



Voices from the Rwanda Tribunal

Official Transcript: Charles Taku (Part 6 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.

The transcript of Part 6 begins on the following page.

Part 6

- 00:00 **Batya Friedman: So one last question before I will turn to my colleague. Is your perception that of your colleagues very broadly here at the tribunal – so not just the defense but among the prosecutors, perhaps judges, Registrar’s office – do you think the vast majority of your colleagues in some way share your view that, th-, that a broader prosecution would have been better for the tribunal?**
- 00:27 Well, in answer to that question let me just give you one promise. When the tribunal closes down, in order to prove that they share my view, wait and see what many of the prosecutors are going to write. I’m perfectly aware about the position of most of the prosecutors who are very good lawyers; ordinary prosecutors, very good lawyers.
- 00:47 And some of them who have said, “Look, when we started these trials, we didn’t know that this where the evidence leading to.” And some of them have said, “No, this inadmissible.” And, and I, and I promise you this, that most of them are very, very fine lawyers, good lawyers and they said, “Look, we cannot be seen as being complicit in this.”
- 01:05 And probably even before the end of the trial, most of them must have left because of this. Also try to talk to some of the investigators because you find many are in America, some in Canada and among the, the, the prosecutors, talk to some of the African prosecutors and others, and also some from Europe.
- 01:25 And now they are covered by the six months. The UN, after six months when you are still (____) you cannot talk. But let me tell you. They share these views. I think we talked to the Prosecutor and put the question to him, “Why have you not prosecuted RPF?” I don’t know how he is going to respond, but maybe he’ll tell you, “We are still investigating,” because he cannot reverse himself on that.
- 01:49 And I think that most of us are very, very frustrated. I, coming from the continent, from Africa, I being a traditional ruler in my community, I know very, very well that this impunity will just exacerbate the conflict. Not necessarily only in Rwanda but in the sub-region. There’s absolutely no doubt about that.
- 02:11 The indicators, the elements that led to the conflict is this, if anything that’s been exacerbated by the fact that the end structure put in place to redress these crimes has failed woefully in its mandate. Now, ask, I asked, I put this question to the former President of the court Judge Møse. I said, “Look, Judge, how do you think, rightly or wrongly, the people who are indicted, there are some people, probably so many people out there looking, thinking that they are their leaders.
- 02:46 They now symbolize the identity of an-, any group to the extent that the prosecution is ethnic-, is, is influenced by ethnicity, or perceived to be so. What do you think Judge if this tribunal should close down one day, would I say to a Tutsi? Why don’t you think that these people would just say, 'This world, this Rwanda, this new Rwanda that the

tribunal has left behind. It's not worth living. Let us take up arms and do justice to ourselves.' Don't you think so?"

- 03:27 I said, because my perception, my question is informed by the fact that the Gacaca proceedings in Rwanda target the Hutu. The tribunal ICTR target the Hutu. The Rwandan legal system targeted the Hutu; the (_____) across the world targeted the Hutu.
- 03:46 So where can the Hutu victims find justice? Absolutely nowhere. Well, only France and Spain have tried because of their citizens who were killed, to make a reasonable and principled attempt in order to indict these individuals, issue warrants. Now, the tribunal, what is your position about this? Originally your spokesman joined Rwanda in condemning the French and the Spanish.
- 04:21 It's only when a trial chamber in the case of Munyakazi when the Prosecutor tried to transfer some of the cases to Rwanda, and the trial chamber said, "Look, there can be no justice in Rwanda." And among other reasons it said, when the French judges indicted some RPF soldiers, when Spain indicted them, they insulted and threatened those judges. If they did that to foreign judges, what about the Rwandan ju-, judges if they intended doing justice? Even worse.
- 04:58 And I was the person – I addressed the court about that in our own trial and said, "Look, to hand over any of these people to Rwanda, by the procedure of this court, we only harden the perception that indeed it exists the policy of this court to hand over these people to the victor to immediately sentence them to life imprisonment in isolation." Every time there is a conviction here the government of Rwanda intervenes. But when there's an acquittal, they condemn.
- 05:37 Say, "That person ought to be convicted." They have never shown, neither the Rwandan justice nor the government of Rwanda has shown that they are ready, Kagame is ready, to behave and act as a president for all Rwandans. He's behaved as the president for some of the Rwandans, not all Rwandans by his conduct towards this tribunal and towards the Hutu majority and towards the accused in this trial.
- 06:02 And I pointed this out to the judge, and I pointed this to the court. So, my point of view is that probably at this point in time, if you ask the Prosecutor, ask the judge, (____), "If we are to close down today, what would be the hallmark, what would be the legacy?"
- 06:22 They will name a series of cases, "We tried this (____), we tried this." Yes, but what are the principles of law that we've laid down in the trial of this case? Yes, some of the principles are balanced, some are consistent with the attainment of international legal principles but some have done a lot of harm.
- 06:44 And I say joint criminal enterprise has a potential that if anybody should put your name, say, "Well, you were never there, you were in America," joint criminal enterprise it is a web that can sweep just any person depending on the whims and caprice of the judge,

that particular judge where he stands. No, that is not a legacy. That is not even the principle that can help the world. It would do more harm.