



Voices from the Rwanda Tribunal

Official Transcript: Asoka de Silva (Part 9 of 9)



Role:	Judge
Country of Origin:	Sri Lanka
Interview Date:	5 November 2008
Location:	Arusha, Tanzania
Interviewers:	Donald J Horowitz Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Asoka de Silva describes the challenges of coming from a common law background to the ICTR hybrid system that incorporates both common and civil law traditions. He notes that despite stark differences, the two legal traditions share a common goal: the impartial administration of justice. De Silva reflects that while the Tribunal might have benefited from being located in Rwanda, this could have compromised the possibility of fair trials. De Silva comments on the process of convicting and sentencing defendants.

The transcript of Part 9 begins on the following page.

Part 9

- 00:0** **Robert Utter: If you could give advice to people in the future who are putting another tribunal together, is there anything that you would recommend to them to prevent some of the problems that you see here? Delay, costs?**
- 00:18 Yeah, this is a costly affair, because most of these cases I think, almost all the accused have, they are getting counsel free. There is no grudge for that because they must be defended by somebody and I think if we can do this in the sh-, shortest minimum time, with less e-, expense I think . . . now I think they are spending very little on the court.
- 00:58 But to maintain the other staff it's going to cost, it's costing more, I think.
- 01:05** **RU: Yes.**
- 01:07 Because, and without them also you can't run (___), you must have people to get down the witnesses, to do the investigations. So those things, we have to have people and you have to pay them.
- 01:22** **RU: It's unavoidable, unavoidable once you start . . .**
- 01:24 Yeah, yeah, you can't avoid that, yes.
- 01:26** **RU: Once you start the snowball rolling downhill, it's just . . .**
- 01:27 Yeah. That's right. So, unless you can fix it, fixing a timeframe is also a little difficult because . . . but if you can't start the cases early and finish them, I think like in local jurisdiction. Here as I (___), in our country, of course, sometimes when you start a murder case you go to a finish day to day. And there, there is no system of allowing defense investigations, investigators to do the defense.
- 02:08 It is the police who do the defense work also. They record all the statements and then that is there, so Prosecutor also knows the defense witnesses, defense also know and there is an obligation on the Prosecutor also to disclose what is material to the defense. So that way our methods is quicker. So I don't, that is why I said that they must evolve some sort of method to quicken the process.
- 02:39** **RU: Your method in Sri Lanka . . .**
- 02:40 It's the same as in Eng-, England, common law system methods.
- 02:42** **RU: Yes, yes. Have the troubles in Sri Lanka had any effect on your reactions to your service here?**

- 02:54 Here.
- 02:55 RU: Yes.**
- 02:54 For, for – yeah, no, no, no, not that one because in the Supreme Court we deal with most of these fundamental rights, or human rights cases. The on-, the only jurisdiction there is a Supreme Court, there is a Human Rights Commission. Apart from that, I think mostly come there.
- 03:18 RU: Judge, you’ve been very helpful.**
- 03:20 Yes because we have to keep abreast with the latest developments.
- 03:25 RU: And how long is your present term then? Until these matters are completed?**
- 03:31 Here?
- 03:31 RU: Yes.**
- 03:32 Till 2009 I have been given, but I am not going to take any more cases. I want to finish the case that is in hand and then revert back.
- 03:44 RU: Thank you, sir. Pleasure to be with you.**
- 03:45 Thanks, thank you very much.