



Voices from the Rwanda Tribunal

Official Transcript: Beth Lyons (Part 7 of 13)



Role:	Defense Counsel
Country of Origin:	United States
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Location:	Arusha, Tanzania
Interviewers:	Batya Friedman Ronald Slye
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Beth Lyons highlights the importance of a fair trial for all. She discusses the politicization of ICTR prosecutions, particularly the failure to investigate war crimes committed by the Rwandan Patriotic Front (RPF). She states she has found no evidence of a plan to commit genocide by those accused by the Tribunal, which she views as a key difference between the events in Rwanda and the Holocaust. Lyons reflects on the inequity of resources between the prosecution and defense.

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Part 7

- 00:00 **Ron Slye: Well, why don't we start by talking about the completion strategy and the relationship or the effect of the completion strategy on your ability to adequately defend your clients?**
- 00:16 I think that the, the, the completion strategy sort of hovers over the tribunal in general. I, I, I can't speak, I mean, in terms of, of my case at this point I can't, I'm not going to claim there has been a particular issue in terms of my, my defense.
- 00:41 But I am aware that the, the, the completion strategy has, has sort of resulted in a push in a number of cases for witnesses, for whatever, whatever.
- 00:59 And that the completion strategy – but mostly I'm concerned about it because the completion strategy has come hand in hand with the issue of transfers. Really that's my concern about the completion strategy. What happens to the other cases? There were – the prosecution made a motion under 11bis to refer cases.
- 01:23 There were three cases of detained suspects and one un-apprehended suspect and there have been recently been three decisions where the c-, the, the, the judges denied the prosecution motions to transfer these cases to Rwanda. The prosecution in Munyakazi, which was a first decision, prosecution appealed the decision and the appeals court upheld that decision.
- 01:55 I think this is very significant s-, decision. I think the underlying trial chamber decisions are very important because it, it reflects the fact that Rwanda cannot give people, give these detainees particularly, a fair trial.
- 02:15 I mean, it's my own position that Rwanda has never stopped fighting the war. The RPF has not stopped fighting the war against the Hutus here or, you know, in Eastern Zaire, et cetera, but bottom line for the, the defendants at the ICTR, they cannot receive a fair trial.
- 02:38 The reasoning has been a little bit different in the decisions in the appeal decision but I think that on the whole, it's, it's just been very, very important. And, and that, that's the reality of the situation right now, and I think that that was one of the issues that concerned us about the completion strategy.
- 03:02 I also know that there was a, there was a former appeals judge, Judge Hunt at the ICTY, in a decision, an evidentiary decision in the Milošević case who, who talked about the fact that, that the defendant's rights should not be, should not, should not be overshadowed by the completion strategy and talked about that if this were to happen, and his words were, it'd be "a stain" on the tribunal, you know.

- 03:36 I think the tribunal and its legacy is extremely important. That's why I'm emphasizing the issue of prosecution of both sides which I believe has compromised the, the, the work of the tribunal itself.
- 03:55 And I think that, you know, that I often think to myself, you know I, I remember the opening statement of Judge Jackson in, in, in Nuremberg – which was also a victor's tribunal as this is a victor's tribunal objectively – who said, you know, "fair, in, in a victor's tribunal even, fairness is, is, is not a weakness."
- 04:17 And we should not, we, we should not pass a poisoned chalice – the denial of defendant's rights – to others and that we'll be judged by this. And I think that's true. I mean, and this, the issue of, of fairness, this is the issue to me which is central. And unfortunately the tri-, tribunal's about to close but, and the Prosecution Office is about to, I assume, close as well but in any case this is, this to me is a principle, principle flaw and a principle, a fundamental problem here.
- 04:53 RS: Do you think if you were, if you had the power to determine what happens from today forward with the ICTR,**
- 05:01 Right.
- 05:01 RS: . . . would you recommend that it stay in business until all of the cases are done and not do any referrals or do you think that there's a role, from, from referrals? I mean, how, how do you balance the concerns you've raised with the sense that the tribunal needs to eventually end?**
- 05:18 Well, I believe as with the, the debate around ICC and the issue of jurisdiction and the issue of, of referrals there, the key issue, the key issue is, is the referring country competent? And I think competency has to do with whether, whether the guarantees of fair trial, impartiality of ju-, judges, the presumption of innocence, conditions of detention, et cetera are, are, are mandated, are, are, are implemented as is mandated by international law.
- 05:57 I mean in the ICC the debate was () countries would shield, national jurisdictions would shield their, their own citizens. The, the point is that I think that a, a, a, you know, the issue is the competency and, and I think, I mean I believe Rwanda is an incompetent, un-, under, under Kagame's leadership, is an incompetent jurisdiction by, by that definition. So I certainly feel that it's, it's hard to argue against not just for ICTR but for any, any of these, these tribunals.
- 06:32 For me, tribunals can't go on forever. I mean there's also the possibility, I would think, I'm just, just thinking right this second, the cases could be referred to the ICC for example, which puts the cases as well as the mandate under a-, a independent but international organ.

- 06:53 That to me would be more in line with an international venue as opposed to a national, whatever the, whatever the country is, a national jurisdiction assume-, being assumed by, a jurisdiction being assumed by national, by the national, by country, by state party.
- 07:17 I mean that would be a possibility to me. It means certainly there, there, there, there, you know I, I applaud the excellent decision in, on, on exculpatory material Rule 68, (___) Rule 68 but the Lubanga decision and, and the appeal's affirmance of that, you know, and, and th-, and where they stressed, the appeals court and the trial chamber stressed the right of the chamber, not the prosecution to make the decision about what is exculpatory. But look, I think that's where the cases, send the cases to the ICC.
- 07:51 RS: What about sending them to some of the European countries that have voiced an interest in hearing some of them?**
- 07:57 In, in Rwanda, in, in ICTR cases?
- 08:01 RS: ICTR cases, right.**
- 08:02 Look, I mean, the prob-, the problem is this. I mean, I would say if, and we're talking about regions, maybe the cases should be sent to the African Court of Peoples and Human Rights because I think that the – clearly this region and the, and the people, the people who live in this region have a great stake, this whole region, whole country particularly Great Lakes region, in this.
- 08:32 But the key is, is to have a, you know it seems to me to send them to Europe makes no sense. I mean you're sending them in some cases perhaps to former colonial countries or current superpower status countries or – I, I don't, I don't want to go through every country, but in general, as a grouping, I mean I don't think Finland should judge or, or which wasn't a colonial country but Finland or Belgium which was, or France.
- 09:02 I mean, it doesn't, it doesn't make a lot of sense to me. You know, I certainly think there are judicial institutions with very long histories on this continent and that's not a decision for me to make but I think it's a decision which obviously should be, should be addressed here and at that certainly.