



Voices from the Rwanda Tribunal

Official Transcript: Charles Taku (Part 9 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 9 begins on the following page.

Part 9

- 00:00** Ronald Slye: **Should we – do you need to?**
- 00:01 No, no, no, proceed.
- 00:03** **RS: You're okay?**
- 00:03 Yeah. I, when we finish I will stop them, I will let them wait in here.
- 00:08** **RS: Okay. One of the audiences of this sort of interview, which was mentioned before, may be school children in India, China, Rwanda. One of the questions they might have for someone like you is that you are defending people who have been accused of some of the worst atrocities that we have known. How do you explain that? How do you justify that to them?**
- 00:34 I would tell them that it is in the interest of, it's in their interest and the interest of the international community to know the truth of what happened. And, if the persons are found liable, to know what motivated them to do so, to read into the minds of these people. And that what the parties know is a prerequisite to true justice, so that it doesn't happen again.
- 01:06 So that we can be able to say look, when the alleged crimes were committed, this what this or that person was thinking about. These are the factors. This is the defense. Except we know all this.
- 01:19 Secondly, I would tell them that the rule of law matters. The rule of law. Where there is no rule of law there is impunity, and that this process is needed to enhance the rule of law. This is what I would tell them.
- 01:34 And that it is in their interest so that they grow up learning perhaps the people before them, when the conflict started in 1958, they had a credible process and the rule of law prevailed, we would never have been here. This is what I would tell them.
- 01:51** **RS: When you mentioned the importance of understanding how they think . . .**
- 01:55 Yes.
- 01:56** **RS: . . . can you talk a little bit about your changing perceptions of your clients over the course of your representation?**
- 02:05 Well, let me say one thing, my clients were at the war front, especially soldiers. And you have to make a clear distinction here between the politicians and the soldiers. And you'll be very surprised that many RPF officers in closed session have come to defend them because they knew whom the (_____) were.
- 02:24 And you ought also to know the Rwandan system as well. The politicians in Rwanda from first the, the, the coalition government, if you look at their case, the attempts for them to take power from Habyarimana and they went at different times to get to some

former (_____) RPF. RPF was an armed rebel movement. It was not really a political movement as such. It was never a political movement in Rwanda.

03:05 You have on the one side politicians sitting on the table and talking where armed rebel movement that is talking and attacking and this position had nothing. You had the arms embargo on the Rwandan army from Belgium and international community at the time. You had the supply of weapons from, from, from Uganda and now of late we now know that some of the arms came from Libya, from (____) experts who have been able to come (____).

03:33 And of course when you have all this, you will find that – and when some of them will have testified, you find that apart from what they call command responsibility, it will be very, very difficult to find that any soldier will have killed this man, killed this person, no, that's not the case. Or they didn't do enough to, to, to protect the civilian population. It will be very, very difficult.

04:00 Having defended the politician and defended the soldier I can tell you this – the responsibility of the soldier is very, very, has become difficult to prove apart from, as we say, notions of joint criminal enterprise and perhaps they tried in paragraph (_____) of the indictment to talk about conspiracy and the court have ruled out any direct agreement.

04:21 You see, there were, there were some other acts from which some inferences were made. But when you have more than one inference from the same facts, it poses a problem. And I think the Prosecutor has serious, more serious – has a lot of difficulties proving the claims against the soldiers than the civilian politicians, (_____).

04:44 So, with them as it is, I think they love their country so much. They love Rwanda and they are aware they lost a war; they admit that. They know exactly where responsibility lies, they were only soldiers under the command of civilians, civilian government and I don't think that you can really put them and the civilian politicians in the same basket. It's very, very difficult. And I don't see them accepting that. They, they still believe that they were soldiers.

05:12 That's why you'll be surprised that the presidential guard that is accused for having committed most of the murders, three quarters of the presidential guards are now in the RPF, including some of the officers that were alleged to have committed the crimes.

05:27 General Gatsinzi was the interim Chief of Staff of the Rwandan army at the time that most of, some of the murders took place is the Minister of Defense in the RPF today. The RPF knows so well that these were adversaries.

05:42 And the other reason why some of those people are here now is because they are the people who refused to come back home and they are the ones who are perceived to be supporting the rebellion in the east of Congo. The people who said, "No. We surrendered." Wh-, whom they suspect (_____).

- 06:00 And the ones who are here are some of the best soldiers you'll find. They went to some of the best military school, War College and many of them went, did military training in the United States, in Belgium, some were in North Korea.
- 06:12 So you'll find that they are well-trained soldiers. And I cannot pre-judge a case, I'm not, I don't have the authority to do so but I think generally the evidence against the soldiers is very weak except in cases that they apply some of this notion of liability.
- 06:33 But direct perpetration no, or to say that they had knowledge to commit this war crime, no. On the contrary they did the best, they did the best they could in their circumstances.
- 06:45 And take note that the embargo was only on one side. Take note the RPF moved into the capital from different directions and attacked, weapons. General Dallaire was there on the spot. He did not, he didn't even attempt to stop them.
- 07:01 So as I say it is, it is one case that at the end of this case I think the archives of this court should be preserved by the United Nations. They should not be handed over to Rwanda or to any person.
- 07:14 They should be preserved under the auspice of the United Nations so that the researchers and () others who come and read through the transcripts. Read through this, read through the exhibits and read through the rulings that the judges would make when the case went on, because when you read the judgments you would () exactly all this.
- 07:34 When that is done, it is researchers like y-, like yourself who ought to tell the world exactly the case, what actually transpired here. Based along the judgment you may decide that at least some of it is in closed sessions. You will never really know the facts of the case as it is.
- 07:52 Even Gacaca is not in closed sessions, it is done mostly () and yet the witnesses are virtually the same. Yet we found witnesses who came here and gave one version of the story. Before Gacaca they could not because they are known, and the versions changed, so.