

Title: Comparative Normative Framework: Laws and Jurisprudence on Adultery

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'A man having sexual relations with another man's wife is the highest invasion of property and a man cannot receive a higher provocation...' English Lord Chief Justice John Holt, 1707

Summary:

- **Misogynistic origin: In Jewish biblical law:** Adultery is defined as sexual intercourse between a man and married woman, not between a woman and a married man.¹ **In Islam,** Zina (زنا) Adultery is a violation of the marital contract and one of the major sins condemned by Allah in the Qur'an.² However, this provision does not impact men and women equally as men may take additional wives or concubines and thus avoid liability for adultery.³ **In Christianity,** in contrast, adultery is considered according to some Christian sources to be immoral and a sin for both men and women.⁴ Nevertheless in the common law in England, a Christian state, adultery involving a married woman and a man other than her husband was considered 'The' very serious crime.
- **Racial Discrimination:** Genocide survivors recall the criminalization of adultery as a device of blackmail, intimidation and harassment targeting Tutsi women, made concubines of high ranking officials, at times against their will, to ensure that the concubines and their children never claimed any rights or protection
- **Inconsistency with Rwandan principles of 'Dialogue and Consensus', 'Out of court settlement of disputes' and 'Unity and Reconciliation':** Although adultery constitutes a cause of divorce, it must not be a condition for divorce: A marriage union is much more important than the sole sexual activity - albeit one of its key components. Spouses should be given the right to safeguard the other interests accrued from their marriage, especially their children, even when they may fault on their sexual duties inside the official union.

In the advent of adultery, spouses, within their private arrangement, may so choose to forgive one another, seek couples' counselling, or indeed proceed in extra-marital affairs without state inference. One spouse however, may decide to bring forth a formal complaint, but such must be treated in a manner that leaves options of either divorce or reconciliation in the hands of the married couple.

- **The United Nations' Position:** The UN Working Group on Discrimination against women in law and in practice has issued a call to Governments to repeal laws criminalizing adultery⁵. The Working Group notes that the enforcement of such laws leads to discrimination and violence against women in law and in practice.

¹ "And the man that committed adultery with another man's wife, even he that committed adultery with his neighbor's wife, the adulterer and the adulteress shall surely be put to death." (Lev. 20:10).

² Qur'anic verses prohibiting adultery include:

"Do not go near to adultery. Surely it is a shameful deed and evil, opening roads (to other evils)."[Quran 17:32]"Say, 'Verily, my Lord has prohibited the shameful deeds, be it open or secret, sins and trespasses against the truth and reason.'"[Quran 7:33]

³ Laws of Manu, V, 154; VIII, 371

⁴ 1 Corinthians 6:9-10

⁵ See "Joint Statement by the United Nations Working Group on discrimination against women in law and in practice" of 18 October 2012, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12672&LangID=E>

Having examined the Rwandan constitution, Rwandan Positive Law, international law, international jurisprudence and doctrine, this paper highlights potential legal and social inconsistencies in the act of criminalizing adultery, and argues that adultery should be made a civil matter, to be handled outside of courts of law.

Background:

Public opinion traces the criminalization of adultery to the advent of colonialism, whence the influence of foreign religions exercised legal authority in Rwanda. Islam and Christianity both castigate the act, yet in practice, the blame was often placed on Rwandan woman, while at times glorifying and/or rewarding the man.

Misogynistic origin: In Jewish biblical law, adultery is defined as sexual intercourse between a man and married woman, not between a woman and a married man.⁶ Furthermore the penalty is directed against the married woman and not against her co-respondent. **In Islam**, Zina (زنا) is an Arabic term for illegal intercourse; premarital or extramarital, by a person (whether man or woman) with someone to whom they are not married. Adultery is a violation of the marital contract and one of the major sins condemned by Allah in the Qur'an.⁷ However, this provision does not impact men and women equally as men may take additional wives or concubines and thus avoid liability for adultery.⁸ In Christianity, in contrast, adultery is considered according to some Christian sources to be immoral and a sin for both men and women.⁹ Nevertheless in the common law in England, a Christian state, adultery involving a married woman and a man other than her husband was considered a very serious crime.

In 1707, English Lord Chief Justice John Holt stated that a man having sexual relations with another man's wife was 'the highest invasion of property' and claimed, in regard to the aggrieved husband, that "a man cannot receive a higher provocation".

Racial Discrimination: Interviews with female Genocide survivors however, revealed an underlying prejudice carried but the criminalization of Adultery: In the pre-genocide government, our study found, the criminalization of adultery was a sort of *Damocles sword* hanging over young Tutsi women. At times, these women were taken against their will, and made concubines of high ranking officials. Adultery legislation served as a device of blackmail, intimidation and harassment to ensure that the concubines and their children never claimed any rights or protection. As a result, the Rwandan Penal Code reserved a harsher sentence for women than for men for the same crime of adultery. Women were assured of a jail sentence, while men could walk off with just a monetary fine.¹⁰

⁶ "And the man that committed adultery with another man's wife, even he that committed adultery with his neighbor's wife, the adulterer and the adulteress shall surely be put to death." (Lev. 20:10).

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⁸ Laws of Manu, V, 154; VIII, 371

⁹ 1 Corinthians 6:9-10

¹⁰ In Article: 354 of the Rwandan Penal Code of August 18, 1977: prescribed that for the same crime of adultery, men were liable for six months or a fine of 6000, or one of the two sentences, while women were liable for one year of prison

The derogatory name given to these young ladies was *'Ibizungerezi'*, used to be housed in a Kigali suburb, sarcastically named *'Kabeza'* and were socially ostracized. They lived with their children coping with the constant anguish of imprisonment and character defamation. That such laws have managed to remain in our penal code after the genocide is an honest oversight. That they continue to be implemented is an ironic outcome, completely inconsistent with the principles of the post-Genocide government, which has emancipated ALL women, and holds to heart the best interests of the child.

This analysis appeals to two groups, namely the Rwandan Patriotic Front (RPF) and the Forum of Women Parliamentarians (FFRP). The two combined, hold a significant majority in parliament.

Indeed, our young understanding of the RPF, is that of a progressive mass movement, which thinks big and refrains from regulating consensual, intimate arrangements among consenting adults. Moreover, *puritan* and

That they [adultery laws] continue to be implemented is an ironic outcome, completely inconsistent with the principles of the post-Genocide government, which has emancipated ALL women, and holds to heart the best interests of the child.

Victorian policies of the sort of 'banning miniskirts and hijabs', unfairly target women and perpetuate the patriarchal society we live in. They are also quiet spurious, in the sense that they do not at all reflect the true picture of society.

Part I – Legal analysis: Rwandan Positive Law:

Potential inconsistencies between the law criminalizing Adultery and with Legal norms:

1. Inconsistency with the Principles of *'Pacta Sunt Servanda'* and *'Intuitu personae'*
2. Inconsistency with the principle of co-offence and complicity in the commission of a crime;
3. Potential violation of the right to privacy (Permanent reputational risk; witch-hunt, blackmail)
4. Disregard of the best interests of the child;
5. Inconsistency with principles of Dialogue, Consensus, Unity and Reconciliation, out of court settlement of disputes;
6. Inconsistency with the secular nature of the state: A *Victorian* mindset in a free country; a dogmatic principle in a secular state...

By contracting marriage in Rwanda, what do spouses commit to? To find the answer to this question, one must look at the Rwandan Civil Code, Article 171: Procedure for marriage celebration:

3^o Oath of Spouses: 'I....., having heard what the law obliges the spouses, agree without any coercion that you.....are my wife/husband and we shall cohabit as per our contract and according to the Rwandan law'

Sub-section One: Conjugal obligations: Article 197 (1^o) Duty of cohabitation: Marriage creates a marital community with a duty of cohabitation.

While this *'duty of cohabitation'* is generally interpreted to imply that spouses have the duty to 'consume' their marriage, the law does not specify the modalities of sexual intercourse, leaving that prerogative to the discretion of spouses.

Article 18: Protection of the family¹¹

- (2) Both parents have the right and responsibility to raise their children.
- (3) The State puts in place appropriate legislation and organs for the protection of the family, particularly the child and mother, in order to ensure that the family flourishes.

¹¹ Rwandan Civil Code Book I as supplemented by Law/n^o 22/99 of 12/11/1999

Article 19: Child's right to protection: Every child has the right to specific mechanisms of protection by his or her family, other Rwandans and the State, depending on his or her age and living conditions, as provided for by national and international law.

Pacta sunt servanda: The principle implies that 'an agreement is only binding upon the parties to it and must be performed by them in good faith.' It is thus the responsibility of each party to the contract of marriage, to conduct due diligence before entering the said contract to ascertain the co-contractor's faithfulness. The state only acts to legalize spouses' self-declared testimonies of faith.

Intuitu Personae: A contract of marriage is between two specific individuals exclusively; no third party may be bound to fulfill the duties and abstinences required by a contract of marriage. It makes no legal sense therefore to prosecute unmarried persons, whom have never made any commitment of faithfulness to anyone, for having cooperated in the commission of the crime of adultery;

However in the event that the non-married accomplice is not prosecuted, that too violates other legal principles:

Principle of co-offence and Complicity in the commission of a crime, as recognized in the same Penal Code:

Article 97: Persons who are criminally liable; an offender, co-offender and accomplice are criminally liable.

Art. 98 (2°) a **co-offender is defined in the Rwandan Penal Code as:** a person who directly cooperates in the commission of an offence; and (3°) an **accomplice:** a person who knowingly aids or abets the offender in preparing, facilitating or committing the offence, or a person who incites the offender.

In the event that the law does not punish the co-offender of adultery on the pretext that they are not legally married, that would be inconsistent with the principle of equal punishment for co-offenders. That a person having abated (seduced) another into jointly conducting a reprehensible act, having aided, facilitated, *inter alia*, cooperated in equal measures in the commission of the said act be left alone while the co-author is handed a jail sentence. This legal dichotomy would have no place to be, should the matter be simply made civil.

The Rwandan penal code today describes adultery as the 'sexual intercourse of a legally married person with a person other than his/her spouse.' The penalty for this offense shall be imprisonment for both the offender, and partner of the offender, for a period of six to twelve months.¹²

Given historical norms about the role of women, the act of defending oneself following adultery accusations may come with intense social pressure which men may not be equally subjected to.

While the law seems equal in its intent to punish both co-offenders, in practice however, it may still undermine the rights of women because it would require a gender blind society in order to ensure complete fairness in its implementation. The Rwandan Ministry of Gender and Family Promotion acknowledges the existence of "negative cultural and patriarchal attitudes" in Rwanda which create expectations about the role of women, and hamper their equal engagement in social and economic life.¹³

¹² Art. 244 & 245, Organic Law N° 01/2012/OL of 02/05/2012, instituting the Penal Code

¹³ "From Victims to Leading Actors – Rwanda's Gender Divide. *The Rwandan Ministry of Gender and Family Promotion*. Rwanda. March 2017. Pg. 25.

Those patriarchal attitudes concerning the status of women leave them continually at risk to be exploited or intimidated by these sorts of laws. Repealing laws criminalizing adultery will be an important step in achieving the goals of Vision 2020, which strive to achieve gender equality, and to eradicate forms of discrimination.¹⁴

International Law:

A number of international bodies and ordinances have publically denounced the criminalization of adultery around the world. In 2012, a United Nations Working Group stated that adultery “should not be a criminal offence and must not be punishable by fine, imprisonment, flogging, or death by stoning or hanging.”¹⁵ Among others...

UDHR, Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.¹⁶

ICCPR Article 17(1). No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.¹⁷

CRC Preamble 9° “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth’

Article 3(1). In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

A likely case study would be that one spouse, having garnered evidence of adultery on his/her partner, would engage in vengeful adulterous conduct and once caught, produce similar evidence on the plaintiff. In the absence of a way out of the trial, the state would send both parents to jail, presumably leaving their children unattended

In addition to the adverse effects which adultery laws have on children, the international community argues that in large part, many penal codes adopt adultery policy which unfairly targets women, and administers harsher sentences to them. Even in countries where the legal framework provides equal penalties for men and women, such as in the case of Rwanda, women routinely face discrimination in the unequal enforcement of these laws.

International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

As its title suggests, this convention prohibits the creation and implementation of laws which discriminate against women. The international community has largely incorporated laws criminalizing adultery into that category.¹⁸

The UN Working Group on Discrimination against women in law and in practice has issued a call to Governments to repeal laws criminalizing adultery¹⁹. The Working Group notes that the enforcement of such laws leads to discrimination and violence against women in law and in practice.

¹⁴ “From Victims to Leading Actors – Rwanda’s Gender Divide. *The Rwandan Ministry of Gender and Family Promotion*. Rwanda. March 2017. Pg. 7.

¹⁵ Special-Rapporteur on the Issue of Discrimination Against Women in Law and in Practice. United Nations Working Group. 18 October 2012. Geneva.

¹⁶ Universal Declaration of Human Rights (UDHR) date:

¹⁷ International Covenant on Civil and Political Rights (ICCPR)

¹⁸ Convention on the Elimination of All Form of Discrimination Against Women. *United Nations Entity for Gender Equality and the Empowerment of Women*. 1979.

¹⁹ See “Joint Statement by the United Nations Working Group on discrimination against women in law and in practice” of 18 October 2012, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12672&LangID=E>

Part II: Comparative Legislation:

1. African Countries

Mali – Mali exemplifies a case of harsh penalties being put in place for adultery. In 2012, Mali received significant international attention for the stoning of two individuals for committing adultery.²⁰ At the time, the region of Mali in question was controlled by Islamic militants, who were instituting a form of Islamic Sharia law. They received international attention for sanctioning death by stoning as punishment for adultery.

The reign of the militants in that regime was temporary, and their legitimacy was not recognized by much of the international community. No constitutional provisions were in place at the time to validate those sorts of sanctions for adultery.

Nigeria – Like Mali, Nigeria has experienced a similar score of political disputes in recent years. The outcome of this unrest has allowed for different parties to rule throughout different regions of the country. Some fundamentalist Islamic groups who held power in northern regions of Nigeria swiftly implemented a system of Islamic Sharia law following their rise to power. In the case of northern Nigeria, adultery was considered a violation of that law, and the penalty administered was death by stoning.²¹

1. Western Nations

United States - In the United States, no federal laws exist to criminalize adultery. The issue is delegated to the state level, at which point laws criminalizing adultery remain in twenty-one states. Each one ascribes varying levels of severity to the crime, yet across the country, the penalties are rarely enforced. Few people seem to know that the legislation exists at all, and when they are enforced, it usually comes across as a surprise to the perpetrator.²² The more common implementation of adultery legislation in the United States comes across not through penalties or fines, but is incorporated as a factor in making legal determinations regarding divorce, child custody, and alimony payments.

Studies conducted in America found no evidence that a decline in legal sanctions would result in an increase in adultery. Statistics found that while men are slightly more likely to commit adultery than women, rates of adultery have not varied over time, and the effect of legislation attempting to regulate it has been largely insignificant. Socially, laws regarding adultery have largely fallen out of favor among Americans. In studies, nearly three out of every four Americans support the decriminalization of adultery,

'...in the time since decriminalization, the states which repealed their legislation have seen no increase in rates of marriage infidelity, meaning that the fears of society's moral fiber being adversely affected have been largely unfounded.'

²⁰ Hoije, Katarina. "Islamists: Two Stoned to Death for Committing Adultery in Mali." CNN. 3 August 2012.

²¹ Peiffer, Elizabeth. "The Death Penalty in Traditional Islamic Law as Interpreted by Saudi Arabia and Nigeria" *The William and Mary Journal of Women and Law*. 11:3. 2005.

²² Rhode, Deborah. "Why is Adultery Still a Crime?" *The Los Angeles Times*. 2 May 2016.

yet more than 80% of Americans reported that they personally felt adultery was ‘always wrong.’ As a result, these laws remain for symbolic purposes.²³

Each time this legislation has been repealed, such as in Connecticut in 1991, and New Hampshire in 2014, fears have been voiced regarding how the loss of these laws will enable society to become degenerate and morally backwards.

However, in the time since decriminalization, the states which repealed their legislation have seen no increase in rates of marriage infidelity, meaning that the fears of society’s moral fiber being adversely affected have been largely unfounded.

“There are better ways to signal respect for marriage and better uses of resources than policing private consensual sexual activity.”²⁴

As public opinion of these laws would suggest, Americans will be averse to any legislation which attempts to dictate social morality. For them at least, the laws will not be effective. As Stanford University professor of law Deborah Rhodes remarks, “There are better ways to signal respect for marriage and better uses of resources than policing private consensual sexual activity.”²⁵

Europe: *There is no European country which continues to criminalize adultery.*

Austria – Austria is a typical example of family law reform at play in Europe. Austria no longer criminalizes adultery. Under the 1971 penal code of Austria, adultery left both the perpetrator and partner subject to fines, or a jail sentence for one to six months. It also provided harsher punishment for the women in the case that in disrupting a marriage, the legitimacy of the children came into question.²⁶ Currently however, adultery only exists in Austrian law in the context of outlining grounds for and conditions of divorce.²⁷

Asia and South America: Through the years since 1945, a number of countries have either expanded or contracted their adultery laws. Expansion results in harsher sentencing, and is usually associated with the nation taking legal action to regulate morality. Contraction results in the decriminalization of adultery legislation, and the liberalizing of the civil society and social life.²⁸

The table below shows that global trends are moving overwhelmingly towards the decriminalization, or complete repeal, of laws regulating adultery. Worldwide, countries in Europe and South America are predominantly leading the way.

Countries which have strayed from this trend have certain backgrounds which explain their reticence. In Saudi Arabia, its laws are historic, and they correspond to the religious doctrines around which the society is

²³ (n21 above).

²⁴ (n21 above).

²⁵ (n21 above).

²⁶ Frank, David John, et al. “Worldwide Trends in the Criminal Regulation of Sex, 1945 to 2005.” *American Sociological Review*, vol. 75, no. 6, 2010, pp. 867–893. *JSTOR*

²⁷ Kriegler, Alfred. “Family Law in Austria: An Overview” *Thomson Reuters Practical Law*. 1 October 2017.

²⁸ Frank, David John, et al. “Worldwide Trends in the Criminal Regulation of Sex, 1945 to 2005.” *American Sociological Review*, vol. 75, no. 6, 2010, pp. 867–893. *JSTOR*

structured. In Somalia and Uganda, the laws were instituted in the years immediately following independence, perhaps as a tactic of nation building around a shared sense of morality. In Pakistan and Iran, the laws were extended in the midst of swift political change which attempted to restructure civil society and the nation as a whole.

Not included on the list are reforms which, while not outlawing adultery entirely, have at least provided provisions to ensure equal legal treatment for men and women under the law. Among these countries are Algeria, Mauritania, Laos, Madagascar, Burkina Faso, and the Philippines.

The Expansion or Contraction of Adultery Laws Since 2007 ²⁹		
Nation	Year	Expansion / Contraction
Japan	1947	Contraction - Decriminalization
Finland	1948	Contraction - Decriminalization
Somalia	1964	Expansion - Criminalization
Uganda	1964	Expansion - Criminalization
Italy	1969	Contraction - Decriminalization
West Germany	1969	Contraction - Decriminalization
Netherlands	1971	Contraction - Decriminalization
Bolivia	1972	Contraction - Decriminalization
Malta	1973	Contraction - Decriminalization
Luxembourg	1974	Contraction - Decriminalization
France	1975	Contraction - Decriminalization
Spain	1978	Contraction - Decriminalization
Pakistan	1979	Expansion
Greece	1981	Contraction - Decriminalization
Panama	1982	Contraction - Decriminalization
Portugal	1983	Contraction - Decriminalization
Ecuador	1983	Contraction - Decriminalization
Honduras	1985	Contraction - Decriminalization
Belgium	1987	Contraction - Decriminalization
Paraguay	1990	Contraction - Decriminalization
Switzerland	1990	Contraction - Decriminalization
Iran	1991	Expansion
Peru	1991	Contraction - Decriminalization
Sudan	1994	Contraction - Decriminalization
Chile	1994	Contraction - Decriminalization
Argentina	1995	Contraction - Decriminalization
Albania	1995	Contraction - Decriminalization
Austria	1996	Contraction - Decriminalization
Guatemala	1996	Contraction - Decriminalization

²⁹ Frank, David John, et al. "Worldwide Trends in the Criminal Regulation of Sex, 1945 to 2005." *American Sociological Review*, vol. 75, no. 6, 2010, pp. 867–893. *JSTOR*

Nicaragua	1996	Contraction - Decriminalization
Dominican Republic	1997	Contraction - Decriminalization
El Salvador	1997	Contraction - Decriminalization
Turkey	1998	Contraction - Decriminalization
Brazil	2005	Contraction - Decriminalization
Haiti	2005	Contraction - Decriminalization
Romania	2005	Contraction - Decriminalization
Uganda	2007	Contraction - Decriminalization

Part III - Adultery in Islamic Law

Pakistan – Drastic changes in legislation regarding adultery and other social laws comes oftentimes as a result of swift political change. Such is the case in Pakistan. When General Muhammed Zia-ul-Haq seized power in a coup, he imposed a series of ordinances, the Hudood ordinances. Having their legal foundation in traditional Islamic law, these new laws made adultery, among other acts, punishable by death.³⁰

These ordinances placed Pakistan in intensely negative international spotlight. In implementation, the laws were found to overwhelmingly give leniency to men and not women.³¹ These laws were also frequently found to blur the line between adultery and rape, oftentimes convicting rape victims of adultery, while not sentencing the perpetrators.

Following intense lobbying from both women in Pakistan, as well as the international community, a Women’s Protection Bill was passed in 2006.³² Even in spite of the passage of this bill, much progress is yet to be made, and adultery is still punishable by stoning. Under the terms of the law currently, women are still substantially more likely to be found guilty of this offense than men. Despite intense lobbying from Pakistani women’s groups, public surveys indicate that there is still a population of Pakistani civil society who approves of the laws.

Saudi Arabia – Like many parts of the world, Saudi Arabia operates under a system of Sharia Law. In the text of the Quran, the foundation for religious law, Zina, adultery, prescribed the punishment of flogging. However, Islamic jurists typically interpret this as a punishment for unmarried adulterers. For adulterers who are married, the death penalty is typically prescribed, usually administered in the form of public stoning.³³

While the legal framework provides for equal rights and punishment, the implementation of these laws overwhelmingly favors men, often granting them substantially less harsh treatment in the court system.³⁴ In particularly egregious cases, international pressure is able to reduce the intensity of some penal measures.

³⁰ “A Review of Zina Laws in Pakistan.” *Zafar Kalanauri & Associates*.

³¹ (n29 above)

³² (n29 above)

³³ “Sharia Law and the Death Penalty” *Penal Reform International*. London. July 2015.

³⁴ Wheatstone, Richard. “Woman to be Stoned to Death for Adultery in Saudi Arabia – While Male Partner to Receive 100 Lashes.” *Mirror.UK*. 27 November 2015.

Saudi Arabian laws, like those in many other countries tend to place sexual activity into similar categories with similar penalties. In the case of Saudi Arabia, any taboo sexual act can be described as varied forms of Zina. This means that there is a relatively minimal distinction between rape and adultery. As a result, if a woman is raped, she will be charged with adultery unless she is able to prove her innocence. To do this, she will need to bring forward four male witnesses who can attest to being eyewitnesses during the time when the woman was raped.³⁵ If she cannot provide these witnesses, she will be charged with adultery.

Saudi Arabia Penal Code *“The [unmarried] woman or [unmarried] man found guilty of sexual intercourse -*
Based on the text of *lash each one of them with a hundred lashes, and do not be taken by pity for them*
Quran Verse: 24:2 *in the religion of Allah, if you should believe in Allah and the Last Day. And let a*
group of the believers witness their punishment.”³⁶

Conclusion

As the nation transitions into its next stage of development, now is a good time to repeal dogmatic laws which do not reflect the progress attained by the Rwandan Society. Rwanda leads internationally with a progressive vision, modernity and gender equality. Adultery laws are from another century, another mindset, where Rwanda does not live anymore.

Disclaimer: For all technical purposes, this analysis does not condone, in any shape or form, the act of adultery. It is the author’s firm conviction that adultery is morally wrong. However, the advocacy stems from a worry that criminalizing of it is a violation of the constitutional right to privacy and it may have unfair and adverse effects on women and children.

³⁵ Sahih International Translation 24:8 – Saudi Penal Code

³⁶ Sahih International Translation