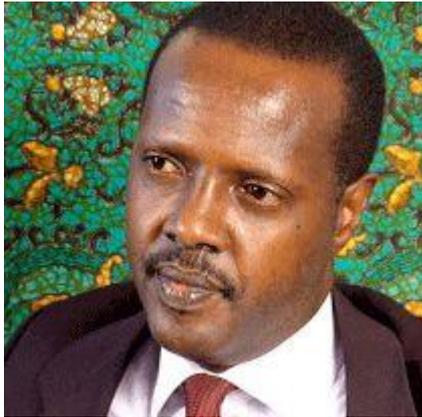


Voices from the Rwanda Tribunal

Official Transcript: Richard Karegyesa (Part 7 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.

The transcript of Part 7 begins on the following page.

Part 7

- 00:00 **Batya Friedman: So what are some of the things that you think were learned in this tribunal about how to collect evidence here, how to argue with that evidence or make compelling arguments for the prosecution around rape as genocide, you know, that, that would really be important for others in the future to know about, and, and also perhaps things that were tried that you know really others don't need to try those things.**
- 00:30 Well, you see there's a tendency in, you know, where you have mass murder, mass killings or there was a tendency to sort of, you know, ignore rape and go, you know, for the less complicated, you know, extermination, murder, genocide.
- 00:52 But because we're all aware that, you know, rape is as old as war, you know, there can't be, you know, murder at such scale, you know, without corresponding rapes because, you know, you're talking of conflict situations.
- 01:15 Talking of belligerence and, and where there's genocidal intent, you know. You know, sexual violence and rape are, are, are a tool in the hands of the oppressor. So yes, I mean you've got to look out for incidences of rape.
- 01:34 So even if you're interviewing witnesses, you know, for mass killings, don't stop at mass killings, try and get leads, you know. You know, and then pursue those leads with deft handling.
- 01:51 As I said earlier, you don't actually need the rape victim to come and testify to secure a rape conviction, if you've got people who witnessed the rape. Because you see the, the, the threshold is much lower than, you know, in your domestic jurisdiction, you know, penetration and, you know, forensic evidence.
- 02:22 I think it was in the Akayesu case where, you know, they said that, you know, rape as an international crime isn't about body parts. Issues of consent, it's been a big debate. In the domestic jurisdiction, the prosecutor has to prove lack of consent.
- 02:51 Again the threshold in conflict situations is lower because of you've established that the circumstances were coercive. You know, any consent is negated. And we also have a provision in our rules; I think it's Rule 96 that suggests that, you know, consent isn't, you know, a defense.
- 03:20 Yeah, so, yeah, there's a need to establish coercive circumstances and if, as I said, if, if, if you have witnesses other than the rape victim who witnessed the rape – because most of these rapes are committed in broad daylight. In Rwanda none of these offenses were committed at night, by the way.
- 03:45 It was like civic duty; it'd start around eight in the morning and knock off around 4 o'clock, 5 o'clock, go and have a drink, sleep, and, and come back and continue from where they left off and you know.

- 03:58 And the rapes were being committed in broad daylight around public buildings; you know, churches, schools. Akayesu case just outside the, you know, bourgmestre's office where the refugees were. And in such circumstances, they're being committed in broad daylight.
- 04:18 Take for example where the, you know, the rape victim is killed subsequent to the rape, you know. You can't use that as an excuse for not charging or being unable to prove rape if you've got, you know, people who actually witnessed the rapes taking place.
- 04:38 The other thing of course is, is to establish a nexus between the acts of the accused and those rapes. My argument has always been that if, if, if an accused instigates or orders the mass killing or destruction of a group, he or she has undermined the law and public order.
- 05:08 And, you know, if, if, if the physical perpetrator in the process of that destruction, executing the instructions, you know, plunders property, pillages, rapes, you know, it's all done at the instigation of the accused.
- 05:29 And, and remember here we're targeting the leadership, not so much the foot soldiers, but the ideologues, you know, without whose evil architecture these crimes, you know, would never have being committed.
- 05:45 So yes, in the course of investigation you establish the coercive circumstances, or at first establish that there was rape. Establish the coercive circumstances and try to establish a link not only between the murders, you know, mass killing and the accused but also the rapes so that, you know, you can attach liability; criminal liability. Yeah, yeah, yeah.
- 06:14 **BF: Mm-hmm.**