



# Voices from the Rwanda Tribunal

## Official Transcript: Ayodeji Fadugba (Part 6 of 9)



<b>Role:</b>	Chief of Information and Evidence
<b>Country of Origin:</b>	Nigeria
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<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Lisa P. Nathan John McKay
<b>Videographer:</b>	Max Andrews
<b>Interpreter:</b>	None

### Interview Summary

Ayodeji Fadugba discusses her role overseeing the management and security of evidence. She describes the ways in which information security has evolved at the Tribunal and differentiates between processes of collecting and storing evidence. She reflects on the ICTR as a method of 'crisis management' immediately following the events in Rwanda, but states that as details of particular cases unfolded, the ICTR's role in documenting events shifted. She reflects on her personal emotional response following the release of a judgment.

*The transcript of Part 6 begins on the following page.*

## Part 6

- 00:00** John McKay: Good morning, I'm, I'm John McKay. I'm a professor at Seattle University Law School and I am a former federal prosecutor in the United States and so I'm very interested in a lot of what you had to say. And I, I wanted to start by asking you about the nature of the evidence that has come in to you over time.
- 00:19** JM: You know I'm sure the investigators will provide statements; witness statements, their own statements of investigation. Can you talk about those and, and what types of evidence you have seen coming in over your time here?
- 00:33 We've had witness statements like you said. We, we've had materials given to us by other authorities in terms of investigations; their own investigations into the events in Rwanda. We have reports, we have for instance we'll have investigators' notes which are not necessarily part of the evidence but which by and large over the years have actually become disclosable even though they are covered by the rules against disclosure.
- 01:09 But we've had a lot of decisions that mandate us to disclose it in terms of investigators notes to the defense. We have – like I said we have reports. Then we've had ( ), seizures, things that were seized from the accused, artefacts, for instance, audi-, videos, audios and videos. The video collection is mostly of witness interviews or sometime-, sometimes things we seized from the accused at the time of arrest.
- 01:43 Then we have all the tapes from Radio Rwa-, a lot of tapes from Radio Rwanda and RTLM during the s-, from the time of the genocide. Yeah, basically that's, those are the types of information that we have.
- 01:57** JM: I want to go back to what you indicated in getting evidence from other organizations, would, would one of those be the Rwandan government?
- 02:06 Sure, yeah.
- 02:07** JM: And could you tell me about the others? Are, are . . . I'm I-, particularly interested in NGOs and others who might be on the ground in, in, in Rwanda. Can you tell me a little bit about that?
- 02:17 We have – yes we have information for instance for the initial investigations were done by the UNHCR right after the genocide, so we received their material. We receive from UNAMIR that is the United Nations Mission in Rwanda.
- 02:37 We receive materials from UNAMIR and then we receive materials from the Belgian, the Belgians as part of their own investigations and sometimes trial of, of some of the, those responsible for the genocide. And then sometimes we ask, we ask for information from any foreign authority and the, under the, the, the terms of the rules of co-, for cooperation. We get materials from other foreign authorities as well.
- 03:06** JM: And among the, the documents I'm assuming that you saw many photographs.

- 03:13 Yes, we saw some photographs, yes.
- 03:15 JM: Were there less photographs than you would have liked to have seen?**
- 03:19 Th-, not a lot of, of photographs. We have for instance aerial photograph of Kigali, the Spanish – there was a Spanish investigation that came up with, I think, exhumation report. There were photographs. But of the events themselves they are mostly from the press. We got, we have footage from different journalists concerning the period of the gen-, of the genocide. Those are public for instance, yeah.
- 03:50 JM: Can you – without going into too much detail about the evidentiary rules because our, people who will view this, some will be lawyers who will be interested but many will be teachers and people many years from now who might be interested in how the prosecution handled the disclosure of evidence to the defense.**
- 04:11 JM: Can you talk generally about that and, and, and what, you know, having been a prosecutor I know that many times there are close calls.**
- 04:18 Yeah.
- 04:18 JM: Should this go to the defense, should it not? Can you talk a little bit about that and, and how from your st-, your standpoint these decisions have been made?**
- 04:27 Well you know we are, we, we, we’re just custodians really. We don’t make the decisions. But I know that generally we disclose materials under Rule 66 and that’s usually done by the attorneys themselves. That is the materials they intend to use for the trial. That’s usually packaged by the attorneys.
- 04:47 We support that in the sense that they might come to us and say, “Can you do this search for us?” We will do the search and give them the results, and they make the call on whether they want to, whether the ma-, they want to use the material in which case the case manager does the disclosure, you know, of the material.
- 05:05 Then it might be also that the attorneys might ask us, give us some search parameters and say, “Look for this kind of information because we think it will be exculpatory for the defense.’ So, we will do the research for them and they will make the decision whether to disclose or not.
- 05:22 Coming to Rule 68, we’ve tried not to get involved with Rule 68 as a section because we believe it is the attorneys who do the cases. They know the facts and they are able to speak to what is exculpatory or not.
- 05:35 JM: So Rule 68 is the rule requiring the prosecution to turn over anything that might prove the innocence . . . ?**
- 05:39 To disclose, innocence. Yes, the, the exculpat-, yes, prove the innocence of the accused. So by and large we do not get directly involved in disclosure. We help them to prepare the material, but they have to, to identify the material. In other words we don’t do any searches with a view to disclosure. We have to be asked to assemble this type of

evidence because it is going to be disclosed in which case we are in a support role; we're not making the decision as to disclosure.

06:08 The same thing for Rule 68 and for Rule 68 we support the appeals more than we support the prosecution division. We support the appeals more because it is easier for us to support them because you have a judgment from which to read from, you know.

06:23 Some facts are there, they assist you and so with the appeals we have a, a closer working relationship in terms of Rule 68, you know, assisting them to identify materials. But it's still under the supervision of the appeals because we believe that we're custodians. We can support but we don't – it is not for us to make the judgments but the tr-, the lawyers themselves. (\_\_\_\_).

06:48 **JM: But I'm sure during your time here you must have come across, even at, at the request of the prosecutors, matters, material that was exculpatory that did tend to show the, the innocence of, of the accused. And I'm sure that was turned over but can you give me an example without naming any particular case of the kind of, of evidence that, that might be exculpatory that you can recall?**

07:11 From here, from the IESS point of view, none that I can think of because you see the, the request, the s-, the request for a search has to come from them, you see. So we don't systematically go and search. The debate was there. I have to say that there was a, a very, very, what do you call it, a very, very lively debate on what the role of the section, our section should be in terms of exculpatory material.

07:42 And I remember that our standpoint was that the attorneys are the most equipped to make a decision on what is exculpatory because they know the facts of the case. Because there are nuances you see. It may not say the accused is neces-, it may not be a clear cut case. You need to have the temperature of the trial, see what the defense is saying, to see whether this actually supports the theory of the defense, defense to make that determination that it is exculpatory.

08:08 So, my point was that where we are sitting, we are not equipped to make those judgments and it's a very important one. So that's, that is, you know – so we ended up saying yes, trial teams, they can solicit our systems but they have to tell us what they're looking for.