

# RWANDA

## The Pascal Simbikangwa Case: Analysis of an emblematic trial

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,





Introduction .....	4
I – Description of the context and proceedings .....	5
II – The trial .....	10
III – Lessons learned from the case .....	15
Conclusion .....	21
Annex : Schedule of hearings .....	22

# Introduction

Pascal Simbikangwa was convicted and sentenced to a twenty-five year prison term for complicity in crimes against humanity by the Paris Criminal Court, twenty years after the genocide of Tutsis in Rwanda. The trial lasted six weeks. He immediately filed for appeal; the hearing is scheduled to take place in 2015. For the time being, He remains innocent in the eyes of the law until the judgment in appeal takes place.

The Simbikangwa trial is emblematic for many reasons. Firstly, although the first complaint was filed immediately after the genocide in 1995, this is the first case for the genocide in Rwanda to go to trial. In France, 28 Rwandan genocide enquiries are currently being conducted by investigating judges, some of them having been opened for almost twenty years. The suspects in these cases all reside in France.

Secondly, it was the first time the accused was physically present at a trial in which a French court applied the principle of extraterritorial jurisdiction. In France, the only cases where the principle has been applied were for torture and were held in absentia; the defendants in both cases were found guilty. These trials were the result of complaints filed by the FIDH (*Fédération Internationale des Ligues des Droits de l'Homme*) and the LDH (*Ligue pour la Défense des Droits de l'Homme et du Citoyen* - the French League for the Defence of Human and Civil Rights): a case in 2005 where a captain in the Mauritanian armed forces, Ely Ould Dah, was found guilty of acts of torture committed in Mauritania in 1990 and 1991 and a case in 2010 where Khaled Ben Saïd, former vice-consul for Tunisia in Strasbourg, was found guilty of ordering acts of torture in 1996 in a police station in Jendouba.

And thirdly, this is the first case to be referred for trial to a Criminal Court by the French Special Unit for genocide, crimes against humanity, war crimes and torture that is part of the Paris Tribunal. The purposes of the division (created in 2012, after long and constant advocacy campaigns led by human rights organisations, including the FIDH and the LDH) are to accelerate and facilitate investigations for international crimes. France is now part of a group of countries which have such units.<sup>1</sup>

In 1994, Pascal Simbikangwa was working for the Central Intelligence Services in Rwanda. In 2006, he sought refuge in Mayotte, a French overseas department located in the northern Mozambique Channel, where he was arrested in 2009 for committing an unrelated offence and later accused of genocide and crimes against humanity subsequent to a complaint filed by the Civil Parties Collective for Rwanda (*Collectif des parties civiles pour le Rwanda* - CPCR). In addition to the FIDH and the LDH, three other organisations were civil parties to the criminal proceedings: the CPCR, Survie, and the League against Racism and Anti-Semitism (*Ligue contre le racisme et l'antisémitisme* - LICRA).

The complexity of this case also makes it a unique case from which much can be learned and applied in future Rwandan genocide cases before the Paris Criminal Court and, more broadly, in international crime trials. The time that has elapsed since the crimes were committed, their complexity, their foreignness and the need for a fair trial call for specific expertise and means. For six weeks, survivors, eye witnesses, experts, historians and journalists provided testimony that shed light on acts of genocides committed 20 years earlier; in doing so they contributed to rendering justice for what were to become the last acts of genocide of the 20th century.

---

1. The trial is one of many opened in countries in Europe and North America in application of the principle of extraterritorial jurisdiction and involving persons suspected of committing acts of genocide in Rwanda.



# I – Description of the context and proceedings

- *Who is Pascal Simbikangwa?*

Pascal Simbikangwa was born in 1959 in Rambura, located in Gisenyi in western Rwanda. Simbikangwa held various official public positions in Rwanda. He was a member of the presidential guard from 1982 until a car accident left him paraplegic in 1986. This, however, did not prevent him from being assigned, the following year, to Bureau G, the military intelligence unit that was part of the Army National Command. In 1988, he became director of the Central Intelligence Services which at the time reported to the President of Rwanda. Four years later, he was appointed deputy director of the Analysis and Data Bureau.

Pascal Simbikangwa always had close ties to deceased Rwandan president Juvénal Habyarimana.<sup>2</sup> During the Criminal Court trial it became evident that there were particularly strong intellectual and affective ties between the men. They are from the same family and were both born in what historians refer to as “the land of presidents”. According to the psychiatrist called as an expert witness, during his career Simbikangwa was truly devoted to President Habyarimana whom he saw as the ideal father. After his car accident he was hospitalized in Belgium and was later housed in accommodations for public officials located in a Kigali neighbourhood reserved for dignitaries. He was also provided with an official car and two body guards who were with him during the genocide and were proof that he was a prominent figure who required special care, regardless of costs.<sup>3</sup>

Because of his position with the President and in intelligence units, Pascal Simbikangwa was seen by international organisations,<sup>4</sup> by certain States<sup>5</sup> and by the local population as a figure of authority with effective powers.

- *The proceedings*

## **Extraterritorial jurisdiction applied by French courts**

Jurisdiction in national courts is usually defined on the basis of territoriality, offences committed on French soil, or of nationality, offenses committed by French citizens or towards French citizens.

There are, however, exceptions to these general rules. For the most serious violations of international law (genocide, crimes against humanity, war crimes, torture and enforced disappearance) universal or extraterritorial jurisdiction can be applied to try alleged perpetrators, in the absence of any connection between the offence and national territory

2. Juvénal Habyarimana was president of Rwanda from 1973 until his death on 6 April 1994, when his plane was shot down over Kigali.

3. *Cour d'Assises de Paris*, Judgement dated 14 March 2014 in the case of Pascal Senyamuhara SAFARI alias Pascal SIMBIKANGWA, p.3.

4. In 1993, the FIDH published a report in which Pascal Simbikangwa was suspected of extremely serious violations of human rights, <http://www.fidh.org/fr/afrique/rwanda/14463-rwanda-violations-massives-et-systematiques-des-droits-de-l-homme-depuis>.

5. In a press release dated April 22, 1994, issued by Office of the Press Secretary, “Statement by the Press Secretary”, the White House specifically exhorts Pascal Simbikangwa, and three other members of the military, to do everything in their power to put an end to the violence, The National Security Archive, <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw042294.pdf>

or between the offence and a national of the prosecuting State: neither those accused nor the victims need be nationals. Most countries with laws that provide for extraterritorial jurisdiction only required the alleged perpetrator's physical presence on national soil.

Article 689-1 of the French Code of Criminal Procedure (established by the law dated 16 December 1992), defines extraterritorial jurisdiction in French courts: anyone found on French soil who has committed any of the offences listed in the Code of Criminal Procedure outside of French soil can be tried in a French Court.

A French judge can invoke extraterritorial jurisdiction in many instances and specifically when a person, found on French soil, has committed acts of torture as defined in Article 1 of the United Nations Convention Against Torture and transposed in article 689-2 of the Code of Criminal Procedure, or when a person who usually resides in France has committed a crime that falls within the jurisdiction of the International Criminal Court (article 689-11 of the French Code of Criminal Procedure), or when a person in France has committed or is an accomplice to a crime that falls within the jurisdiction of the International Criminal Tribunal for Rwanda (ICTR) (Act 96-432 dated 22 May 1996 that modifies French legislation to make it compliant with the provisions of United Nations Security Council Resolution 955). More recently, the French Code of Criminal Procedure was extended (article 689-13) to include persons on French soil who have committed crimes of forced disappearance as defined in the United Nations International Convention for the Protection of All Persons from Enforced Disappearance.

These legal provisions were used as the legal basis for extraterritorial jurisdiction in France and made the Simbikangwa trial possible.

- *Judicial investigation*

The formal judicial investigation (*instruction*) conducted by an investigating judge (*juge d'instruction*), is crucial in this type of case. More than 100 witnesses were heard by the investigating judges. The magistrates contributed significantly by screening the witnesses and the evidence: they excluded unreliable testimonies from the indictment order. Among the charges initially brought against Pascal Simbikangwa were charges for acts linked to the Kesho Hill massacre; the magistrates, after carefully examining the testimonies, decided to drop these charges. During the course of the investigation, the magistrates acknowledged that witnesses could not be expected to have "perfect recollection" [of events]. Witnesses were deposed years after the facts, but above all, "the context of extreme fear" was such that "one cannot criticise witnesses for not remembering every detail of the attack".<sup>6</sup>

The investigating judges applied several criteria when selecting testimonies. Firstly, they compared testimonies on the same facts to determine if they coincided; the greater the number of witnesses reporting the same facts the higher the likelihood that they truly occurred. They also went, with the witnesses, to the scenes where events occurred and confronted witnesses with the differences between their respective accounts and topographical and geographical realities: would it be possible to see someone from a given place at a given distance, for example. The magistrates always took into account who the witness was, what he or she was employed in at the time the facts took place, current employment, affiliation with a political party and his or her involvement in the genocide. The information was used by the investigating judges to determine the reliability of the testimonies.<sup>7</sup>

6. Closing order (Order to reclassify charges, reduce charges and indict -Ordonnance de requalification, de non-lieu partiel et de mise en accusation) submitted to the Cour d'assises, 29 March 2013, p.46.

7. Interview with French deputy prosecutor Aurélia Devos, 17 June 2014.

Because of how important and central witnesses' testimonies are in this type of trial, the work conducted by the investigating judges prior to the trial proved to be pivotal during the Criminal Court trial.

- *Major steps in the case against Pascal Simbikangwa*

3 March 2008: The General Prosecutor in Kigali, Rwanda formally indicts Pascal Simbikangwa.  
30 May 2008: The French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides - OFPRA) denies Pascal Simbikangwa's request for asylum.

28 October 2008: Pascal Simbikangwa is arrested in Mayotte for forging personal identification documents and is placed in pre-trial detention on 31 October

13 February 2009: The Civil Parties Collective for Rwanda request an official investigation on Pascal Simbikangwa for genocide and crimes against humanity.

9 April 2009: The Office of the Prosecutor in Mayotte opens an official investigation and turns it over to an investigating judge.

16 April 2009: Pascal Simbikangwa is indicted in the investigation and is placed in pre-trial detention.

3 June 2009: The investigating judge from the Mamoudzou Court, the capital of Mayotte, hands the investigation over to the Paris Tribunal, in application of a decision previously handed down by the France's highest court, the Cour de cassation, to the effect that all investigations for genocide fall under the jurisdiction of the investigating judges assigned to the Paris Tribunal.

19 June 2009: The FIDH and the LDH become civil parties in the case.

29 March 2013: After four years of formal investigations and four trips to Rwanda made by the investigating judges, Pascal Simbikangwa is indicted and the case referred for trial.

The trial ran from 4 February 2014 to 14 March 2014, date on which the court and the jurors returned a verdict of guilt.

- *The charges brought against Pascal Simbikangwa*

On 16 April 2009, Pascal Simbikangwa was formally indicted for genocide through wilful attacks and attempts on life and wilful and grievous attacks on the physical integrity of persons and for complicity in genocide, for crimes against humanity through wilful attacks and attempts on life and other inhumane acts, for complicity in crimes against humanity, for participation – substantiated by several material facts – in a group or in an established agreement created to carry out genocide and crimes against humanity and for acts of torture and barbarity.

On 29 March 2013, after a four-year investigation, the investigating judges charged Pascal Simbikangwa to the Criminal Court. Some of the initial charges were dropped because the magistrates concluded that the evidence was insufficient to prove that Pascal Simbikangwa took part in an organised attempt to commit genocide or crimes against humanity, or of having committed genocide or crimes against humanity in Kesho or against the Umulinga family. In France there is a 10-year statute of limitations for acts of torture and barbarity, unlike crimes against humanity for which there is no statute of limitations, consequently the magistrates decided that it was no longer possible to send him to trial for these charges.

In the 1994 Tutsi genocide in Rwanda, roadblocks and checkpoints were set up in the capital city of Kigali to identify Tutsis who were seen as enemies and needed to be neutralised. Pascal Simbikangwa was indicted for his participation in the genocide because he supplied weapons and manpower, for the roadblocks and checkpoints, and ordered and encouraged the guards to take action, and this led to the killing of a large number of Tutsis in Kigali and Giseyani.

Pascal Simbikangwa was thus indicted for complicity in genocide and complicity in crimes against humanity and the case was referred for trial to the Criminal Court.

Il a ainsi été renvoyé devant la Cour d'assises pour complicité de génocide et complicité de crimes contre l'humanité.

- *The civil parties in the Simbikangwa case*

Five not-for-profit organisations are civil parties in the Simbikangwa case:

The FIDH, who works on protecting the victims of human rights violations, the prevention of human rights violations and the prosecution of alleged perpetrators of these violations;

The LDH has a broader scope than the FIDH and works on all infringements of the rights of the individual in all spheres – civil, political and social;<sup>8</sup>

The CPCRF provides emotional and financial support for anyone lodging a complaint against alleged perpetrators of the 1994 Rwanda genocide and specifically to refugees living in France and also sponsors activities aimed at making certain that victims are not forgotten;<sup>9</sup>

The LICRA fights against all forms of racism, evident or disguised and individual or collective, its determination is founded on the principle that there is no political, economic, social or biological reason that explains or justifies racism;<sup>10</sup> and

Survie ('survival' in French) has three main objectives - to reintroduce democratic reasoning into French policy in Africa (changing the nature of French relations and interventionism and neo-colonialism, or changing the Françafrique approach), to fight against the trivialisation of genocide and to reinvent international solidarity by promoting global public goods.<sup>11</sup>

**French law or the Statute of the International Criminal Tribunal for Rwanda (ICTR) - applicable law in cases involving crimes committed in Rwanda before French courts**

In France, there are two legal texts that describe genocide as a crime: article 211-1 of the Criminal Code that was established by law no.92-683 dated 22 July 1992 and law no.96-432 dated 22 May 1996. The later transposes into French law United Nations Security Council Resolution 955 that created an international tribunal to hear cases against persons accused of acts of genocide or other serious violations of international humanitarian law committed in Rwanda in 1994; the resolution itself refers to the Statute of the ICTR.

The provisions of these two laws differ significantly. Article 211-1 of the Criminal Code stipulates that a joint agreement is a necessary component of genocide whereas UNSC resolution 955 makes no mention of a joint or united plan nor does it make it a defining component of genocide. Conspiracy is difficult to prove and in French law the standard of proof for individual criminal liability in genocide is more restrictive than that provided for by resolution 955. Under these conditions, what then becomes key is determining which of the two legal texts should be applied in the case before the Criminal Court.

8. See <http://www.ldh-france.org/>

9. See <http://www.collectifpartiescivilesrwanda.fr/>

10. See <http://www.licra.org/>

11. See <http://survie.org/>



During the course of the judges' investigation, the FIDH submitted a request to have the Statute of ICTR be applied. The investigating judges denied the request and argued that by adopting law no.96-432 dated 22 May 1996 French lawmakers purposely created two sets of conditions (those enshrined in UNSC resolution 955 and those set out in French law) for the indictment and punishment of genocide in French courts. They further argued that because sentencing falls under French law, it had to be linked to a crime covered by national law, thus making it imperative to use French law as a basis for classification.

The FIDH, after carefully studying the texts, remains convinced that the investigative judges should classify offences in accordance with the ICTR Statute and that the applicable law in French courts is also that of the ICTR Statute.

The efforts made by parliamentarians reflect the legislature's will to fight against impunity for the perpetrators of genocide and to provide for effective penalties on French soil. On the basis on these intentions, the application of both sets of conditions derived from the magistrates' interpretation of French law create constraints that the international jurisdiction specialised in judging the perpetrators of crimes committed during the genocide, the ICTR, did not impose on itself. Unless considering that ICTR does not comply with international legal norms, adding the obligation to prove the existence of a united plan to other existing criterias constitutes a hinderance to the prosecution of mass crimes.

The application of the definitions for genocide contained in the Statutes of the ICTR, undoubtedly provides a better basis to assess the criminal liability of alleged perpetrators of genocide indicted in France and to prosecute them according to the standards applied by the ICTR.

The request submitted to the investigating judges corresponds with the position generally taken by the FIDH; to wit, when extraterritorial jurisdiction is exercised by French courts the applicable law must be international law.

When judging genocide cases, French courts should apply the Statute of the ICTR and the definition of genocide contained therein, in accordance with law no.96-432 dated 22 May 1996. Penalties, however, should be based on French law.

## II – The trial

### The Criminal Court trial in France

A criminal trial must be conducted in accordance with specific rules.

The Criminal Court has jurisdiction over serious crimes. Cases are judged by a presiding judge and two non-presiding judges (*assesseurs*) and a six-member lay jury. The jury is composed of citizens chosen from the voters' registry. The prosecution and the defence have the right to reject potential jurors, four and five respectively, without providing any justification.

Proceedings are oral. The jurors do not have access to the contents of the investigating judges' dossier; only the presiding judge has access. The parties must orally evoke the facts contained in the case file that they wish to refer to during oral proceedings in court.

The presiding judge has full discretion to accept or deny evidence that either party may wish to introduce and that is not already contained in the investigation file. The presiding judge can accept new evidence but the principles of due process (*contradictoire*) must be applied, or he or she can reject any new evidence on the ground that it may be detrimental to the dignity of the proceedings or that it can unnecessarily protract them.<sup>12</sup> This explains why the role of the civil parties during the course of the investigating judge's investigation and during the trial is crucial.

In French criminal law, the rules of evidence are dictated by the principe de la liberté de la preuve (the principle of the freedom of evidence) according to which no restrictions are placed on evidence accepted in court. Article 427 of the Code of Criminal Procedure stipulates: "Unless otherwise provided for by law, offences can be proven using any form of evidence, and it is the judge who decides on the basis of his personal conviction" (*Hors les cas où la loi en dispose autrement, les infractions peuvent être établies par tout mode de preuve et le juge décide d'après son intime conviction*). Consequently any type of evidence is admissible in a French criminal court, and no form of evidence is given preference. Judges and jurors assess the weight and strength of the evidence.

The system differs from the rules of evidence applied in common law countries where the admissibility of every piece of evidence is debated by both parties and the judge decides on admissibility, frequently on the basis of whether or not the evidence was legally obtained.

Proceedings in the Criminal Court are public. The courtroom used for the Simbikangwa trial was equipped to allow access to journalists and the general public. A second room was equipped for live transmission of proceedings so that the greatest number of persons possible could follow the events in the courtroom. Additionally, video recordings were made of the proceedings because their historical value.<sup>13</sup> Initially the recordings will only be available once all forms of appeal have been exhausted, once the judgement is final, and with authorisation from the president of the Paris Tribunal. The video archives will be available to the general public fifty years after the trial.<sup>14</sup>

Once the closing statements are made, the judges and jury will retire for deliberations and are asked to make a decision on the basis of their personal conviction. In first instance courts, a six-vote majority is required to establish guilt beyond a reasonable doubt.

12. Article 309 al. 2 Code de procédure pénale.

13. Loi n° 85-699 du 11 juillet 1985 tendant à la constitution d'archives audiovisuelles de la justice.

14. Article L222-1 Code du patrimoine.

Since the enactment of the law dated 10 August 2011, judges and jury are obliged to motivate their decision. According to article 365-1 of the Code of Criminal Procedure, the part of the decision that contains the reasons for the decision (*motivation*) must list the main incriminating facts for each charge that served to convince the Criminal Court (“*principaux éléments à charge qui, pour chacun des faits reprochés à l’accusé, ont convaincu la Cour d’assises*”).<sup>15</sup>

Parties can appeal a decision handed down by a court of first instance. The appeal trial, which is always a *de novo* trial in France, takes place before a new set of judges and a new set of jurors in the Criminal Court.

- *The hearings*

Pascal Simbikangwa’s trial was held from 4 February to 14 March 2014 before the Paris Criminal Court. The President of the Court opened the trial with a reading of his report which included the main facts in the case and a non-exhaustive account of the defendant’s life, to which the defendant was allowed to comment.

The Court then heard testimonies on Simbikangwa’s character, the political context in Rwanda, the defendant’s career, his ties with deceased President of Rwanda Juvenal Habyarimana, the defendant’s role in the media, his relations with members of the Interahamwe militia and on the facts that constitute complicity in genocide and crimes against humanity.

During the 28-day trial, 49 witnesses took the stand; among them were four mental health specialists (psychologists and psychiatrists) who were expert witnesses, three historians, four journalists who were present when the crimes took place, two university professors, two magistrates, a Belgian lawyer and 28 witnesses (neighbours, colleagues and Rwandans who had crossed Pascal Simbikangwa’s path before and during the events) who travelled from Rwanda to testify. Witnesses for the prosecution and for the defence and those called by the civil parties gave inculpatory and exculpatory evidence. The last testimonies to be heard were those of the representatives of the civil parties. This was followed by two days spent hearing arguments presented by counsel for the civil parties and the closing arguments of the prosecution and the defence. Half a day was set aside for Pascal Simbikangwa’s closing statement.

The presiding judge had established a tight and busy schedule. Notwithstanding, there were witnesses called to the bar who had not been previously identified, among them French journalist Jean-François Dupaquier. His name had been mentioned by the civil parties and he was present in the courtroom when the presiding judge decided to have him testify to explain what he had written about the genocide. The most surprising witness was Pascal Simbikangwa’s cousin and adopted brother. Although his name was mentioned early in the trial and despite the fact that he was in France, the defendant did not want his brother to testify; the defendant saw no need for it. In the end, Simbikangwa’s brother decided to attend on the last day that witnesses were being heard. Given the possible interest of his testimony, the presiding judge had him testify.

One of the major challenges in the trial was the testimonies; they were the main evidence in the case. Most of the witnesses who provided testimony on the facts were brought in from Rwanda; few of them spoke French. In trials for such serious crimes, accurate translation is essential. The Kinyarwanda language is complex and very rich in imagery. It was pointed out that in Kinyarwanda the noun “rifle” is invariant. Translation proved its importance in such instances,

---

15. French Code of Criminal Procedure, article 365-1, established by law no. 2011-939 dated 10 August 2011.

and especially given the strategy adopted by the defence that consisted in systematically pointing to inconsistencies in the testimonies.

Testimonies were also crucial to establishing the truth. When the trial opened, the facts had occurred twenty years earlier; moreover, they were part of a traumatic episode for the victims. Historian H  l  ne Dumas explained this aspect at length during her testimony. According to her, the genocide led to: “a marked shift in time, space and social bearings”, making it difficult for witnesses to provide exact dates. All of the events are encapsulated in expressions such as “back then” or “during the war”.<sup>16</sup>

In the Rwandan genocide, the victims and the criminals were neighbours. In this context, untruthful reports can become a hinderance to justice. There were witnesses at the trial who were in imprisoned in Rwanda or had been found guilty by the ICTR and were suspected of giving false testimony in order to have their sentences shortened. Protestataire Ponzaga, who had been sentenced to life in prison in Rwanda for having helped authorities in their “hunt for Tutsis”, was asked in court about the factors that led to a shortening of his prison sentence. Counsel for the defence somewhat ironically qualified the many testimonies provided by prisoners (such as that of Val  rie Bemeriki who received a life sentence from a Rwandan court for inciting hatred against Tutsis during her radio programme on RTL -*Radio T  l  vis  e Libre des Mille Collines* station) as a “veritable business”.

Expert witnesses, such as Filip Reyntjens, addressed the problems with testimonies and explained that one had to be vigilant and understanding when it came to the inconsistencies that may arise. Filip Reyntjens added that under no circumstances should all of the testimonies be seen as untruthful. He gave the example of Abdul Joshua Ruzibiza who gave sworn testimony at the ICTR, then retracted his testimony only to return to his initial position later. Reyntjens went as far as to explain the term *ugenge* in Kinyarwanda refers to a “[...] combination of strategies and lies or behaving so as to serve one’s interests”. Certain witnesses, for example, out of fear of being charged with a crime, may have changed the events or described them in ways that were to their advantage. The Belgian investigating judge, Damien Vaders, pointed out during his testimony: “It was evident that some of the testimonies were credible and others were contradictory. When one’s life is threatened, or that of one’s children, one has a chaotic view of things, for example, what the colour of a jug was”.

- *The first instance verdict*

On 14 March 2014, Pascal Simbikangwa was sentenced to 25 years imprisonment for genocide and complicity in crimes against humanity. He was found guilty of genocide because he ordered deliberate attacks on the lives of the members of the Tutsi ethnic group in Kigali and serious attacks on the physical and mental integrity of members of the same group, in execution of a united plan aimed at the total or partial destruction of said group. Moreover, the judges and jurors of the Criminal Court acknowledged the existence of the genocide: “there is no reasonable doubt remaining regarding the existence of genocide or of crimes against humanity in Rwanda”<sup>17</sup> (il n’existe plus de doute raisonnable quant    l’existence du crime de g  nocide et du crime contre l’humanit   au Rwanda) by referring to the ICTR taking judicial notice of the fact that there had been a genocide in Rwanda.<sup>18</sup>

---

16. See Dumas, H  l  ne, *Le G  nocide au village - Le massacre des Tutsi au Rwanda*. March 2014. L’Univers historique, Seuil Publishers, 384 pages.

17. *Cour d’Assises de Paris*, first instance judgement in the case of Pascal Senyamuhara SAFARI, alias Pascal SIMBIKANGWA, Reasons for the Decision (Feuille de motivation), p.1.

18. The Prosecutor v.   douard Karemera, Mathieu Ndirumutse, and Joseph Nzirorera, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice (AC), 16 June 2006, para.35. Carmen could not find this document in English, but she did find another decision that cites and quotes this one (see documents, Karemera decision, attached to email).

The Court found that Pascal Simbikangwa distributed arms at certain roadblocks in Kigali which were used to kill people. Witnesses' testimonies had confirmed that Simbikangwa gave instructions to exterminate Tutsis.

Initially Simbikangwa was brought before the Criminal Court charged with complicity in genocide and complicity in crimes against humanity. The State Prosecutor, however, changed the charge to genocide and not just complicity in genocide.

Usually, in French law, a person who has others commit a crime is an accomplice: "the person who knowingly [...] gave instructions to commit [the offence]".<sup>19</sup>

However, in the Simbikangwa case the State Prosecutor wanted to fully apply article 211-1 of the Criminal Code which stipulates that: "Genocide is [...] committing or having others commit" (*Constitue un génocide le fait, [...] de commettre ou de faire commettre*) which is proof that legislators wanted to make perpetrators equally criminally liable in both cases. Also, as the penalties are the same for the perpetrator and the accomplice, criminal liability has considerable symbolic weight. Anyone who has someone else commit genocide by instructing them to do so, for example, is just as criminally liable as the person who carries out the act.

Given the seriousness of the crimes, the complex context of genocides, the difficulty in establishing a clear distinction between the perpetrator and the accomplice and that rarely do those who give the order to commit a crime commit the crimes themselves, it is important to be able to apply the same penalties those who give the orders and those who execute them.

Pascal Simbikangwa, however, pleaded not guilty to all of the charges for crimes committed in Gisenyi. At the end of the trial, the prosecution asked to have Pascal Simbikangwa acquitted of these charges because witnesses' testimonies at the trial did not clearly establish the defendant as being present at the scene of the crimes. The Court and the jurors granted the prosecution's request because it believed that the evidence for the charges related to the setting up of road blocks in was too weak and that the defendant's participation in the training of the Interahamwe<sup>20</sup> was not compatible with his state of health. Very obvious similarities between certain testimonies led the Court and jurors to presume that witnesses consulted with one another, a situation which is not very compatible with the truth.<sup>21</sup>

Having Pascal Simbikangwa declared guilty of genocide was very positively received by the victims who originally saw the slowness of the French justice system as a form of impunity. Some of the victims were disappointed that the defendant was not found criminally liable for the crimes committed in Gisenyi. The judgement in this case shines a light on the difficulties of conducting judicial proceedings and of organising a trial when the evidence is mostly testimony and the facts are extremely complex and occurred a long time ago.

Many key factors were taken into consideration to find Pascal Simbikangwa guilty.

On the facts, the judges and jurors concluded that the testimonies describing how the defendant had supplied the weapons used to commit the murders were sufficiently credible to establish his guilt. The Court and jurors also concluded that Pascal Simbikangwa gave instructions to set up road blocks

---

19. French Criminal Code, article 121-7, "la personne qui sciemment [...] aura donné des instructions pour la [l'infraction] commettre".

20. The Interahamwes were the armed faction of the MRND, President Habyarimana's party. They were initially created to entertain party members during political meetings but quickly became a militia comprised of young men who received political indoctrination and training in the use of weapons. During the genocide, they were heavily involved in the killings committed at road blocks.

21. *Cour d'Assises de Paris*, first instance judgement in the case of Pascal Senyamuhara SAFARI alias Pascal SIMBIKANGWA, p.11.



with a view to exterminate Tutsis. The commission of the exactions was facilitated by the authority the defendant exercised in the neighbourhood where he lived and where the killings he is accused of took place and especially by the ambiguity he maintained with respect to his military status.

In great part, the judges and jurors took into consideration Simbikangwa's behaviour and his perspective on the genocide in Rwanda. They observed that the defendant's was ambiguous when he spoke of the existence and the nature of the crimes committed in Rwanda in 1994, especially in the case of crimes against humanity. The judges and jurors saw his theory of: "a chaotic, spontaneous, uncontrollable and unplanned popular movement as not corresponding to the observations made".<sup>22</sup> Equally noted was his ambiguity with respect to the very existence of the Rwandan genocide, a position he maintained throughout the investigating judges' pre-trial investigation. While he did not contest its existence during his trial, he did systematically mention the murdering of Hutus, which he went as far as to qualify as 'genocide', by the Rwandan Patriotic Front (*Front Populaire Rwandais* - FPR). The latter reflects the double genocide theory that was spread before, during and after the genocide to justify the systematic extermination of Tutsis. The pre-emptive elimination of Tutsis was meant to stymie the alleged programmed extermination of Hutus: the supposed crimes of one group were used to justify the actual crimes of the other.

The Criminal Court judges concluded that Pascal Simbikangwa adhered to the anti-Tutsi discourse. During the trial, it became clear that his writings, published in 1991 under the title "The October War" (*La Guerre d'octobre*), implicitly convey anti-Tutsi thinking. The defendant also owned an interest in Radio Télévisée Libre des Mille Collines (RTL), which spread the message that incited ethnic hatred and progressively assimilated all Tutsis to enemies of Rwanda.

- *Appeal*

On 18 March 2014, legal counsel for Pascal Simbikangwa filed for appeal (*appel principal*); on the same day the prosecution filed a cross-appeal (*appel incident*). The *de novo* appeal trial will open sometime in 2015.

---

22. *Cour d'Assises de Paris*, first instance judgement in the case of Pascal Senyamuhara SAFARI alias Pascal SIMBIKANGWA, Reasons for the decision (*Feuille de motivation*), p.2.

# III – Lessons learned from the case

## ***1) The challenges that arise in proceedings based on extraterritorial jurisdiction for crimes committed abroad 20 years ago***

From the standpoint of procedures and merits, the Simbikangwa trial removed any doubts regarding its feasibility. Extraterritorial jurisdiction, as enshrined in French law, provides for the effective prosecution and the deciding of guilty of an individual for genocide and crimes against humanity committed outside French soil and, a fortiori, in Rwanda. Other trials based on extraterritorial jurisdiction had already taken place in France (see above). The Simbikangwa trial, however, was the first time the defendant was physically present; consequently it was conducted with a lay jury, moreover the trial lasted several weeks during which a great number of witnesses was called.

- *The need for contextualisation*

The role of the Cour d'assises is to determine the guilt or innocence of an individual. To that end, judges and jurors must have full knowledge of the context in order to understand the defendant's actual involvement. Contextualisation is all the more important in this case because the Rwanda genocide took place twenty years ago, 7,000 km away from continental France and in a complex geopolitical context in which France played a role and had a vested interest.

The first two weeks of the trial were focused on historical and political analyses of the genocide. Historians, among them Stéphane Audouin-Rouzeau and Jean-Pierre Chrétien, testified and went over the events that took place before and during the genocide. The aim was to explain how the dynamics of genocide developed in Rwanda and how all of the conditions for the genocide were in place before it was triggered on the night of 6 April and morning of 7 April 1994. It was essential that judges understand the mechanisms and chronology of the genocide in order to determine how and to what extent the defendant was involved in the perpetration of mass crimes.

The issue of obtaining justice in genocide cases was addressed by Hélène Dumas, who holds a doctorate in history and teaches at the School for Advanced Studies in Social Sciences (École des Hautes Études en Sciences Sociales - EHESS). She testified on how the community court system, the Gacaca, in Rwanda functions. The system was established in 1996 to try the most serious crimes and acts of genocide at, or as close as possible to, the place where these acts were committed. Belgian magistrate Damien Vandermersch testified on judicial procedures and trials conducted in Belgium on the Tutsi genocide in Rwanda. The objective of hearing these testimonies was to demonstrate the particularities of this type of case and the difficulties encountered by courts who have heard these crimes.

- *The first case conducted by the Special Unit in International Crimes – The purpose of having specialised investigative judges and prosecutors*

Given the grievous, complex and extensive nature of the crimes and the fact that they were committed twenty years earlier, the French justice system had to adapt. In 2011, in order to fulfil its role in the fight against impunity in mass crimes, France created a division, within the High Court for Paris (*Tribunal de Grande Instance de Paris*), specialised in genocide, torture, war crimes and crimes

against humanity.<sup>23</sup> The division is composed of two prosecutors, three investigating judges and four specialised legal assistants, all of whom are specialised in international criminal law. The cases examined by the division are for the most serious crimes and complex, which is why a trained legal staff who exclusively works on the investigation and prosecution of such crimes is required. Before the creation of the specialised division, and given the size of the task, certain investigating judges would ask to be relieved of some of their other duties, namely investigations into ordinary crimes (typically several investigations are conducted concomitantly), in order to devote all of their time to investigating the Rwandan cases.<sup>24</sup> While arrangements were made to accommodate magistrates' requests, the creation of the special division has, undoubtedly, considerably expedited proceedings.

Because the Simbikangwa trial was the first to be held subsequent to an investigation that was to a great extent conducted by the specialised division, the case has proven the efficacy and usefulness of this type of structure. The Office of the State Prosecutor in France specifically commended cooperation between Rwandan and French authorities during the investigation and court proceedings. Investigating judges and prosecutors, working through international letters rogatory, went to Rwanda on several occasions and were always able to benefit from the cooperation of local authorities, which was qualified as "highly satisfactory" by one of the persons who worked on the case.

Counsel for the defence argued in court that this form of cooperation with Rwandan authorities and the numerous official steps of the investigation which took place in Rwanda and were made possible through this form of cooperation created inequality in arms between the prosecution and the defence. The prosecution rebutted that lawyers representing Pascal Simbikangwa had had at their disposal all of the "arms" available to the defence. The magistrates' investigation lasted three years during which the defence had ample time and was free to use said arms by filing requests and calling witnesses, for example.

The increase in the number of complaints lodged with the specialised division should lead to no more than two trials per year. Organising this type of trial requires considerable means and monopolises the staff of the judicial system for long periods of time; moreover, the "Rwandan cases" are the only ones the division is looking into. The FIDH has lodged complaints involving the Amesys case (Libya)<sup>25</sup> and the Disappeared of Brazzaville Beach case (The Republic of Congo)<sup>26</sup>, and there are also many others that require significant resources to conduct full investigations and comply with procedures.

- *The importance of cooperation of States and international institutions*

Cooperation with the authorities where the crime was committed is indispensable and especially important in two areas: facilitation of the work investigating judges conduct in the field and preparation, before and during, the trial in France (submission of documents and travel for witnesses from Rwanda to France, for example).

Cooperation with the ICTR also proved to be essential. In the Simbikangwa case, much of the evidence that was submitted to the court, such as transcriptions of sworn testimonies and copies of judgements, was provided by the ICTR. Some of the witnesses who testified in court were or are detainees held in custody under the authority of the ICTR; this made cooperation imperative when it came to interrogating witnesses such as Valérie Bemeriki, a former journalist for the broadcaster RTL.

---

23. The specialised division was created with the adoption of law no.2011-1862 dated 13 December 2011, which went in force in January 2012.

24. FIDH-REDRESS, Strategies for the effective investigation and prosecution of serious international crimes : The practice of specialised war crimes units, December 2010, [http://www.fidh.org/IMG/pdf/The\\_Practice\\_of\\_Specialised\\_War\\_Crimes\\_Units\\_Dec\\_2010.pdf](http://www.fidh.org/IMG/pdf/The_Practice_of_Specialised_War_Crimes_Units_Dec_2010.pdf)

25. <http://www.fidh.org/fr/maghreb-moyen-orient/libye/Affaire-Amesys-la-Chambre-de-l-12725>

26. <http://www.fidh.org/Affaire-des-disparus-du-Beach>

## 2) *The place and the role of non-profit organisations as civil parties during the trial, in the absence of physical persons acting as civil parties*

### **Non-profit organisations acting as civil parties before the Criminal Court (*Cour d'assises*)**

Article 2-4 of the French Code of Criminal Procedure stipulates that any non-profit organisation that has been duly registered as such for five years and whose by-laws specifically mention, among their objectives, the fight against crimes against humanity or war crimes can exercise the right granted to civil parties. The request to become a civil party can be submitted during the course of the magistrate's investigation or during the trial, up until the moment Court announces the end of the arguments phase. Non-profit organisations can:

- (before the Court hears oral arguments) request all evidence, pleadings and documents submitted for trial and request to have witnesses subpoenaed to testify.
- (once the oral arguments phase has started) question witnesses, submit statements, oppose any sworn testimony given by a witness they have not been informed of, request that the case be referred to another court, request further information, request the opinion of an expert, request to be taken to the place where the crime was committed, submit evidence, etc.

Civil parties can also be heard by the court at the end of the trial (closing statements) and can apply for reparation in the form of compensation (damages and interest on damages).

One of the particularities of the Simbikangwa case was the absence of direct victims. The identification of victims is complex, especially in a context as vast as that of genocide. During the magistrates' investigation there was one victim who became a civil party. This person claimed that Pascal Simbikangwa had started to murder his family on 6 April 1994, but the investigating judge later dropped the relevant charges because of insufficient evidence.

In the many countries where mass crimes have been committed, victims are frequently prevented from taking their case before an independent court either because of the lack of political will to prosecute alleged perpetrators or because the state lacks the means to prosecute. Non-governmental organisations such as the FIDH, have decided to assist victims by helping them to obtain justice in French courts, in cases where extraterritorial jurisdictions can be exercised and when it is impossible to obtain justice in the country where the crime was committed. But given that the State Prosecutor has no real desire to actively prosecute these cases by opening an investigation, human rights defence organisations such as the FIDH and the LDH assist victims in lodging a complaint as a civil party. Under French law, this automatically leads to the opening of a judicial enquiry conducted by an investigating judge. Without the active intervention of victims, cases of impunity would be much higher in number, making the intervention of NGOs as civil parties all the more important; especially because NGOs who are civil parties can actively participate in the magistrate's investigation and in the trial.

In cases involving the genocide of Tutsis in Rwanda, civil parties played a particularly active role, notably by submitting evidence. As early as 1990, the FIDH had been alerted, by its member organisations, of mass crimes committed in Rwanda. During the course of fact-finding missions, the FIDH discovered the warning signs of systematic crime. In January 1993, an international enquiry took place; the report<sup>27</sup> denounced systematic and massive violations of

27. FIDH, *Rapport de La Commission Internationale d'Enquete sue les violations massives et systématiques des droits de l'Homme depuis le 1er octobre*, March 1993. <http://www.fidh.org/fr/afrique/rwanda/14463-rwanda-violations-massives-et-systematiques-des-droits-de-l-homme-depuis>.

human rights since October 1990. Pascal Simbikangwa is mentioned in the report: “a second copy of the report<sup>28</sup> was given to us by Captain Pascal Simbikangwa, who was himself accused of being one of the persons responsible for the worst human rights violations”.<sup>29</sup> The FIDH report was submitted as evidence to establish the facts and to provide a description of the context that led to the genocide.

The CPRC also significantly contributed to building the case. During trips made to Rwanda (Kigali and Gisenyi), the CPRC collected photographs and video recordings of the crime scenes which were shown to jurors during the trial to help them understand. Like the defence, the civil parties were able to call witnesses in order to provide the judges and the jurors with detailed information on the historical context and to describe the trials held in other countries.

The NGOs represented the interests of the victims and were able to make their voices heard during the trial, and specifically through oral submissions in court. In the Simbikangwa trial, none of the victims were able to become civil parties, which is why it became important to point out that genocide is not a victimless crime. The heads of the NGOs testified to explain why their respective organisations had become civil parties. The NGOs had their own individual specificities and were thus complementary.

Counsel for the defence and the accused attempted to discredit the work presented by the FIDH and the role of the CPRC. The 1993 FIDH report<sup>30</sup> was strongly criticised, especially with regard to the part that contains an impartial description of exactions committed by pro-government forces Rwandan Armed Forces (Forces armées rwandaises FAR) as well as those committed by the FPR,<sup>31</sup> for only focusing on the violations committed by the FAR. When Eric Gillet, the Belgian lawyer who headed the FIDH missions at the time of the genocide and co-author of the 1993 report,<sup>32</sup> was testifying the defence attempted to discredit him by attacking him personally and his private life.

In judicial proceedings of this nature, however, nothing is as valuable as the testimony provided by the direct victims themselves. This why it important to provide victims with as much information as possible so that they can learn of how to obtain justice and be in a position to fully participate in on-going proceedings, such as the those in France.

- *Arguments presented by the parties*

In this type of trial, the strategy adopted by the defence is a strong indicator of the ideological position of the accused: be it the “rupture” strategy underpinning the claim that the acts committed were a political stance; or the “repentance” strategy that consists of acknowledging the facts and then asking for clemency; or the “minimization” strategy whereby the defendant tries to avoid assuming responsibility for crimes with severe penalties without fully retracting his original position. The strategy that the defence would adopt in the Simbikangwa trial was much awaited.

The other major challenge in this case was how to put a person on trial without putting the genocide on trial or without putting the current political regime on trial: how to circumscribe the trial and only allow for legal arguments on the personal criminal liability of Pascal Simbikangwa.

As mentioned previously, the veracity of the testimonies was systematically called into

---

28. *Ibid.*, page 10, for a description of the report in question.

29. *Ibid.*, page 10.

30. See footnote 27.

31. See footnote 27, pages 66-75.

32. *Ibid.*



question. Counsel for the defence quoted from the work of Thierry Cruvellier to claim that the Prosecutor for the ICTR relies solely on recent testimonies to avoid contradictory testimonies and that by relying on these questionable testimonies, the chambers of the ICTR contradict each other because they act “according to their legal needs for their respective cases”. Defence counsel and the accused claimed that the witnesses had been manipulated, either by the Ibuka association who was supposedly trying to get all Hutus convicted or by the current Rwandan regime which is exactly what the defence claimed in its closing arguments: “The regime in power does not accept acquittals”.<sup>33</sup> The main argument used by the defence was based on the theory of the “double genocide”. The theory was used on several occasions, including at the end of the closing arguments: “If the FPR shot down the plane, they are responsible. And this is not without significance”.<sup>34</sup>

There may be a link between the defence strategy applied in the Cour d’assises and criticism made by defence counsel at the ICTR. During the Third International Criminal Defence Conference held in Montreal on 29 September 2012, Nancy A. Combs’s book *Fact-finding without Facts - The Uncertain Evidentiary Foundations of International Criminal Convictions* was discussed. In the book, the author criticises the judges of the ICTR of convicting individuals despite the lack of material facts and claims that witness testimonies, the predominant form of evidence in international criminal tribunals, demonstrate serious inconsistency. Additionally, many of the witness depositions initially taken by investigator for the ICTR do not mention the accused. Furthermore, important parts of the testimonies are inconsistent: where the victim was at the time of the facts took place, for example. The author believes that in trials that ended in acquittal the examination of evidence and of testimonies was of better quality and more precise and there was no “elasticity in the principle of proof beyond a reasonable doubt”, unlike cases that ended in convictions Philippe Larochelle, a member of the Quebec Bar, went as far as to question the reliability of the ICTR and, most importantly, criticise the absence of recourse for trials that are “so ridiculous and unfair”.

In addition to raising the questions that must be addressed on the effective rights of the defence in this type of trial, first on the list would be equality of arms for parties in criminal trials, the Simbikangwa trial enabled us to understand the defence strategy used by the accused which may well have been one of “minimizing the rupture”. In other words, by minimising the facts and minimising or denying his responsibility, the accused and defence counsel surreptitiously introduced the “double genocide” theory.

As described above, the “double genocide” theory requires a multi-level analysis to be understood. The first level consists of justification for what occurs during the period prior to the genocide: “the Tutsis were threatening the Hutus”; “they were going to attack”; “it was us or them”. This mindset greatly contributed to spreading genocidal ideas throughout Rwanda in 1994. The second level is justification for the genocide itself: “it was war”, “the Tutsis from outside the country were attacking us and those inside the country were their accomplices”; “we were defending ourselves”. The third level is the victimisation discourse that was prevalent after the genocide: “the Hutus were also the victims of genocide”; “as we fled and during our years of exile in Congo, hundreds of thousands of us were killed by armed members of the FPR, no one speaks about that genocide”. This form of thinking was used to justify the genocide and non repentance and engendered in future generations the desire to take revenge. This is the reasoning that was used, at times implicitly and at times with disdain, in defence of Pascal Simbikangwa.

The prosecution and the civil parties reacted to these arguments by pointing to the facts, verifiable and historical events, and to what remains unknown about the genocide. But they also wanted to bring to the fore the victims and the witnesses and how difficult it was for them to talk about traumatising memories.

---

33. Alexandra Bourgeot, Counsel for the prosecution, Closing statements, 12 March 2014.

34. Fabrice Epstein, Counsel for the defence, Closing statements, 13 March 2014.

The position held by the accused in a military structure was crucial. The prosecution and the civil parties were determined to prove that while the accused no longer had an official role in the army, he used the ambiguity surrounding his status to give orders. Using his de facto position of authority was crucial to his ability to make himself respected, give orders and move freely without having to provide explanations. Because de facto authority is even harder to prove than de juris authority, witnesses played a pivotal role, once again. Witnesses described in court Pascal Simbikangwa's behaviour during the facts that, in the end, led to his conviction.

# Conclusion

The FIDH and the LDH welcomed the Pascal Simbikangwa trial and the quality of the statements and arguments delivered before the Paris Criminal Court. The French judicial system was able to demonstrate how extraterritorial jurisdiction and the efforts made to render justice had enabled France to depart from impunity and cease to be a refuge for heinous criminals: anyone suspected of having committed crimes in the Rwandan genocide can be held to account before a court. The FIDH and the LDH believe it is important to recall the importance of informing victims that this type of trial is possible in France.

The trial will remain historical because it was the first time that someone was judged for the Tutsi genocide in Rwanda and because it was the first full-scale, and well conducted, test of the specialised division created in France.

Finally, the Pascal Simbikangwa trial – the appeal is to be heard in 2015 – is the first of a series for crimes committed during the genocide in Rwanda. The FIDH and the LDH are civil parties in most of these cases.

# Annex. Schedule of hearings

Day 1 – 04/02/2014:	Presiding judge reads his report and the account of the personal and professional life of the accused.
Day 2 – 05/02/2014:	Julie LANDRY (personality evaluation, APCARS)
Day 3 – 06/02/2014:	Annie SOUSSY (medical expert), André GUIGHAOUA (sociology professor)
Day 4 – 07/02/2014:	Jacques SEMELIN (Director CNRS, Professor at the School of Political Science, Paris), Damien VANDERMERSCH (Belgian judge), Stéphane AUDOUIN-ROUZEAU (Historian), Hélène DUMAS (Historian)
Day 5 – 10/02/2014:	Jean-Pierre CHRETIEN (Historian), Colette BRAECKMAN (Journalist) + Jean-François DUPAQUIER (Journalist)
Day 6 – 11/02/2014:	Renaud GIRARD (Journalist), Antoine GARAPON (Judge), Jean-Philippe CEPPI (Journalist), Michel ROBARDEY (Colonel within the French army)
Day 7 – 12/02/2014:	Ndoba GASANA (former president of the Rwandan Human Rights Commission, Speciosa MUKAYIRANGA
Day 8 – 13/02/2014:	Filip REYNTJENS (historian), Françoise SIRONI-GUILBAUD (expert psychologist):
Day 9 – 14/02/2014:	Bertrand PHESANS (expert psychologist), Eric GILLET (Attorney, Belgian Bar), Frantz PROSPER (expert psychiatrist)
Day 10 – 17/02/2014:	Anatole NSENGIYUMVA (Head of Bureau G2, Military Intelligence), Johan SWINNEN, (former Belgian ambassador to Rwanda), Augustin IYAMUREMYE (Head of National Intelligence)
Day 11 – 18/02/2014:	Innocent BIGEGA (Agent for Intelligence Services, Rwanda), Faustin TWAGIRAMUNGU (former Rwandan Prime Minister)
Day 12 – 19/02/2014	Théophile GAKARA (Major in Gendarmerie, Rwanda), Sam Gody NSHIMIYIMANA (Journalist)
Day 13 – 20/02/2014	Venance MUNYAKAZI (Technician in printing works in Kigali), Michel KAGIRENEZA (Employee at school printing works)
Day 14 – 24/02/2014:	Théoneste HABARUGIRA (farmer), José KAGABO (Historian –Professor), Jean De Dieu BIHINTARE (farmer), Gaspard GATAMBIYE (farmer)
Day 15 – 25/02/2014:	Théoneste MARIJOJE (Professor), Valérie BEMERIKI (Journalist)
Day 16 – 26/02/2014:	Diogène NYIRISHEMA (security guard), Salomon HABİYAKARE (security guard)
Day 17 – 27/02/2014:	Jonathan REKERAHO (security guard), Emmanuel KAMANGO (security guard)
Day 18 – 28/02/2014:	Isaïe HARINTINWARI (security guard), Jean-Marie Vianney NYIRIGIRA (security guard)
Day 19 – 03/03/2014:	Célestin GAHAMANYI (Department head, Ministry of the Interior, Rwanda), Albert GAHAMANYI
Day 20 – 04/03/2014:	Michel GAHAMANYI, Pascal GAHAMANYI
Day 21 – 05/03/2014:	Martin HIGIRO (Merchant), Pierre Célestin HAKIZIMANA, Béatrice NYIRASAFARI
Day 22 – 06/03/2014:	Joël GASARASI, Protegestate PONZAGA (mechanic)
Day 23 – 07/03/2014:	Testimony from civil parties – Fabrice TARRIT (Survie), Alain JAKUBOWICZ (LICRA), and Alain GAUTHIER (CPCR), Dafroza GAUTHIER (CPCR), Bonaventure MUTANGANA
Day 24 – 10/03/2014:	Closing statements by civil parties – FIDH, Survie, LICRA
Day 25 – 11/03/2014:	Closing statements by civil parties – CPCR
Day 26 – 12/03/2014:	Closing statements by the prosecution
Day 27 – 13/03/2014:	Closing statements by the defence
Day 28 – 14/03/2014:	Closing Statement by Pascal Simbikangwa – Deliberations – Verdict

### Establishing the facts

#### Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### Supporting civil society

#### Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community

#### Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### Informing and reporting

#### Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



**Founded in France in 1898** during the Dreyfus case, **the French League for Human Rights (LDH)** defends the rights of the individual, fights against discrimination and undertakes the role of promoting political and social citizenship for all.

Currently, the LDH is campaigning for the abolition of restrictive laws relating to immigrants, for the regularisation of undocumented immigrants and for the right to vote in local elections for foreign residents. Along with the concept of social citizenship it fights against new forms of poverty and uncertainty. Attached to the defence of secularism against all fundamentalisms it defends the right to housing and healthcare for all and sexual equality. It denounces all forms of discrimination as well as police violence and fights for the observance of rights by the security forces.

With almost 9000 members and more than 350 departments, it operates using three complementary intervention methods: taking a stand and public actions; awareness, information and education; discussions, research and expertise.

#### LIGUE DES DROITS DE L'HOMME

138 rue Marcadet - 75018 Paris

ldh@ldh-france.org / Site internet : <http://www.ldh-france.org>

Téléphone : (33) 01 56 55 51 00 / Fax : (33) 01 42 55 51 21

#### FIDH - International Federation for Human Rights

17, passage de la Main-d'Or - 75011 Paris - France

CCP Paris: 76 76 Z

Tel: (33-1) 43 55 25 18 / Fax: (33-1) 43 55 18 80

[www.fidh.org](http://www.fidh.org)

Director of the publication: Karim Lahidji

Editor: Antoine Bernard

Author: Jérémie Kouzmine

Coordination: Delphine Carlens et Clémence Bectarte

Design: CBT



# FIDH represents 178 human rights organisations on 5 continents



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

# fidh

Find information concerning FIDH's 178 member organisations on [www.fidh.org](http://www.fidh.org)