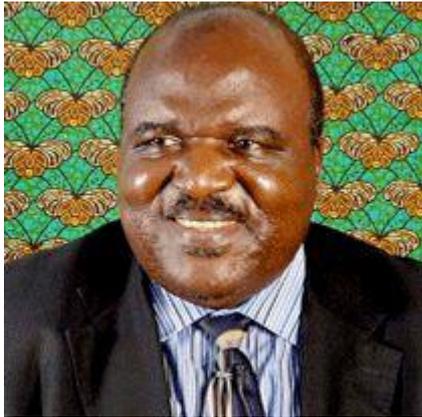


Voices from the Rwanda Tribunal

Official Transcript: Alfred Kwende (Part 6 of 6)



Role:	Acting Chief of Investigations
Country of Origin:	Cameroon
Interview Date:	28 October 2008
Location:	Kigali, Rwanda
Interviewer:	Lisa P. Nathan
Videographer:	Nell Carden Grey
Interpreter:	None

Interview Summary

Alfred Kwende contrasts investigating small-scale crimes in domestic jurisdictions with the unique challenges of investigating crimes against humanity and acts of genocide in Rwanda. He explains the process of selecting ICTR cases and how the investigation process has evolved over time. Kwende discusses his frustrations at the lack of properly trained investigators selected by the ICTR at its inception. He also reviews the difficulties associated with capturing and arresting accused individuals and ensuring cooperation from other states.

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Part 6

- 00:00 **Lisa P. Nathan: Before we finish up, is there anything that, that you would like to share that we haven't touched on today? I know that you are a wealth – you could talk for and have so much to teach us, but we are limited in, in the time we can take of your day, but is there anything that you have been thinking of or that came up during, while you were talking that you would like to tell the world, tell the future?**
- 00:27 Well, I wouldn't – like you've rightly said, if I started talking maybe I could spend a whole day talking about some of the things we've gone through here, but as a tribunal I think we haven't achieved our goal.
- 01:00 We may, they may close the tribunal someday; I'm not too certain that all the fugitives will have been arrested. If they are not arrested then the purpose for which the tribunal was created, may not be fully met. There will still be, it was meant to challenge impunity, it was meant to produce reconciliation within the Rwandan community.
- 01:31 We have done a bit of all that but as long as some people are left to run around on account or not brought to account for what they did, there'll be a problem. Rwanda left to itself may not meet those goals completely.
- 01:55 We've met a lot of challenges in the area of cooperation where the issue of extradition has been brought to our face, waved in our face, notwithstanding the fact that this United Nations where Chapter 7 creation of United, of Security Council, which waives most of the other diff-, the other things which other countries may have. We don't have to, we don't need a bilateral agreement with any country for cooperation. We have standard areas, standard text that should bring every country to cooperate.
- 02:31 If we are having difficulties at our level to get those c-, most of those countries to cooperate, I wonder how much Rwanda will go through. Rwanda will face real, real difficulties for reasons one or the other, where the main challenge, Rwanda the main challenge is rules. Rwanda has done a lot of things to try to harmonize its (___) to create a convivial environment for trial.
- 03:00 They may lack capacity. They may lack infrastructure but that can be done. Capacity would take time to build. They may even lack credibility because they will accuse them of a justice of, of a victor. Okay, but these are issues which the tribunal ought to have resolved but also the tribunal cannot stay there, there eternally.
- 03:29 Having created the International Criminal Court, it should play its role, but unfortunately, the crimes committed in Rwanda do not fall within the competence of the International Criminal Court either. So, to me, that's an area of regret.
- 03:49 Now having to work in Rwanda has been, at our tribunal has been a challenge somehow. Challenge in that most of the tribunals ha-, have all their components put together or at least nearest to the crime scene as possible. At ICTR we have the court created and established in Arusha, far away from Rwandan people and most of their complaints are that they don't seem to see the justice being done.

- 04:25 Evidently, we've tried to overcome that by creating an outreach program that brings them in to know what we're doing. But between what you see it is and what you feel, there's a diff-, there's a gap.
- 04:40 Now the investigation section, we are on the ground here in Rwanda, while the main office is in Arusha. The difficulties we face here often are not very much felt in the same way by those in Arusha. There are times when we've actually come almost close to conflicts. The Rwandan people, it took time to build confidence and to build cooperation.
- 05:08 Even Rwanda, who saw us or saw the tribunal, even though they asked for it to be created, as a body that was not going as fast as they would have expected, that was consuming too many, too much money. And yet, if justice had to be done conveniently, what we spent here has been more than fully accounted for.
- 05:39 On particulars I mentioned the issue of language earlier. We have to deal with middlemen or third parties who are interpreters. Kinyarwanda is not a language accessible to most people. Even where accessible there are still subtleties which would have to learn as home spoke, as a home speaker. So the interpreters are an indispensable tool of communication.
- 06:09 I have learned in practice, having managed interpreters for a while, for quite a long while, that it's difficult sometimes to find an uni-, uninterested person among the Rwandan people. So some of the interpreters have been known to deform what the witnesses say, so we've learned techniques of how to detect some of the deformation.
- 06:40 But without being home speakers, you can be the best psychologist, you may not be able to read on the faces of those who are contravening that they are actually doing so. And so sometimes we'll find ourselves, well it is hard to go right to court for the witness to denounce the interpretation, "That is not what I said. I thought that guy was saying a different thing."
- 07:05 You have suspicion even amongst the witnesses who, if they don't see somebody from their ethnic configuration interpreting, they think they will be biased. Some of them are just revolted talking to them.
- 07:19 We have to try to convince them because we will not get all components, or shades. In fact, the United Nations body which should not have been looking for people of the same shades because they will not probably be telling, they'll be telling the story through their own prism without re-, without bringing out the facts that the court would like to get.
- 07:39 So, to me that has been a real, real challenge doing investigations, that area. And, of course, I mentioned earlier that it took us time to build staff; we had to go fast, we didn't have time to train people. We got inve-, later we only got trained investigators, sometime two, three years into investigations and when you do bring them in, you

don't know whether you need to do the work faster to get the results or train the investigators.

08:12 We've done a bit into training them and they've picked up the rest doing the job. There were times in Rwanda here where when we sti-, when the tribunal opened, we were still exposed to insecurity. There was a war in Congo, a war in Burundi and there was the militia right in here. To go do field investigations under the conditions of a secure United Nations, if you're in phase three you need to have a military escort to go to the field.

08:52 Some point we were even under a curfew, we could not go out after a certain hour and this had their own impediments. A witness should be protected, shouldn't be known to be a witness because then it exposes his or her own life, to insecurity. Now you're going to an area opened up by security escorts. By the time we finished talking to a witness, neighbors know that the, the tribunal was there to take statements and when you leave, what happens to that person?

09:27 Also, by virtue of desire for self-preservation some of them are, don't open up sufficiently. In an area you might have know-, you might know this, sexual violence was used in Rwanda as a weapon of killing, a weapon of degrading and destroying the Tutsi woman and so there was widespread rape, mutilation and so on. This have had their own secondary effects to this day in that some contacted disease which are life threatening.

10:12 We would close the tribunal someday. Not all those persons we contacted as witnesses were used in court. What would become of these persons since the structure only provides for those who have testified in court? That would be an issue of legacy or, I don't know, resid-, re-, residual concentration.

10:45 I think I can start, I can keep naming and naming, you have w-, you have a lot of things to think of, but that's where we are and all these areas can be further developed. In the area of tracking, we have a tracking, dedicated tracking team, they didn't come here as trackers. They've had to learn the trade. And as you learn the trade of tracking, so are the fugitives also developing new skills of evading arrest.

11:26 If we can't get these people by state cooperation or by some other cooperation or – there will be a day when they will go free and say, "Well, we can come out now under different names and go free."

11:39 We know we are being helped across the world, putting in place immigration procedures in the west but most African countries don't have those pro-, im-, immigration procedures so they can easily pass through any checkpoints without being noticed as these fugitives that are highly s-, sought for.

11:59 So you know, those are the various challenges, most are difficulties that will be met later on, at the office of the tribunal, a-, at the tribunal when, when it does close down.

I'm sure that if we had more time we could talk of many other issues that may come up in due t-, in due course.

12:22 LPN: I have a question. Do you plan on going into teaching?

12:28 Well I have not, I have not looked at that possibility as yet.

12:32 LPN: You should – I think you have so much; it would be quite an experience. Students could learn so much. Thank you so much for your time.

12:38 Pleasure, pleasure. Thank you too.

12:39 LPN: It was such a pleasure.