs without prejudice to individual liability of any participants in the commission of the crime (Article 7).

In case a child under twelve years of age is found guilty of a crime of genocide ideology, the law stipulates that he/she shall be taken to a rehabilitation center for a period not exceeding twelve months. If he/she is between twelve and eighteen years, according to this law he/she shall be sentenced to a half of the penalty usually given to adults, without prejudice to the possibility that a part or whole of the sentence may be served in the rehabilitation center (Article 9). In this case of child found guilty of a crime of genocide ideology, parent of the

child, the guardian, the tutor, the teacher or the school headmaster of the child shall be sentenced to an imprisonment of fifteen to twenty-five years if it is evident that they participated in inoculating the genocide ideology. For the teacher or director cited in this case, cannot be reintegrated into the teaching career.

4.2.5. The 2012 Organic Law punishing the crime of Genocide

The organic law No 01/2012/OL instituting the penal code was adopted in 2012, replacing the Law No 47/2001, provides punishment for crime of genocide; crime of negationism and minimization of the genocide against the Tutsi; Theft of remains of the victims of the genocide against the Tutsi; destroying remains of victims of the genocide against the Tutsi; Demolishing memorial sites or cemeteries for victims of the genocide against the Tutsi; Punishment of the crime of genocide ideology and other related offences; and punishment of the crime of discrimination and sectarian practices.

Thus, the article 114 of this penal code defines the crime of genocide as acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, whether in time of peace or in time of war:
1° killing members of the group;
2° causing serious bodily or mental harm to members of the group;
3° deliberately inflicting on the group harm calculated to bring about physical destruction in whole or in part;
4° taking measures intended to prevent births within the group;
5° forcibly transferring children of the group to another group.
The following article, provides punishments for the crime of genocide. Thus, according to this article 115, any person, who commits, in time of peace or in time of war, the crime of genocide shall be liable to life imprisonment with special provisions.
The article 116 provides punishment of the crime of negationism and minimization of the genocide against Tutsi. According to this article, any person who publicly shows, by his/her words, writings, images, or by any other means, that he/she negates the genocide against the Tutsi, rudely minimizes it or attempts to justify or approve its grounds, or any person who hides or destroys its evidence shall be liable to a term of imprisonment of more than five (5) years to nine (9) years. If these crimes are committed by an association or a political organization, its dissolution shall be pronounced.

The article 117 talks about the theft of remains of the victims of the genocide against the Tutsi. Any person who steals the remains of the victims of the genocide against the Tutsi or evidences which are in a memorial site for the genocide against the Tutsi shall be liable to a term of imprisonment of ten (10) years to fifteen (15) years and a fine of five hundred thousand (500,000) to two million (2,000,000) Rwandan francs. In case this offence is committed by any association, it shall be liable to dissolution.

Article 118 talks about destroying remains of victims of the genocide against the Tutsi. Thus, any person, who deliberately incinerates or destroys remains of the victims of the genocide against the Tutsi in any way whatsoever, shall be liable to life imprisonment.

Article 119 provides punishment for people demolishing memorial sites or cemeteries for the victims of the genocide against the Tutsi. According to this article, any person who demolishes a memorial site or a cemetery for the victims of the genocide against the Tutsi shall be liable to life imprisonment.

The article 122 provides punishment for the crime of Genocide by State institutions, public or private companies, enterprises, associations or organizations with legal personality. The article 134 states that criminal action as well as penalties for the crime of genocide, crimes against humanity and war crimes are imprescriptible.

Article 135 states punishment of the crime of genocide ideology and other related offences. According to this article, any person who commits the crime of genocide ideology and other related offences shall be liable to a term of imprisonment of more than five (5) years to nine (9) years and a fine of one hundred thousand (100,000) to one million (1,000, 000) Rwandan francs.

The Article 136 on its side, provides punishment of the crime of discrimination and sectarian practices. This article states that any person who commits the crime of discrimination and sectarian practices shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine of one hundred thousand (100,000) to one million (1,000, 000) Rwandan francs.

4.2.6. The 2013 Law on the Crime of genocide ideology and other related offences

The Law No 84/2013 on the crime of genocide ideology and other related offences was adopted in 2013 (Rwanda, OPM 2013). This law aims to safeguard the well-being, economy, unity and reconciliation in Rwanda (Bideri 2014). The article five of this law defines the Negation of genocide as "*any deliberate act, committed in public aiming at:*

1) *Stating or explaining that genocide is not genocide;*
2) *Deliberately misconstruing the facts about genocide for the purpose of misleading the public;*
3) *Supporting a double genocide theory for Rwanda;*
4) *Stating or explaining that genocide committed against the Tutsi was not planned*".

The minimization of genocide is defined as follows in article six:

"*Minimization of genocide shall be any deliberate act, committed in public, aiming at:*

1) *Downplaying the gravity or consequences of genocide;*
2) *Downplaying the methods through which genocide was committed.*

Any person who commits an act provided for by the preceding paragraph commits an offence of minimization genocide".

Besides the minimization and the negation of the genocide, this law also defines what justifying genocide is. Thus, the article seven states that "*Justifying genocide shall be any deliberate act, committed in public, aiming at:*

1) *Glorifying genocide;*
2) *Supporting genocide;*
3) *Legitimizing genocide*".

Besides, other measures can also be taken against people who deny or minimize the genocide committed against Tutsi. For example the article 12 of Law No 04/2011 of 21st March 2011 on immigration and emigration in Rwanda, states that a foreigner cannot obtain a visa or a residence permit where he/she denies or negates the genocide.

Statistics in Rwanda show that over the past years, a great number of cases related to genocide ideology and genocide revisionism have brought in courts, approach two thousands (Amnesty International 2010). According to a 2007-2008 government report on Justice in Rwanda, there were 1,034 trials connected to "*genocide ideology*" which were prosecuted as assassination, murder, poisoning, aggravated assault, arson, damage to goods and cattle,

negationism, revisionism, discrimination and threats. As an example however, in 2009, the BBC Kinyarwanda service was suspended by the Rwandan government after it aired a trailer where politicians such as Jean Kambanda were heard denying the existence of the Genocide committed against Tutsi in Rwanda. The BBC service was reinstated in June following negotiations between the BBC and the government, but the same incident happened again in 2014.

The Rwandan legislation on genocide prevention has been criticized on one side for not being able to reach people who deny the genocide committed against Tutsi, or minimize it being outside Rwanda, some researchers (Bideri 2014) even suggested that the parliament should amend this legislation and provide more authority to the CNLG so that it can impeach everyone, wherever he may be, who minimize, deny the Genocide against Tutsi.

4.3. The Perceptions of International community on Rwandan legislation on Genocide prevention

The Rwandan legislation on Genocide prevention has been qualified by some international organizations or writers as a potential power tool, manipulated to suppress political dissent, or to mask silencing of dissident, while others defined it as victors justice.

On the other hand the importance of such legislation is to change the culture of impunity, but also to prevent the spread of genocide ideology. Thus, since the end of the 1994 genocide against Tutsi in Rwanda, some researchers[24] (Lugan 2014), especially people close to Habyarimana's regime, published documents aiming to deny the preparation of the genocide, arguing that what happened in Rwanda are massacres that are consequence to the civil war happening in Rwanda since October 1990 (Des Forges 1999; Martin 2009).

However, since Rwanda enacted the legislation on genocide prevention, different views and comments have been made on it. Internationally, the Rwandan legislation on Genocide prevention got much attention following the arrest of Peter Erlinder in May 2010. Lawyer and US citizen, Erlinder was arrested on charges of genocide denial under the 2003 Law No 33 BIS/2003 Repressing the Crime of Genocide, Crimes Against Humanity and War Crimes.

[24] In 2008, the then Minister of Justice, Tharcisse Karugarama, said that some researchers such Alison Des Forges were risking to become "spokespersons for genocide ideology" (Cited by Amnesty International 2010).

Many reports, mainly international, have been written, and even more have recently been published on the Internet (Ntashamaje 2012). Most of those publications are driven by political intentions (Haverman 2012). According to Ngoga (2011; see also Bideri 2014) this legislation has been a subject of massive criticism by some sections of the Western press and Non-Governmental Organizations. Their criticism is as if this legislation meant to suppress political space freedom of speech and freedom of press (Human Rights Watch 2008; Amnesty International 2010; Reporters without Borders 2010; Haverman 2012), or used to guarantee a continuation of the current regime in power (Yakaré-Oulé 2014).

To give an example, Yakaré-Oulé (2014) argues that the legislation on genocide prevention in Rwanda has been used to restrict a free and open debate on matters of public interest in the country and especially the restrictive effect the laws have had on free speech in the media; while the report by Human Rights Watch (2014) argues that the law is used to serve political and personal interests. Lemarchand (2006) on his side argues that the legislation on genocide prevention aims to exclude or refuse a part of population the right to their memory.

Some international NGOs such as the Amnesty International even demanded pure and simple repeal of the laws which criminalize divisionism and the genocide ideology (Bizimana 2013). One can however wonder why these NGOs do not ask European States to repeal laws prohibiting and punishing anti-Semitism and use of Nazi symbols. Yet, the laws which punish anti-Semitism in Europe are not far similar to Rwandan laws against the genocide ideology. Thus, since anti-Semitism is not an acceptable opinion in Europe and America, the genocide ideology and Negationism in Rwanda, should not be considered as acceptable ideas.

4.3.1. Silencing the political opposition?

For some international organizations, laws outlawing genocide ideology seem to be used against dissidents and political opponents and prevent talking in terms of ethnicity. For those organizations, the prohibition of denialism has similarly been used as a legal weapon against political opponents.

The mainly given example is the case of Ingabire, a politician who has been arrested soon after she argues, after visiting the Kigali Memorial center in Gisozi, that "*Yes, there was a*

genocide, but there were some other people also killed" (Martin Ngoga's interview with Time). Ingabire insists that her message was one of reconciliation, and that the only way to achieve it is "*to talk about what happened honestly*". However, it is clear that the philosophy behind her words was an attempt to play down the bigger project of the genocide, and not because she was concerned with other crimes committed around the country. She eventually has been arrested because in Rwanda, as a State of Law, nobody is above the law: "*It is not illegal to indict an opposition figure when they are guilty of threatening national security*" the President of Rwanda once said (Paul Kagame cited in Suonpää 2012).

4.3.2. A legislation against the freedom of speech?

According to some International organizations, the Rwandan anti-genocide legislation is against the freedom of speech. For them editors of critical medias and individual journalists are intimidated using this legislation. For example, in 2010 Reporters without Borders ranked Rwanda 169th out of 178 countries in press freedom. The UN Human Rights Committee even suggested that Rwanda should cease to punish acts of "divisionism". However, this is forgetting that Media had played a crucial role in inciting masses to violence in Rwanda[25].

Others would argue that the legislation denies minority rights since it denies ethnicity. The example given here is Batwa: Twa are defined by Suonpää (2012) as "*Rwanda's most marginal minority*". According to her, in the name of abolition of ethnicity, Rwanda does not recognize that they would have rights as a disadvantaged category. The Minority Rights Group adds that policies of national unity and reconciliation serve to further marginalize an already disadvantaged group.

4.3.3. Is the legislation Vague?

Some international researchers accuse also, especially the 2003 law on minimize, negate, or justify the genocide, and the 2008 law outlining the crime of genocide, for using vague terminology, which fails to describe in precise terms what behavior does and does not incur criminal liability. For them, it is not clear what genocide ideology or negationism entails, or what the implications are of the mission statement outlined in the Constitution's preamble (Yakaré-Oulé 2014).

[25] E.g. RTLM

Haverman (2010) writes that this legislation is broad and vague in the "*crime definitions*", and this has consequences for the freedom of expression and the way the crimes are implemented in practice by prosecutors and judges.

Their criticism did not take into consideration the nature, content and background of this legislation, and it is like this legislation was unique for Rwanda. What people who criticize this legislation do not mention most of time, is that the laws of similar nature actually have been in place in a number of European Countries, and at the level of the European Union, for decades. Why then some organizations such as Human Rights Watch, Amnesty International, Commonwealth Human Rights Initiative, Reporters Without Borders, The Committee to Protect Journalists, and others, shout wolf at the Rwandan legislation when for instance, 'Anti-Semitism' is all but too clear to them?

Of course it is clear that laws on genocide prevention do not exist in all countries, as it is in countries that have experienced Genocide or related atrocities. This is for example what the former Rwandan Minister of Justice and Attorney General, Tharcisse Karugarama, explains when he says that "*We have a proverb in our language which says: You do not fear the forest, you fear what you get there. Rwandans know genocide better than anyone else and have legitimate responsibility to prevent its reoccurrence, using all means possible. Genocide happened on the basis of the ideology on which it was founded. For Rwanda, it is a big problem and it has to be addressed using all means possible, including appropriate legal regime. Genocide ideology is not an academic issue for Rwanda, it is a real threat, it is potentially a threat that could undo the achievements that Rwanda has made in last 16 years. We have agreed to review the Genocide Ideology law because some of our friends have raised issues on it (...) But this will be our law, we have to own it. It will not be a piece to please our friends but an instrument to serve our people*" (cited in Haverman 2012).

Examples of laws preventing and punishing the crime of Genocide are abundant around the world (Ngoga 2011; Bideri 2014). Thus, the need to prevent genocide and punish those responsible has been of concern to the International community since the end of the Second World War, during which more than six million people were systematically murdered by the Nazi regime for reasons of their ethnicity, sexuality or other characteristics (UN 2014). The 1948 Genocide Convention confirms that the genocide, whether committed in time of peace or war, is a crime under international law, which parties to the Convention undertake to

prevent and to punish (UN 2014). The primary responsibility to prevent and stop genocide lies with the State in which this crime is committed.

Lemarchand (2006) writes for example that as far as he is aware, no other country has passed as many laws as France in this domain: "*From the Gayssot law of July 1990, which makes the denial of the extermination of Jews a criminal offense, to that of October 2006, which promises a one-year prison term for anyone questioning the appropriateness of the term genocide to describe the mass killings of Armenians, (...) no other state has been as consistent in brandishing the threat of legal sanctions against deniers, with the exception of Rwanda*" (Lemarchand 2006).

In this country there are many examples, from Robert Faurisson to Serge Thion and Paul Rassinier, of people who have engaged in revisionist and denial enterprises. They are known as "Assassins of memory" (Vidal-Naquet 1987). In Austria's case, for example, anyone who "grossly plays down, approves or tries to excuse" Nazi crimes is punished by law.

The European Union's Framework Decision 2008/913/JHA entered into force after protracted negotiations among Member States which reflected the controversial nature of the issues addressed therein. The Decision has its origins in anti-racism policies pursued by the EU since the mid 1980s and it covers a wide range of measures designed to counter racism and xenophobia, including the criminalization of public incitement to racial violence and hatred, liability and penalties for legal persons, and rules ensuring a broad exercise of jurisdiction. Above all, it foresees for the first time criminal provisions seeking to ban not only the denial, justification or gross trivialization of the Holocaust alone, but also that of most other core international crimes, an array of conduct termed here 'denialism' or 'negationism'.

While Article 6(1) of this framework decision requires States Parties to introduce the crime of denialism, Article 6(2) allows State Parties to restrict the scope of the prohibition to the acts committed with the intent to incite hatred, discrimination or violence, or otherwise reserve the right not to apply, in whole or in part, Article 6(1).

Article 1 dictates that the Member States make punishable the conduct of publicly condoning, denying or grossly trivializing the following international crimes: (a) genocide, crimes against humanity and war crimes as defined in the Statute of the International Criminal Court and, (b) the crimes defined in Article 6 of the Charter of the Nuremberg Tribunal. Therefore,

the Decision does not merely concern the Holocaust or the Nazi regime, but rather extends to most core international crimes. Concerns about excessive restrictions upon free speech voiced by many States, however, caused the final version of the Decision to be diluted by introducing additional clauses that limit its potential impact on the national legal systems.

To begin with, the public condoning, denial or trivialization of a crime is required to be punished only where "*the conduct is carried out in a manner likely to incite to violence or hatred" against a group (or one of its members) defined by reference to race, colour, religion, descent or national or ethnic origin (Article 1(1)(c) and (d))*." This definition does not bind Member States to make negationism punishable per se. Rather, it seems that, in its current wording, the crime of denialism is subsumed under the broader crime of incitement to hatred or violence provided for under Article 1(1)(a) of the Decision. In other words, the Decision requires criminalization of denialism only in so far as it amounts to public incitement to hatred or violence. Therefore the conduct described as denialism appears to be a sub-species of the latter. This interpretation inevitably calls into question the autonomous meaning of Article 1-1.c and d.

The legal impact of this express prohibition of denialism appears consequently to be minor, given that the conduct encompassed by the crime of denialism as drafted in the Decision is already generally punishable as incitement to hatred or violence, or some other hate crime in all Member States. This seems to be all the more true, considering that non-compliance with the obligations stemming from framework decisions as a whole is not yet subject to penalties in the EU legal system.

In addition to this important restriction deriving directly from the definition of the crime, the Decision includes other two clauses allowing States to further reduce the range of punishable expressions when implementing the Decision in their own national systems. They operate as optional elements that each State may decide to add to the crime's domestic definition and would accordingly need to be proven for the conduct to be considered unlawful in that country.

As a further guard against excessive restriction on free speech, the Decision contains an unusual constitutional-like provision. Article 7 declares that the Decision shall not have the effect of modifying Member States' obligation to respect fundamental rights, notably freedom of expression and association as enshrined in the Treaty on European Union and in Member States' constitutional principles.

Some council-member states proposed an additional protocol to the Council of Europe Cybercrime Convention, addressing materials and "acts of racist or xenophobic nature committed through computer networks"; it was negotiated from late 2001 to early 2002, and, on 7 November 2002, the Council of Europe Committee of Ministers adopted the protocol's final text titled *Additional Protocol to the Convention on Cyber-crime, Concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed through Computer Systems*, ("Protocol"). It opened on 28 January 2003, and became current on 1 March 2006; as of 30 November 2011, 20 States have signed and ratified the Protocol, and 15 others have signed, but not yet ratified it (including Canada and South Africa).

The Protocol requires participant States to criminalize the dissemination of racist and xenophobic material, and of racist and xenophobic threats and insults through computer networks, such as the Internet. Article 6, Section 1 of the Protocol specifically covers Holocaust Denial, and other genocides recognized as such by international courts, established since 1945, by relevant international legal instruments. Section 2 of Article 6 allows a Party to the Protocol, at their discretion, only to prosecute the violator if the crime is committed with the intent to incite hatred or discrimination or violence; or to use a reservation, by allowing a Party not to apply Article 6 – either partly or entirely. The Council of Europe's *Explanatory Report* of the Protocol says that the "European Court of Human Rights has made it clear that the denial or revision of 'clearly established historical facts – such as the Holocaust — ... would be removed from the protection of Article 10 by Article 17' of the European Convention on Human Rights".

Two of the English-speaking states in Europe, Ireland and the United Kingdom, have not signed the additional protocol, (the third, Malta, signed on 28 January 2003, but has not yet ratified it). On 8 July 2005 Canada became the only non-European state to sign the convention. They were joined by South Africa in April 2008. The United States government does not believe that the final version of the Protocol is consistent with the United States' First Amendment Constitutional rights and has informed the Council of Europe that the United States will not become a Party to the protocol.

I should mention here that there are currently various domestic laws however, against negationism and hate speech (which may encompass negationism), in sixteen different countries.

CHAPTER V. CITIZENS' REACTIONS ON LEGISLATION PREVENTING GENOCIDE IN RWANDA

Two sectors in Gasabo district, namely Rutunga and Kimironko, were selected for this research. These two sectors were selected because of their contrast geographical positions, Rutunga being situated in rural areas of Gasabo district, and Kimironko in urban areas of the same district. Forty people, of different age and different level of education, in each sector were asked to respond to the pre-elaborated questionnaire.

Thus, forty-four or 55% informants were men, while thirty-six or 45% of them were women. These informants came from different stages of age, with fifty-three (66.25%) of them being over thirty years old, and twenty-seven (33.75%) of them being under thirty years old. Regarding the educational levels, five informant or 6.25% among the eighty informants had finished their primary education; twenty-two (27.5%) had completed their secondary education; while fifty-three (66.25%) of them had completed a university education. The information provided by these participants was completed by the one got from Judges of Supreme Court, and Judges at Based Tribunal in Kacyiru, as well as people working for the Rwanda Law Reform Commission.

5.1. What does local people know about the anti-genocide legislation?

As mentioned above, I sent the questionnaire to eighty different people from Rutunga and Kimironko sectors of Gasabo District. Only fifty-three or 66.25% of respondents had heard of the Rwandan legislation against genocide, while the remaining twenty-seven or 33.75% had no knowledge whatsoever on this legislation.

Twenty-five respondents (92.59%), among the twenty-seven who have no any knowledge of the anti-genocide legislation, are from Rutunga sector, and only two (7.41%) were from Kimironko sector. One of the twenty-seven (3.7%) had a University degree (1.89% of respondents with University education), five of them (18.52%) have a primary education (or 100% of respondents with primary education), while the remaining twenty-one (77.78%) had a secondary education (meaning 95.45% of respondents with secondary education).

The majority of respondents with no knowledge of the Rwandan legislation on genocide prevention are from Rutunga sector, with twenty (74.07%) among the twenty-seven are from this sector, while the remaining seven (25.93%) are from Kimironko sector. This means that 50% of respondents from Rutunga sector do not know the existence of the legislation on Genocide prevention. For Kimironko Sector, 17.5% of respondents from this sector have no knowledge of the same legislation. Surprisingly enough, one of the respondents is an executive secretary on cellular level (Akagali) from Rutunga Sector, and like respondents from his administrative area, is not informed about the legislation on preventing genocide in Rwanda.

Females form the majority of people who have no knowledge of the legislation. Thus, nineteen (70.37%) of twenty-seven respondents who have no knowledge of the legislation are females, while the remaining eight (29.63%) are males. Not only females form the majority, but also females from Rutunga sector seem to be less informed about this legislation, compared to females from Kimironko sector. Thus, thirteen among the nineteen females who have no knowledge of this legislation are from Rutunga sector.

From these numbers, one can conclude that there are still a great number of people, especially women with low education level and living in rural areas, who do not know much about the Rwandan legislation on genocide prevention. The interviews with members of parliament proved that there are some mechanisms established by the National Parliament to regularly inform people about new laws and politics (see also chapter four on informing and collaboration with population).

For the fifty-three respondents who answered that they know about the legislation, a question was asked about what they know in this legislation. The following tables summarizes the answers I got from them:

Table 6: Local people's knowledge on the Anti-Genocide legislation

	Answers	**Number of respondents**
1	The legislation prevents the discrimination among Rwandans	3
2	The legislation prevents genocide to happen again in the future	4
3	The penal code punishes acts of genocide	8
4	Rwanda needs a specific anti genocide legislation	4
5	The legislation aims to prevent and punish the genocide ideology	9
6	The Rwandan constitution prevents genocide	5
7	The legislation punishes the crime of genocide and crimes committed against humanity	3
8	The legislation punishes acts of genocide minimization and negationism	4
9	The legislation aims to eradicate the culture of impunity	6
10	The legislation prevents conflicts among Rwandans and prepares the bright future for the country	7

From this table, one can read that local population has a varied perception on what constitutes the Rwandan legislation on genocide prevention.

5.2. Does Rwanda need a legislation to prevent genocide?

A question to know if Rwanda needs a legislation to prevent genocide was posed to all participants. All the eighty respondents, meaning 100%, agreed that Rwanda needs a legislation to prevent genocide. Here one can note that even people, who did not know much about the existence of such legislation in Rwanda, still think that Rwanda needs a genocide preventing legislation.

At the same time, a question to know why they think that Rwanda needs legislation on genocide prevention, and here is a summary of the answer given:

Table 7: People's perception on why Rwanda needs an anti-genocide legislation

	Reasons	**Respondents**
1	Preventing future genocide in the country	28
2	To remember the consequences of genocide on the country	8
3	To eradicate the culture of impunity	10
4	To consolidate the unity and reconciliation among Rwandans	16
5	To build a bright future for the country	12
6	Fight against genocide ideology and minimization	6

From this table, one can read that 35% of respondents think that the legislation helps to prevent the genocide that may happen in future if the country had no such legislation; 10% think that the legislation would help to remember all the consequences that genocide had on Rwanda; 12.5% think that the legislation is important to eradicate the culture of impunity in the country; 20% believe that the legislation helps in consolidating the unity and reconciliation among Rwandans; 15% think that such legislation helps in building the bright future for the country; while 7.5% believe that the legislation helps in fighting genocide ideology and minimization.

However, some of the respondents think that this legislation needs amendments. Thus, a question to know if the respondents think that the legislation on genocide prevention needs some amendments and changes, was asked to the fifty-three respondents who already had agreed that they had a knowledge on the legislation.

Thus, twenty-three (43.40%) think that changes should be made to this legislation; twenty-one respondents (39.62%) think that the legislation should stay the way it is now; while the remaining nine (16.98%) chose to stay neutral on this question.

Regarding what should be changed in the current legislation, this following table would summarize the answer gotten from the respondents:

Table 8: People's perception on what should be changed in the current legislation

	Suggestions to be made	Respondents
1	The legislation should be international and be able to reach genocide denials living abroad	11
2	The laws and organic laws on genocide should be combined in one particular/special law	7
3	The legislation should be regularly updated	5
4	An article punishing people who do not participate in mourning activities should be added to the legislation	4
5	An article on educating on genocide prevention among the youth should be added	4
6	Some of the articles are not clear enough and should be more clarified	6
7	Strengthen the punishment for people who deny or minimize the genocide committed against Tutsi	7

The main suggestion, as it is shown in this article, is to make the legislation on genocide prevention more international, and be able to punish people who live out of Rwanda but still minimize or deny the genocide committed against Tutsi.

5.3. How to make the content of legislation on genocide prevention more known by the population?

As discusses above, 33.75% of our respondents confirmed to us that they have no knowledge of the legislation on genocide prevention in Rwanda. To our respondents a question was asked to know if their neighbors or coworkers were also aware of the existence of such legislation. Twenty-six out of eighty respondents, either 32.5%, confirmed that their neighbors and coworkers know about the legislation. Forty-six out of eighty, or 57.5%, argued that their neighbors and coworkers have no any knowledge of the existence of such legislation; while the remaining eight or 10% of the respondents preferred to stay neutral on this question.

All long the period of this research, I was curious to know how the 66.25% of the respondents had been informed of the existence of the legislation on genocide. Then, a

question was asked to them to know how they got informed, and the following table would summarize their different answers:

Table 9: Channels used to inform local people on anti-genocide legislation

	Channel	**Respondents**
1	Official gazette of the Republic of Rwanda	13
2	Different meetings organized by the local government	19
3	Medias (TV + Radio + Newspapers)	12
4	Assisting to different discussions held by the National Parliament	4
5	Participating in Gacaca and traditional court's judgments	2
6	Ingando	1
7	Schools	2

From this table, it is clear that different meetings regularly held on sector/cellular level form an important tool of informing people about what is happening around them in general. These meetings are very important as Rwandans do not have a great culture of reading, and that there is still a majority of people who do not have TVs home to watch the news.

On the other hand, different suggestions were made on what different organs of the government should do to make the legislation more known:

Table 10: People's suggestion on the legislation

	Suggestions	**Respondents**
1	General education on genocide prevention	17
2	Educating people on the legislation on genocide prevention	31
3	Installing the culture of reading among Rwandans	3
4	Use Radio, TV, Social medias and brochures in sensitizing the population about this legislation	23
5	Train local authorities about the legislation	6

It is clear that most of respondents think that educating people, using different medias, on the legislation on genocide prevention is a good way to help people to know better this legislation.

Lastly, our respondents made general suggestions on what the government should do for both improve the legislation and make it known by the local population:

Table 11: People's suggestion on communicating with the government

	General suggestions	**Respondents**
1	The legislation should be more international	36
2	The legislation should be more cleared	12
3	The legislation should be more preventing than punishing	15
4	The government should think more about mechanisms of educating people on new legislations	9
5	Educating the youth	4
6	Use the "Ndi umunyarwanda" program to strengthen the unity among Rwandans and prevent the genocide	4

From the table above, it is clear that the local population wants to stop bad influence coming from the outside, and wants the legislation to be more international so that it can reach people who still have genocide ideology but live outside Rwanda.

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Annex 1: QUESTIONNAIRE

Nyakubahwa / Madame,

Nitwa Uwamariya Devota, ndi umunyeshuri muri Kaminuza y'u Rwanda. Kuri ubu ndi mu bushakashatsi busanzwe bukorwa n'abanyeshuri barangiza icyiciro cya gatatu cya Kaminuza mu birebana na Genocide n'uburyo bwo kuyikumira(Master's degree in Genocide studies and prevention). Ubu bushakashatsi bugamije kumenya icyo amategeko y'u Rwanda avuga ku gukumira genocide (Legislation on genocide prevention: The experience of Rwanda 2003-2013). Ese ayo mategeko mwaba muyazi? Akamaro kayo kaba ari akahe? Kubwanyu mubona ahagije? Ni iki mubona cyakongerwamo?

Ubu ni bushakashatsi bukorwa n'umunyeshuri urangiza Kaminuza, akaba ariyo mwanya mboneyeho mu izina ryanjye bwite nk'umushakashatsi, no mu izina rya Kaminuza Nkuru y'u Rwanda, kubashimira k'ubw'umwanya wanyu mwakoresheje musubiza ibi bibazo. Mbijeje kandi ko ibisubizo muzatanga ndetse n'umwirondoro wanyu urambuye bitazakoreshwa mu zindi nyungu zihabanye n'ubu bushakashatsi.

Mbaye mbashimiye.

UWAMARIYA Devota

AMABWIRIZA:

1. Uru rutonde rugizwe n'ibibazo bisaba gusobanura birambuye, ndetse n'ibibazo bisaba guhitamo igisubizo nyacyo;
2. Ku bibazo byo guhitamo igisubizo nyacyo, urasabwa kuzuza mu kazu karimo igisubizo nyacyo;
3. Ku bibazo byo gusubiza birambuye, wemerewe gutanga ibitekerezo byawe uko ubyumva.

A. UMWIRONDORO:

N.B.: Iki gice kirebana n'umwirondoro cy'uzuzwa ku bushake. Uramutse wumva hari imbogamizi mu kucyuzuza wagitaruka ugakomeza ku cyiciro gikurikiraho.

AMAZINA:

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INTARA:

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AKARERE:

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UMURENGE:

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AKAGALI:

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IMYAKA UFITE:

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AMASHULI WIZE:

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B. AMATEGEKO KU IKUMIRWA RYA GENOCIDE

1. Ese waba uzi icyo itegeko ry'u Rwanda rivuga ku ikumirwa rya Genocide?

Yego ☐ Oya ☐

Niba igisubizo ari yego, watubwira muri macye icyo waba uzi kuri iryo tegeko?

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2. Ku bwawe ubona itegeko ku ikumirwa rya genocide ari ngombwa mu Rwanda?

Yego ☐ Oya ☐

Niba igisubizo ari yego, akamaro k'iryo tegeko ni akahe ku Rwanda?

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3. Ese ku bwawe ubona amategeko ku ikumirwa rya Genocide mu Rwanda ahagije?

Yego ☐ Oya ☐

Niba igisubizo ari Oya, usanga ari iki cyakongerwamo cyangwa cyakurwamo?

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4. Ese bagenzi bawe, abaturanyi, abo mukorana, nabo baba bazi ibivugwa n'iri tegeko ku ikumirwa rya genocide?

Yego ☐ Oya ☐

Niba igisubizo ari Oya, ubona hakorwa iki kugirango iri tegeko rirusheho kumenyekana?

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Niba igisubizo ari Yego, ni iyihe nzira yaciwemo ngo bamenye iryo tegeko?

Ibiganiro kuri Radio no kuri Television ☐

Ibiganiro bibera mu Nteko ishinga amategeko ☐

Gusoma Igazeti ya Leta ☐

Inama zitandukanye zibera ku rwego rw'umurenge ☐

Indi nzira ☐ Sobanura: ……

5. Ese hari ibindi bitekerezo cyangwa ibyifuzo waba ufite kuri iri tegeko ku ikumirwa rya genocide?

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MURAKOZE