

MEDIATION



Biannual
publication
of Fondation
Hirondelle

UNDERSTANDING THROUGH INFORMATION AND DIALOGUE



Focus on the facts

“Not only must Justice be done; it must also be seen to be done.” Journalists play a crucial role in upholding this often cited imperative, which emphasizes that justice should not only be served but must also be transparent and visible, ensuring trust in the fairness of the legal system.

Journalists act as watchdogs, reporting on the administration of justice, helping the public understand the facts and nuances, and holding authorities and institutions accountable for their actions – and for their inactions.

In the case of transitional justice, this is no easy task. It involves grasping complex legal issues and making them accessible to audiences, sometimes in the face of threats and intimidation. The mechanisms of justice are often slow, making it a challenge to sustain public interest over a long time. Not least, reporting such cases can involve bearing witness to the impacts of some of the worst human atrocities.

Fondation Hirondelle has the benefit of housing a team of highly experienced specialists in this field, in the form of our media Justice Info. As well as reporting on cases around the world, the team helps equip local journalists with the skills to cover issues for their audiences, be it in Colombia, Ukraine or the Democratic Republic of Congo. Impartiality is, as always, the cornerstone of our approach. Even when faced with the most appalling crimes, including those affecting their community, the journalist, like the judge, must focus on the facts.

Jacqueline Dalton, Head of Editorial Content at Fondation Hirondelle

Trial of a Russian Sergeant on charges of war crime at the Court of Appeal in Kyiv, on May 20, 2022. © Yasuyoshi CHIBA / AFP

MAKING SENSE OF INTERNATIONAL AND TRANSITIONAL JUSTICE

With the wars in Ukraine and the Middle East, international criminal justice is back in the headlines. It had its golden age 30 years ago with the creation of international tribunals. Today, international justice procedures have become more complex, including non-judicial mechanisms for truth-seeking and reparation. They are constantly evolving, and it is up to the media to help people understand them.

Created at Nuremberg in the aftermath of the Second World War, international justice – which tries the most serious crimes, such as war crimes, crimes against humanity and genocide – has evolved considerably over the last few decades. Today it involves not only legal proceedings, but also the search for truth, reparations and the duty of remembrance.

The UN criminal tribunals in The Hague and Arusha, set up in the 1990s and both relatively remote from the societies where the crimes were committed, have been succeeded by “special tribunals” (Sierra Leone) or “special chambers” (Bosnia, Cambodia) located in these countries. National courts, which are often more agile, have also dealt with international

crimes, whether they are located in the countries where the crimes were committed (DR Congo) or in third countries exercising “universal jurisdiction” (e.g. Germany, France, Senegal...). And as the International Criminal Court slowly got under way to deal with these issues on a permanent basis, complementing national courts, a number of South African-style truth and reconciliation commissions were set up around the world to rule on mass violence, with the main aim of getting victims and perpetrators of the crimes to talk, establishing the facts, repairing the effects of the violence and preventing it from happening again.

Fondation Hirondelle has tried to play its part in this story, as we are convinced that providing understandable information on these complex issues helps the people and societies concerned rebuild their lives. The Hirondelle News agency, which we set up on the premises of the International Criminal Tribunal for Rwanda in Arusha, has been succeeded by Justice Info, a multilingual website that covers international and transitional justice processes worldwide over the long term. This field continues to evolve more than ever: trials for serious human rights violations no longer spare companies, which are being called into question for destroying the living environments of certain peoples. At the same time, truth commissions are expanding to cover new issues such as sexual abuse in the Church and reparations for formerly colonised peoples. This issue of Mediation situates our media work within this history of international and transitional justice and explains why, in a world riddled with conflict, we feel it is more important than ever to help the public understand them. ■

Interview



UNDERSTANDING MASS VIOLENCE TO PREVENT IT RECURRING

Relatives of five youngsters murdered during mass violence in Colombia, pose with their portraits. House of Memories of Conflict and Reconciliation, Cali, October 2020. © Luis ROBAYO / AFP



Thierry Cruvellier is editor of **Justice Info**, a **Fondation Hironnelle** media outlet that covers justice initiatives in countries facing the most serious forms of violence. “For justice to be done, it must be seen” is **Justice Info’s** motto.

You have been covering justice processes around the world for nearly 30 years, particularly trials for crimes against humanity. Why this fascination?

Thierry Cruvellier: In the early 1990s, I was working as a reporter in Sierra Leone and Rwanda. The genocide of Tutsis in Rwanda that started in April 1994 changed my whole professional and intellectual life. I wanted to follow the first trials of the International Criminal Tribunal for Rwanda (ICTR), set up by the UN in November 1994 and based in Arusha, Tanzania. I went to Arusha for five weeks and stayed for five years. For our generation of journalists, these trials, like those of the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, were the equivalent of the Nuremberg trials. We were witnessing a major development in international criminal justice. The international community seemed to be saying that justice was

key to lasting peace in societies torn apart by mass murder. Several bodies were successively created, with a regional scope or a universal vocation, such as the International Criminal Court (ICC). Assigning individual criminal responsibility for certain serious acts that contravene the norms of international law also became a geopolitical issue. There are political and diplomatic strategies revolving around these judicial institutions.

Since then I have covered numerous justice processes around the world, especially for crimes against humanity (Sierra Leone, Bosnia-Herzegovina, Cambodia, Colombia, Chad). International criminal justice and transitional justice have become my field of work. Covering these international trials allows you not only to observe developments in international law and politics, but also to take a reflective look at human society from different perspectives: historical, thanks to eyewitness accounts; psychological, if we want to understand mass violence; and philosophical with regard to notions of punishment, forgiveness and reconciliation. It’s an infinitely rich field for a journalist. The trial of one individual can reveal the wider picture, complex and traumatic, through what happened in one life.

What are the specific constraints of a journalist working on these issues?

Journalists working on international and transitional justice are subject to the same ethical imperatives as all journalists: independence, clarity, accuracy and impartiality. But the degree of

vigilance and rigour needed with regard to these imperatives is sometimes very high, for several reasons. First, you have to read up intensively on the history of the conflicts, which are often complex and take place in countries far from the journalist’s cultural origins. You have to read up on the law and legal procedure, which are also complex and may be used by the courts to mask their own weaknesses. You also need not to be overwhelmed by empathy, even if empathy for the victims seems natural. You must not allow yourself to be overwhelmed by the extremity of the charges, nor too impressed by the institution judging them. When dealing with this extreme violence and the individuals accused of participating in it, there is a great risk of forgetting the presumption of innocence. Journalists must pay particular attention to listening to all the parties involved, including the defence, whose voice is often the least audible in this type of trial. Like all judicial institutions, especially on an international scale, these courts are places of power: they are never immune from producing injustices or miscarriages of justice. What’s more, they operate in a kind of democratic desert, since they are usually far removed from the societies where the crimes were committed (ICTR in Arusha, ICTY and International Criminal Court in The Hague) and lack the traditional checks and balances. Journalists must therefore be particularly attentive to the fact that covering international justice is always about democracy.

Assigning criminal responsibility in mass crimes is a geopolitical issue

Covering international justice is always about democracy

Which media cover these international and transitional justice proceedings best?

Covering trials is a long-term job. To follow a trial with a sufficiently detailed understanding, you have to be there all the time, for months or even years. It is often media operating as NGOs that provide this coverage, rather than general media that lack the time and resources. So it's the NGO media that has provided detailed and long-term coverage of international trials.

In this context, the stronger the national press is, the more likely it is that international trials will be covered. Through their knowledge of the country, national journalists not only provide a critical and analytical view of the trials in progress, but also do a better job of publicising their country's judicial decisions. The national media can exert more pressure to make the trials public, thereby compensating as well as they can for the democratic deficit from which the international courts suffer.

Justice Info is conceived as an interface between the local and the international

At Justice Info, we work exclusively with correspondents. Our media is conceived as an interface between the local and the international, and is aimed at both these audiences. Hence the importance I attach to the work of our correspondents, who have made a long-term commitment to the transitional justice processes in their countries – including Olfa Belhassine's coverage of Tunisia's Truth and Dignity Commission on human rights violations committed by the state after the 2011 revolution; Mustapha Darboe's work on the Gambian Truth, Reconciliation and Reparations Commission dealing with human rights violations that occurred after the dictatorship in Gambia; and the work of Andrés Bermúdez Liévano on the extraordinarily complex and ambitious transitional justice process that is still underway in Colombia (see box). Their articles have provided readers with a real understanding of these processes that is hard to equal.

What are the latest developments in transitional justice and how do they impact your work?

Unlike 30 years ago, serious violations of international law are no longer a niche issue. They are now front-page news in the mainstream media, as is currently the case with the conflicts in Ukraine and Israel/Palestine (see box). At Justice Info, we try to provide a link. Our starting point is the perhaps naïve but fundamental idea of international justice: an atrocity that defies human dignity in one part of the world actually concerns all of humanity. In our articles, we try to highlight what resonates from one crime to another, from one country to another, from one judicial process to another, in order to give an understanding of this violence – our modest way to help combat it, and end this eternal repetition.

Transitional justice no longer concerns only post-war situations or the end of a dictatorship. The central argument of human rights violation is now being used by numerous NGOs that are taking actors like multinational companies to court for their responsibility in climate change and other environmental destruction. The issue of reparation for colonial crimes, including the restitution of goods looted from colonised societies, has returned to the forefront.

Several truth commissions have also been set up on these subjects. The issue of indigenous peoples – victims of colonisation and the destruction of their living environment by land grabbing, industrial extraction or intensive agriculture – is at the heart of this renewal of international and transitional justice. More often than not, the responsibility for contemporary violence now lies with actors in the North, not just in the South. This doesn't change the journalist's job per se, but our network of correspondents needs to be constantly expanded to keep up with these dynamics.

The subjects of international and transitional justice are constantly evolving, and respond to public expectations. We have to adapt to them and anticipate them. Violations committed by extremist groups, religious institutions, gangs and police violence are, for example, real issues that we will have to deal with in future publications. ■

Colombia: an unprecedented transitional justice process

Since the peace agreements signed in 2016, a transitional justice process has been underway in Colombia that is unprecedented in terms of its scope and the variety of mechanisms. This "Integral System of Truth, Justice, Reparation and Non-Recurrence" is working on the armed conflict that pitted the government, joined by paramilitary militias, against the Revolutionary Armed Forces of Colombia (FARC) for nearly 60 years. Its aim is to establish the facts about the immense violence that characterised this conflict, to encourage forgiveness, to offer reparations to the victims and, finally, to prevent any recurrence.

The Special Jurisdiction for Peace (JEP), the judicial arm of this transitional justice process, prosecutes and punishes perpetrators of the "most serious" crimes who refuse to submit to justice and obstruct the reconciliation process. These people are suspected of war crimes and crimes against humanity, including murder, torture, rape and mass kidnapping. The work of the JEP is still ongoing. At the same time, a Truth and Reconciliation Commission has interviewed over 28,000 people in 23 countries over a three-year period, mainly from rural, indigenous and Afro-descendant communities. This commission, which delivered its final report in June 2022, recorded 450,664 murders (with a high estimate of 800,000), 50,770 abductions, 121,768 disappearances and 7.7 million displaced persons between 1985 and 2018 alone.

In a polarised political context, this extremely ambitious, complex and multifaceted transitional justice project combines trials, the search for the truth, reparations, land reforms, rights of indigenous populations, searching for the disappeared, the reintegration of ex-combatants, reconciliation initiatives and remembrance work.

Ukraine and Israel/Palestine: two-speed international justice

Since its invasion by Russia on 24 February 2022, Ukraine has not only defended itself militarily, it has also shown remarkable mastery of justice tools against its aggressor. The case was immediately referred to two international courts in The Hague, Netherlands: the International Court of Justice (ICJ), which settles disputes between nations, and the International Criminal Court (ICC), which rules on individual responsibility for serious human rights violations. It was also taken up by a regional court, the European Court of Human Rights (ECHR), national justice systems in the West (Germany, Poland, the three Baltic States, Spain, Sweden, Slovakia and Switzerland), which can act under the principle of "universal jurisdiction", and United Nations bodies with investigative powers such as the Human Rights Council. And we should not forget, of course, the resources deployed by Ukraine's national justice system under its Prosecutor General. The most spectacular results of this judicial activism are the ICC arrest warrants issued on 17 March 2023 for Russian President Vladimir Putin and his Children's Rights Commissioner Maria Lvova-Belova for the war crime of "illegal deportation" of Ukrainian children.

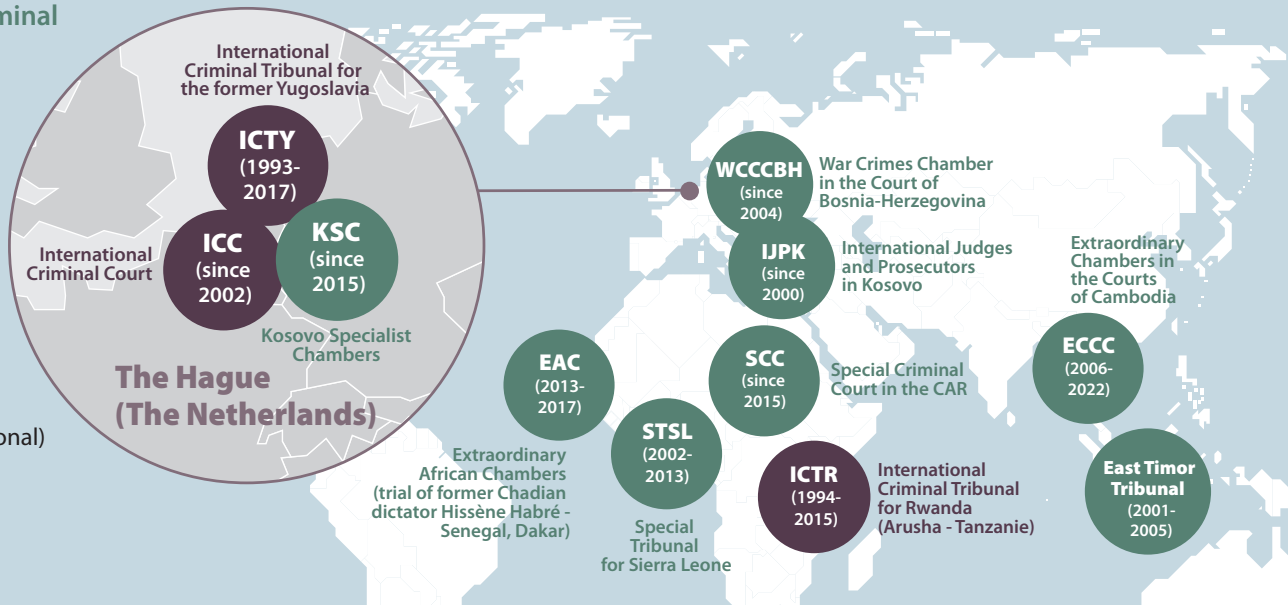
In Israel/Palestine, another current conflict of high intensity, international justice efforts appear to be at a standstill. Given the violence in the region, there is growing criticism of the ICC Office of the Prosecutor's slowness and lack of information about its investigations. Launched in 2021, the ICC probe into all serious human rights violations committed on all sides since June 2014 has yielded no concrete results. With less than €1 million per year, the ICC budget allocated to the Palestine investigation is rather low on the scale of resources allocated for an investigation, despite this being such a vast, complex and persistent situation. No arrest warrant has been issued to date, despite several statements by the Office of the Prosecutor describing as international crimes attacks by Palestinian armed groups against Israeli civilians, the deployment of Israeli settlers in the West Bank, or bombings by the Israeli armed forces.

Big Data

International tribunals mainly in Europe and Africa

International criminal tribunals and hybrid tribunals (1993-2023)

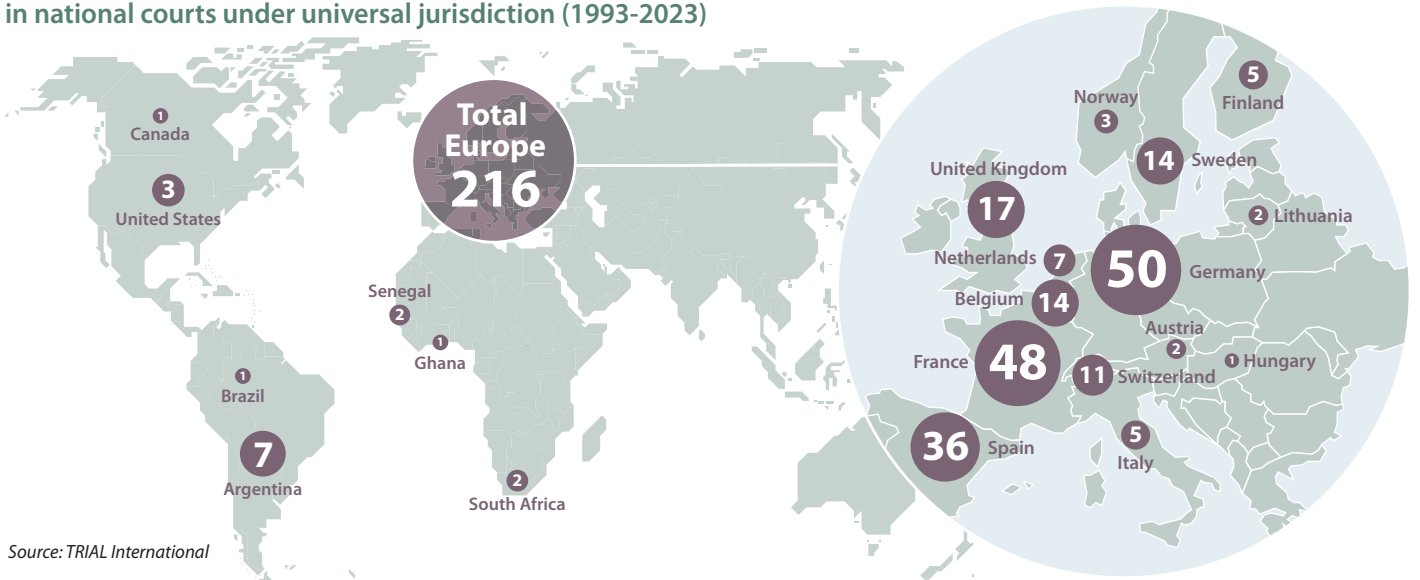
- International criminal tribunals
- Hybrid criminal courts (national / international)



Source: Justice Info

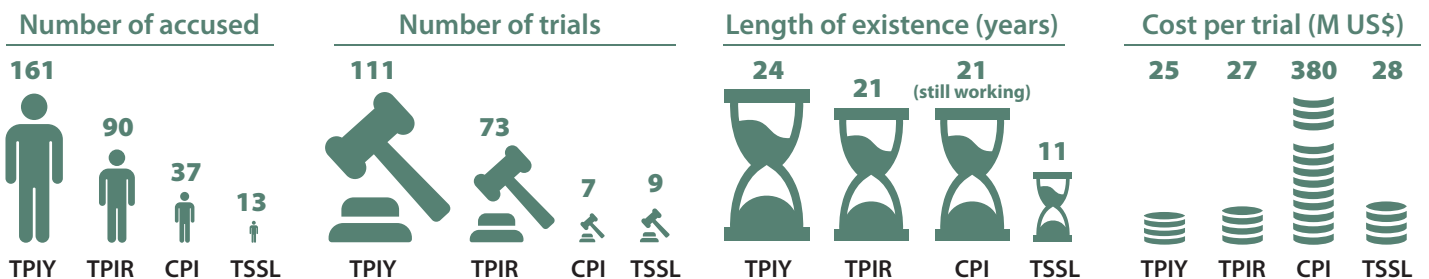
Europe, main place where national courts are using universal jurisdiction

Investigations or prosecutions for international crimes, closed or ongoing, in national courts under universal jurisdiction (1993-2023)



Source: TRIAL International

International criminal justice: long and costly procedures



Source: Justice Info

Our experience



LINKING
OUR DUTY TO
INFORM WITH
THE NEED TO
BRING JUSTICE



Caroline Vuillemin, Executive Director of Fondation Hironnelle, talks about the Fondation's journalistic work to ensure that societies affected by crimes can understand the work of international and transitional justice.

What media work has Fondation Hironnelle done on international justice since it was set up in 1995?

Caroline Vuillemin: The history of Fondation Hironnelle is closely linked to the development of international justice, which has been ruling on serious human rights violations since the mid-1990s. Created in the aftermath of the genocide of Tutsis in Rwanda, the Fondation first set up a radio station in Bukavu (DR Congo) for the victims and displaced persons of the genocide. Then, in 1996, it launched the Hironnelle News agency in the building of the International Criminal Tribunal for Rwanda

First public hearing of the Special Criminal Court (SCC) for the Central African Republic, on 17 December 2021 in Bangui. © Maxence Helen

(ICTR) in Arusha (Tanzania) to cover the ICTR for the local media. Hironnelle News published dispatches in Swahili, Kinyarwanda, English and French, the four languages used by Rwandan victims and displaced persons. It has also trained dozens of African journalists in the specifics of international justice.

Fondation Hironnelle's statutes provide for it to intervene in countries experiencing serious crises, and its media outlets have publicised the international court processes in their countries: Radio Blue Sky in Kosovo (1999-2000), Radio Ndeke Luka in the Central African Republic (CAR), Radio Okapi and then Studio Hironnelle in the DRC. To make accessible international justice, which is both highly technical and geographically remote (The Hague in the Netherlands), we have made it a point of honour to provide information in the language of our listeners and to give a voice to the people who are the most affected. We also developed a partnership with the ICC when it was investigating crimes committed in DR Congo and the Central African Republic, so that it could speak on our radio stations, explain its work to as many people as possible and identify local journalists to work with.

Journalism is the intermediary between an often highly complex judicial process and the public

Why has Fondation Hironnelle taken an interest in these issues?

Created in the aftermath of genocide, Fondation Hironnelle has put human dignity at the heart of its motto ("Media for peace and human dignity") and its actions. After such crimes, there are few ways of restoring dignity to the victims and all those affected. Justice can help by naming the violence, acknowledging the crimes, convicting those most responsible and making reparations where appropriate. Journalism helps to publicise this work. It is the intermediary between an often highly complex judicial process and the public.

International justice has developed a lot in the last 30 years. What are Fondation Hironnelle's current priorities in this area?

Fondation Hironnelle's priority is to respond to the needs of the people. When the ICTR closed at the end of 2015, we asked ourselves what should be done with our accumulated media experience in international justice and human rights. So we created a new media outlet, Justice Info, which focuses not only on international criminal justice but also on the whole range of so-called "transitional justice" processes that are more centred on the notions of truth, remembrance, reparation and non-repetition. Unlike international tribunals, these processes enable people to engage in dialogue and build a shared future. Through media coverage, we make sure that people are involved in these processes. We provide the link. ■

Eyewitness

FACILITATING MEDIA ACCESS TO TRIALS

Daniele Perissi heads the Great Lakes programme of Swiss NGO **TRIAL International**, which helps victims of international crimes obtain justice. He explains how international justice and its relationship with the media are being reinvented in DR Congo.

With the ICTR and the International Criminal Court's (ICC) investigations in DR Congo, the Great Lakes is a region where international justice was very active until the mid-2010s. Is this still the case today?

Daniele Perissi: Yes, but given the slowness of the ICC's investigations, it is the Congolese military justice system that has recently taken up several international crimes, with inventiveness and efficiency. In September 2021, the Military Court of South Kivu sentenced a militia leader to life imprisonment for mass crimes, including environmental crimes in a case of exploitation by terror of natural resources in the Kahuzi Biega National Park, a UNESCO World Heritage Site. It also convicted him of the environmental crime of destroying a protected area. Six months earlier, the Congolese military courts had sentenced to life imprisonment a commander of the armed group Kamuina Nsapu who committed war crimes in the Kasai between 2016 and 2019. The judges awarded reparations to the 232 declared victims, and acknowledged that the Congolese state also bore some responsibility because it had not done enough to protect the civilian population. And in 2017, Congolese military justice sentenced 11 militiamen to life imprisonment for some 40 rapes committed between 2013 and 2016 on young girls aged between 2 and 12 in the village of Kavumu (South Kivu). The court found that, although scattered over time, these crimes were linked and constituted a systematic attack against a civilian population, qualifying as a crime against humanity.

These trials take a very particular form, with mobile courts. The hearings do not take place in the courthouse of a major city, but in the areas directly affected by the crimes on trial. In other words, the



Daniele Perissi © Patrick Gilliéron Lopreno / Trial

entire military court, with its prosecutors, court clerks, lawyers and defendants, travels as close as possible to the victims.

TRIAL International supports the victims of these crimes. What do you expect from the media?

While they have the advantage of being as close as possible to the victims, mobile court trials have the disadvantage of being held in inaccessible locations, far from the major cities and therefore from Congolese journalists. We therefore inform them and facilitate their access to the trial sites, so that they can produce reports and the trials can be understood by the whole population. The international media also play an important role. In the Kavumu case, it was a well-documented article in the US bimonthly Foreign Policy that prompted the Congolese government to open a national inquiry, when it was seeking instead to turn a blind eye to these crimes to stop being labelled "rape capital of the world".

Trials are sometimes held far from the country. Former militia leader Roger Lumbala, for example, is soon to be tried under the "universal jurisdiction" of French courts for his responsibility in the 2002-2003 deadly "Effacer le tableau" campaign in eastern DRC. We intend to work closely with the international and national media to enable the Congolese people - especially indigenous populations like the pygmies of the Ituri district who were particularly affected by these atrocities - to follow this trial and be informed about crimes that have never been officially recognised in the DRC. ■

Fondation Hironnelle is a Swiss non-profit organization which provides information to populations faced with crisis, empowering them in their daily lives and as citizens. Through our work, millions of people in war-affected countries, post-conflict areas, humanitarian crisis and societies in democratic transition have access to media that speak to them and give them a voice.

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Caroline Vuillemin

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Marek Zielinski

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Julia Crawford

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Avenue du Temple 19C
1012 Lausanne, Suisse

hirondelle.org
info@hirondelle.org
T. + 41 21 654 20 20

Support us:
Crédit Suisse Lausanne
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