



Voices from the Rwanda Tribunal

Official Transcript: Linda Bianchi (Part 3 of 6)



Role:	Appeals Counsel
Country of Origin:	Canada
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Location:	Arusha, Tanzania
Interviewer:	Lisa P. Nathan
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Linda Bianchi explains her work with the Office of Appeals and draws attention to the challenges of remaining objective when working with issues of rape and genocide. Bianchi asserts the need for investigators and prosecutors to receive specialized training to deal with gender-based crimes and in order to avoid the re-traumatization of witnesses during the trial process. She recounts her own visits to Rwanda and stresses the importance of visiting the country for ICTR personnel.

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Part 3

- 00:00** Lisa P. Nathan: I would like to focus in on a specific issue that I believe you are familiar with. The, when you talk about, you know, establishing international law jurisprudence . . .
- 00:10 Mm-hmm.
- 00:12** LPN: . . . something that the ICTR is known for, often when people speak about the ICTR, they speak of the landmark decision within the Akayesu case or concerning rape as genocide.
- 00:28 Yeah.
- 00:29** LPN: And since that time, there have – the criticism has been mounting as far as there's, appears to some to be less instances of particularly rape as genocide, that particular in-, being within indictments, coming forward . . .
- 00:48 Mm-hmm.
- 00:48** LPN: . . . from the Office of the Prosecutor and then also what happens during the appeals stage . . .
- 00:53 Mm-hmm.
- 00:54** LPN: . . . and I was wondering if you could sp-, speak to that issue?
- 00:58 Sure. Actually, I've done a lot of work on this issue. I don't think it's confidential for me to say, I've been the chairperson of a committee that was struck by the Prosecutor to deal with this very issue, that what's happened to the sexual violence crimes, where are they.
- 01:17 We looked into the first, we, we, our committee – if I step back a second – our committee was tasked with looking into what went right in the cases where sexual violence crimes were charged and where convictions were, were obtained and what, what happened in those cases where sexual violence crimes were charged and convictions were not obtained.
- 01:43 So, that was the first leg of our work because as an office, it, you know the criticism is, is fair in the sense that when you look at the cases and when you put it in the context of Rwanda where it's very clear, rape and sexual violence was used as a form of, as a means of committing genocide.
- 02:03 It was used as a, as a, a crime – I mean it was committed as a crime against humanity. It was committed as a war crime. It was committed as a, as a form of humiliation, degradation and it was widespread, and it was systematic, and it was all over Rwanda. And so when you think, if that's your starting point and then you look at what's happened in our jurisprudence, we started at this huge highpoint with Akayesu and then you're really left with a sense of "What happened?"

- 02:33 And there were several cases that came after that where rape was charged and there were convictions, but there were several cases where there were not convictions and even more cases not even charged. So, our second phase of our work on the committee was to look at, well why wasn't rape charged in these cases when you have as your starting point that rape was committed in a widespread and systematic way.
- 02:59 Why wasn't more evidence brought up in each case? Presumably each case could have a charge of rape or sexual violence. So our second phase was looking at what happened there. And, and our third phase, the current phase that we're in, we're, we're trying to make recommendations.
- 03:20 We're trying to – our committee now, after having looked at the history, is trying to make a difference going forward, getting involved actively in the current and upcoming cases to sort of help, or extend a helping hand to trial teams that are, you know, over-tasked, resources are thin, resources are limited and, you know, where we can assist in either terms of obtaining evidence.
- 03:48 Or from a legal side, you know – drafting briefs, drafting the pre-trial briefs, drafting the, helping draft the indictments, helping with closing briefs; all of that geared towards trying to make the entire record of the jurisprudence that we'll be left with of the ICTR reflect more properly what actually happened in terms of rape and sexual violence in Rwanda.
- 04:15 I think part of the problem has been that Akayesu was ground-breaking and we've, you know, constantly we're, we're focused on "We did great in Akayesu," and we did; it was a great case. But then after Akayesu, some of it is just that there was a time when, you know, the ICTR staff was limited and the resources devoted to the cases was limited.
- 04:50 And so trial attorneys had to make choices and prosecuting genocide is a very complex and complicated matter and garnering the kind of evidence is a monumental task. And so I don't think that rape and sexual violence was given a sort of secondary category, but where they had to make a choice, the choice to prosecute genocide as, you know, genocide was always taken and if something was dropped, the rape and sexual violence was also often the one charge dropped or not pursued.
- 05:32 And it's that that we're trying to make a difference in now; to say, you know, you can do it, you can. And the case that followed, the one case that followed Akayesu was Gacumbitsi where rape was – he was convicted for genocide with rape as one of the means by which he committed genocide and he was also convicted for rape as a crime against humanity in that case.
- 05:57 And so we're hoping to build on that, and there are several indictments now that do incorporate rape and sexual violence charges as part of the genocide charge, but also as part of the crime against huma-, crime against humanity charge. And so I mean from my own personal take on it, I hope that at the end of the day, the record will reflect differently than it does right now.

06:25 Because it is, you know, from a personal standpoint, I've invested a lot in this issue and I think it's so important for Rwandans, the victims, but also for the ongoing issues of prosecuting international crimes for the ICTR to have a stronger legacy on this point and so I hope that the Office of the Prosecutor in its continuing work will be able to change that. I really hope that it will happen.