



Voices from the Rwanda Tribunal

Official Transcript: Roland Adjovi (Part 10 of 10)



Role:	Senior Legal Advisor
Country of Origin:	Benin
Interview Date:	13 October 2008
Location:	Arusha, Tanzania
Interviewers:	Donald J Horowitz Lisa P. Nathan
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Roland Adjovi compares the structure of the ICTR to other international tribunals and describes the ICTR's broad mandate for establishing peace and reconciliation. Adjovi discusses his early aspirations to improve the ICTR. He reflects on a proud moment in the case of Michel Bagaragaza, a case expected to be transferred to Norway but held back because Norway had failed to implement the Genocide Convention into domestic law. This decision prompted Norway to enact new laws, thus improving its legal system.

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Part 10

- 00:00** Donald J Horowitz: **'Kay. One other question. Earlier, you were talking about the defen-, the defense. Would you structure it differently than this tribunal did and rather, you know, do it another way?**
- 00:19 I don't think that that's a major problem for the tribunal.
- 00:25** **DJH: 'Kay.**
- 00:26 Whether they are independent and attached to the Registrar or whether there is a specific organ for it, you just need professionals who knows their job and can do it properly and you need means, financial, to support them and give them what they need to defend the accused person properly.
- 00:52 Whether they are staff member or not, I can't see any serious problem in that so I will not change it. I will just make sure that the work is done properly.
- 01:03** **DJH: And, and, you also mentioned that in another tribunal, I think ICC but maybe I'm wrong, there was an office for victims.**
- 01:12 Yes.
- 01:13** **DJH: Tell us about what you think about that.**
- 01:15 I, I, I work in that office when I was at the International Criminal Court. This is something new for the international criminal courts in international criminal justice because at the ad hoc tribunal and at the Special Court for Sierra Leone, you have a prosecution and the defense. That's all.
- 01:35 While at the International Criminal Court, you could have the victim participating in the proceedings. That's innovative because you have what we call in civil law system a kind of third party – partie civile – involved. It's not exactly the same because for the International Criminal Court, the victim cannot be at the origin of a case.
- 02:07 It has to come from the prosecution with the confirmation of the indictment and so on. What I was not completely comfortable with is that you have a provision in the statute for the victim to participate but nobody has a clear understanding of what those victims will be doing in the course of the procedure.

- 02:33 Take one case. You take Lubanga. There were four victims who were – okay first, for a victim to participate he has to be recognized as a victim by a chamber. Then he has to be authorized to participate in the proceedings, and concretely the Appeals Chamber has considered that it's on a case-by-case basis. Not a case as an accused person, but on issue basis.
- 03:04 If the accused asked for release, the victim who has already been recognized as victim, will seek leave to make observation on that application. If it was denied by the trial chamber let's say and the accused lodge an appeal, he, the victim has to ask again for leave before the Appeals Chamber to make further observation.
- 03:30 If you look at the Lubanga case for the confirmation of the indi-, of the document containing the charges of it, of indictment, four victims were granted the right to participate in the hearing but the decision states clearly that they don't have to put any question to any witness. Any question they want to put, they have to put it to the bench and the bench will decide whether the question should go to the witness or not.
- 03:57 And it's funny. You have one instance where the, the, (___), the single witness called by the prosecution was recalling the way in which she took statement for various victims and it seems to one of the legal representative of the victim that one person the witness refer to was a relative of the victim so the legal representative asked for the floor to ask a question.
- 04:30 So the judge say, "What is your question?" So the lawyer put the question to the judge, "I want just to check whether the person they are referring to is a man or a la-, a lady" or just something simple. The judge looked at the party and say, "What is your view?" Defense objects saying, "There is no reason that this question should be put to the witness."
- 04:54 Prosecution say, "Oh you know, you can put it but I can't see any grounds. We'll not get any result." This took 15 minute discussion. The chamber adjourned and said after the break we'll give a decision. The witness heard the question already. So what – and then when we came back, the judge asked the witness to say, "Yes or no."
- 05:20 So you have victims, you allow them to participate but they are more like stand by, and you watch what is going on instead of really participating. So as far as people don't have a clear understanding of what the victims will be doing in the criminal

trial, I think it's not worth, but still, let's be happy about it and expect that things will improve.

05:47 DJH: 'Kay. Mr. Adjovi, thank you very much for your help . . .

05:56 Thank you.

05:56 DJH: . . . cooperation and learning.

05:58 Thank you very much.

05:59 DJH: Okay.