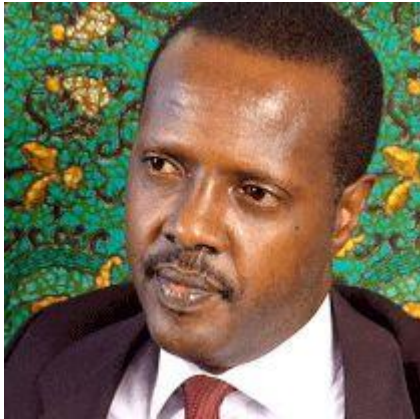




Voices from the Rwanda Tribunal

Official Transcript: Richard Karegyesa (Part 6 of 11)



Role:	Acting Chief of Prosecutions
Country of Origin:	Uganda
Interview Date:	29 October 2008
Location:	Arusha, Tanzania
Interviewer:	Batya Friedman Ronald Slye
Videographer:	Nell Carden Grey
Interpreter:	None

Interview Summary

Richard Karegyesa reflects on the relationship between the ICTR and domestic justice systems, discussing transfer of cases and the capacity of Rwanda's judiciary. Karegyesa discusses best practices for the prosecution, the protection of witnesses and prosecuting rape as a crime of genocide. He draws attention to the differences between prosecuting rape as an international crime and a domestic crime and comments on the importance of creating a historical record to protect against revisionist histories.

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Part 6

00:00 **Batya Friedman: Well, you've been working at the ICTR, right, gathering experiences here for quite a long time. So is there just something from your reflections of that time that you'd like to share with us before I ask other kinds of questions, the conversation goes another direction?**

00:16 It's, it's, there, there's just so much over the last ten years you know. I-, nothing comes to mind. I actually personally haven't even had time to reflect and I intend to take a year off next year when I, you know, leave the tribunal to sit back and reflect, you know, over the ten years. So, you know, unless you ask something specific, it's been – I've been constantly in motion . . .

00:44 **BF: Mm-hmm.**

00:45 . . . hardly any time to reflect, you know. Because there's, you know, things always happening and you know I, I can't finger anything unless you, you target your question.

01:00 **BF: Okay, well then I, I'll ask you about a few, few other things that I've been wondering about. Talking about prosecuting for rape as genocide, I think maybe from the outside when people look at the record, they see that there was the establishment of rape as genocide and its use in one case, and then sort of the appearance of it no longer being used as a tool by the tribunal.**

01:31 **BF: And I wonder if from the perspective of a prosecutor, how do, how do you both see that tool and how do you – what thoughts do you have on, you know, why it might look that way from the outside looking in?**

01:46 I think we must acknowledge that we haven't been that successful. You know since Akayesu in, in successfully prosecuting rape either as genocide or as a crime against humanity, I, I think most probably only about four, four convictions after Akayesu.

02:11 You know, and given that we've, we've had now 36 convictions, you know, you know five convictions doesn't sound a big number. Yes there were problems, problems with pleading, but also problems with investigation.

02:34 **BF: Mm-hmm. How so?**

02:43 You know, c-, culturally, and I think this is across the board anywhere you know, you know ra-, rape in, in, in some societies is, is a taboo. I mean, you know so there's silence. There's silence and you initially didn't get, you know, victims coming forward to talk about it.

03:17 You probably had other survivors who'd watched it or knew about it coming forward, but we had difficulty even when we had statements, you know, convincing victims to come and testify.

03:33 You know I, I have a few instances where I, I, I recall during the prosecution of Gacumbitsi way back in 2003 I believe, yeah. We got a conviction for, for genocide and,

you know, rape as a, both as genocide and rape as a crime against humanity. And it was largely on the basis of one victim who was believed and two or three survivors who had witnessed rape.

04:13 T-, two of the witnesses I believe had lost, lost their wives in the genocide but had seen them gang raped before they were brutally killed. A-, and we, we've been trying to encourage other teams, you know, to, to use that approach.

04:41 You don't need a rape victim to prove rape, like you don't need a murder victim to prove, you know, murder. I mean, the victim is dead. But if there's a body and, and, and you know people witnessed the, the killing, they can testify to the fact.

05:10 Likewise, you don't actually have to drag these heavily traumatized rape victims to court, you know, if you've got men, women, you know, who witnessed these rapes taking place, because they were actually taking place in broad daylight.

05:28 The other difficulty has been establishing a nexus between the acts of an accused and the rapes that were committed. But we do have, I believe, there about 20, 20 or 21 cases at different stages of defense. Nin-, nine of them have judgments pending where rape was charged, so we'll see how successful we are in that regard.

06:12 But starting round about 2004, we undertook a review of our indictments and, you know, the available evidence of rape to see if we could, for the indictments that hadn't gone to trial, to see if we could actually amend them, if it was supported by evidence, to include charges of rape.

06:42 But yes I, I, I, you know, must acknowledge that we haven't been to date very successful in securing rape convictions.

06:52 BF: Do the – have the prosecutors been talking among themselves about – I mean this is a brand new thing, right? To try for rape as genocide, so probably a lot of learning needs to go on as to how to do so, how to collect evidence, how to present it.

07:14 BF: And as you've already talked about, doing so in a way that is, well, as un-traumatizing as possible to the women and their, and their families involved. So, and going back to this notion of better practices or things that you've learned . . .

07:34 We, we've specifically got a protocol in our, in our best practices manual on investigating and prosecuting sexual offenses. W-, we had EU funding and held, held a workshop here in the spring of 2005 . . .

07:52 BF: Mm-hmm.

07:55 . . . and we developed protocol on best practices. And it actually came in handy in the Darfur investigation because we lent them our, you know, expertise as our sexual assault team w-, went to Darfur and, you know, headed the, the investigations relating to, you know, sexual violence, you know, i-, in Darfur.

08:22 BF: Mm-hmm.