



Voices from the Rwanda Tribunal

Official Transcript: Charles Taku (Part 2 of 10)



Role:	Defense Counsel
Country of Origin:	Cameroon
Interview Date:	3 November 2008
Location:	Arusha, Tanzania
Interviewers:	Batya Friedman Ronald Slye
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Charles Taku discusses the failure of the ICTR to prosecute RPF members. He refers to a form of 'judicial genocide' through which Hutu victims are denied justice and the Tribunal perpetuates violence through impunity. He notes that the Office of the Prosecutor (OTP) should investigate crimes based on the acts committed rather than on ethnicity or political affiliation. Taku also discusses the controversial principle of joint criminal enterprise which he claims has been abused by the OTP to indict individuals without sufficient evidence.

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Part 2

00:00 **Batya Friedman: So how, how did that happen, how did you end up here at the ICTR?**

00:06 It was surprise. My name was not on the list of, of lawyers because I didn't know the procedure at that time. But after that case in Cameroon I came over here. And I said "Look" – I heard that sub-, subsequently, I heard that the court had been constituted – and I said "Look, let me have this experience, because this may well happen to us at some point in time as long as our problems subsist, and as long as the momentum is building that will lead to this."

00:40 "So let me come." So I came to Arusha and when I came here, I met one of the secretaries and I said, "Look, I want to know how to, one can, can become a lawyer here in these proceedings." So she got me some forms, "Fill these forms." I filled them and somebody signed and my name was put on the list. And I left here and went to Washington and I was in Washington for about three months.

01:06 And one day I got information from Cameroon that they were looking for me in Arusha. And that I'd been called upon to come quickly to be co-counsel for one of the accused persons. And when I came here, I didn't know anybody here in Tanzania apart from the (_____) here, and it was very, very exciting and I met the accused and I discovered that the accused was a former mayor.

01:36 He was no longer in command, he had no position and he was not as literate as the others would be. And I started working for him and sometimes in February, there was an interlocutory appeal that had been filed challenging his arrest and detention, because the defense at the time felt that the, the arrest and detention were illegal. There was no warrant and when they obtained the warrant for another person, they used that warrant to arrest him and he was brought here.

02:11 So the, the Lead Counsel withdrew from the case and the appeal chambers had indicated that they were going to come here two weeks thereafter to, to hear the interlocutory appeal. And they wrote to me and said, "Well, you have to be prepared. We're coming, we, we cannot postpone the session so you should prepare for the interlocutory appeal."

02:37 So I went on reading the transcripts and preparing the briefs and, and when I did the arguments and it was good, one of the judges, Judge (_____) was very impressed. Of course on the other side I had the, the Prosecutor with seven prosecutors, Carla Del Ponte herself. And the, and the advantage I had is that all the seven of them decided to, to argue the appeal and I found a lot of contradictions.

03:02 It was easy when the other, the other person got up, he contradicted the other person and that was the situation. In the end, the remedies I, I was seeking that he should be set free, we didn't get that, but we heard midway that (_____) the trial proceed.

- 03:20 If he's convicted, they should take into consideration the arrest, the illegal arrest and detention, and that should affect in the sentencing. And that is why I think at the end of the day that, that we benefited from that.
- 03:34 **BF: So when you first came to the tribunal and you wanted to participate here as a lawyer, did you clearly say, "I want to participate on the side of the defense," or did you, were you open to being both a prosecutor on the prosecution side and the defense? What, what was your thinking?**
- 03:54 My thinking was to be on the side of the defense and the reason is very, very clear. I already knew that there was some politics involved in the court by the f-, mere fact that the UN was present in Rwanda and they did nothing. And I knew that if the very UN should constitute a court to try the alleged perpetrators, they would try to hide their role or the role of the UN officers who were in the field.
- 04:22 I already knew and, or suspected this, and therefore I told myself, I went on the side of the prosecutor I'll be complicit in this. Let me be there so that I can have the opportunity to see through this case and see all the complexities of this case. See all the politics about that case. So in case that it happens again, I will be in a position from that (____) to be able to take part in trying to point out the, the politics of that.
- 04:53 It is this suspicion of the political intrigues that might have informed the creation of the court especially from the standpoint of the UN. And my suspicions were proved right thereafter, because the UN from inception, from the Security Council, from the Secretary General report, now characterized the conflict as an internal arms conflict, but you know this is a major component of war crimes.
- 05:26 The evidence now points otherwise. It points that Uganda was involved. It points even to the mere presence of the UN itself, some of its officials. Now which (_____) that they were trying to conceal, to pre-empt any attempt to litigate the role of the UN and that of some of the neighboring countries and some of the superpowers that were complicit in one way or other, either by commission or omission, to the thing that took place in Rwanda.
- 05:54 So my suspicions were right in that, although I didn't have the picture as this, but as evidence unfolded and people now feel more comfortable to testify (____). But the court cannot (____) finding because their hands are tied; the Security Council including the court, Secretary General, all they said was an internal arms conflict.
- 06:13 And of course ordinarily an independent court should be in the position to disagree with the Security Council – that in spite of your position that it's an internal arms conflict, the evidence points otherwise. Of course that's another issue.
- 06:29 It all depends if the judges themselves who are United Nations appointees, Security Council appointees from different member states, if they're bold enough to go that far. That's another issue but my suspicions exceptionally have been proved right.