

**EXTERNAL**

**AI Index: AFR 47/17/97**

**EXTRA 71/97**

**Death penalty / unfair trial**

**19 May 1997**

**RWANDALéonidas Ndikumwami, businessman**

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On 22 May, the case of Léonidas Ndikumwami, who was sentenced to death after an unfair trial on 20 January 1997, will come before the Court of Appeal in the capital, Kigali. Amnesty International fears that the Court of Appeal may confirm the death sentence and that Léonidas Ndikumwami may be executed after an unfair trial.

Léonidas Ndikumwami, a 50 year-old businessman, is a Burundi national but had been living in Rwanda since 1972. He is amongst the first of thousands of suspects to be tried for participation in the genocide and crimes against humanity which led to the deaths of as many as one million people in Rwanda in 1994. He was the seventh person accused of genocide in Rwanda to be sentenced to death.

Léonidas Ndikumwami's trial took place in the capital Kigali on 14 January 1997. He did not have a defence lawyer. A lawyer who was in court representing another defendant offered his services to Léonidas Ndikumwami but was told that he did not have the official authorization to represent him. His request for an adjournment to obtain the authorization was rejected by the judge. The trial proceeded without a defence lawyer and on 20 January Léonidas Ndikumwami was sentenced to death. Amnesty International considers his trial to have been grossly unfair as he was denied legal defence, a fundamental right in capital cases.

The official authorization for Léonidas Ndikumwami to be represented by a lawyer has since been granted. However, there are doubts about whether legal assistance at the appeal stage can be expected to have a significant impact as the considerations of the Court of Appeal are expected to be largely based on the case file transferred from the Court of First Instance.

There are fears that the Court of Appeal may not take into consideration the unfairness of the trial which led to the death sentence. The Court of Appeal has already confirmed the death sentences of at least two other defendants accused of genocide whose trials were also unfair and who had not had access to a defence lawyer (see Urgent Action 02/97, AI Index AFR 47/01/97, 3 January 1997, and updates). Under the Organic Law 8/96 governing the genocide trials, appeals may only be based on questions of law or flagrant errors of fact. The Appeal Court may therefore not consider the case in its entirety, including whether the defendant was granted his right to legal defence or whether his trial was fair.

It is not known when executions in Rwanda might take place. However, on 15 May 1997, it was reported that a decree had been issued, setting out some of the modalities for executions, indicating that preparations may be underway for executions to begin in the near future.

#### **BACKGROUND INFORMATION**

More than 100,000 people are held in prisons and detention centres across Rwanda, most of them awaiting trial on charges of participation in the genocide in 1994. Trials in Rwanda began in December 1996 and have continued throughout 1997. To date more than 40 people have been sentenced to death.

Amnesty International welcomes the commencement of trials, both in Rwanda and at the International Criminal Tribunal for Rwanda in Arusha, Tanzania. However, the organization considers that many of the first trials in Rwanda failed to conform to recognized international standards of fairness. Amnesty International also unconditionally opposes the use of the death penalty as a violation of the right to life.

In addition, Amnesty International is concerned that a significant number of the detainees awaiting trial, and possibly the death penalty, may be innocent: the organization has documented a pattern of arbitrary arrests in which the accusation of participation in the genocide has sometimes been used to justify arrest and imprisonment for other motives.

Léonidas Ndikumwami has protested his innocence throughout the case. Amnesty International is not in a position to judge whether he is guilty or innocent. However, one of the strongest arguments against the death penalty is that it is irrevocable. Once an execution is carried out, a mistake can never be rectified.

**RECOMMENDED ACTION: Please send telegrams/faxes/express or airmail letters in English, French or your own language:**

- reiterating that the trial of Léonidas Ndikumwami in the Court of First Instance in Kigali in January 1997 was unfair because he was denied legal representation, even though a lawyer present in the court had offered his services; reminding the authorities that the right to legal defence is enshrined in national and international law and that violation of this right is especially grave in death penalty cases;
- appealing for a re-trial of Léonidas Ndikumwami which would conform to internationally recognized standards for fair trial and in which he would be allowed the defence lawyer of his choice and adequate time to prepare his defence in consultation with his lawyer;
- adding that Amnesty International is unconditionally opposed to the death penalty for all crimes as a state-sanctioned violation of the right to life; urging that Léonidas Ndikumwami's death sentence be commuted, if confirmed by the Court of Appeal, and that he be given a prison sentence appropriate to the gravity of the crime.

**APPEALS TO:**

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**Salutation: Monsieur le Président / Dear President**

Minister of Justice

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**Telegrams: Ministre Justice, Kigali, Rwanda**

**Salutation: Monsieur le Ministre / Dear Minister**

Procurator General  
Monsieur Siméon RWAGASORE  
Procureur général  
Parquet général  
BP 2886, KIGALI, Rwanda

**Telegrams: Procureur Général, Kigali, Rwanda**

**Salutation: Monsieur le Procureur Général / Dear Procurator General**

**COPIES TO:**

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and to diplomatic representatives of Rwanda accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 16 June 1997.