



Voices from the Rwanda Tribunal

Official Transcript: Asoka de Silva (Part 8 of 9)



Role:	Judge
Country of Origin:	Sri Lanka
Interview Date:	5 November 2008
Location:	Arusha, Tanzania
Interviewers:	Donald J Horowitz Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Asoka de Silva describes the challenges of coming from a common law background to the ICTR hybrid system that incorporates both common and civil law traditions. He notes that despite stark differences, the two legal traditions share a common goal: the impartial administration of justice. De Silva reflects that while the Tribunal might have benefited from being located in Rwanda, this could have compromised the possibility of fair trials. De Silva comments on the process of convicting and sentencing defendants.

The transcript of Part 8 begins on the following page.

Part 8

- 00:00** Robert Utter: Let me ask what effect hearing these cases has had on you as a person. You sat here for about five years now?
- 00:09 Nearly four and a half, four years now yeah, little over four years.
- 00:12** RU: They've not been pleasant cases to hear.
- 00:15 No, no, all are coming, all these witnesses come and say how people were killed. So it is not a pleasant thing to listen to, but then we are compelled to listen.
- 00:29** RU: And has that had an effect on you as a person?
- 00:33 At the beginning, yes, but now we are used to it.
- 00:37** RU: Mm-hmm. And do you notice whether or not this has had an effect on your staff? The court reporters, the clerks?
- 00:47 I don't know, I don't discuss anything with them, except my close associates, legal associates here.
- 00:56** RU: Is there any provision for counseling for judges or for staff?
- 01:03 Not that I know of.
- 01:08** RU: Would you . . .
- 01:09 Counseling in the sense with regard to mental aspect or what?
- 01:13** RU: Yes.
- 01:14 No, I, I have not heard anything. I think that, that is because maybe most of the judges who come here are on the mature side, so they, you have to prove your mettle also at some stage to withstand all these pressures.
- 01:38** RU: Yes. Well, as, as a judge for 34 years in the United States I understand what you're saying.
- 01:47 Yeah.
- 01:47** RU: But the impact of the cases is still difficult I think on a judge who hears them. Along that line do you have any hope for humanity in the future?
- 02:01 Yeah, that is why I said that this kind of thing should not happen again.
- 02:05** RU: Mm-hmm. Do you see some . . .

- 02:09 It is sad to hear certain stories, it's very sad.
- 02:13 RU: And yet we have the incidents in the Sudan now . . .**
- 02:17 Yeah, and most of these people are all helpless people. You know, when they come out with their stories you really feel sorry. But then that is not good enough for conviction. You must have proper evidence.
- 02:33 RU: Mm-hmm. Perhaps by publication of what you're doing, and the fact that the court imposes sentences, there may be some type of impact on people in the future.**
- 02:47 I think yes, because they are trying to establish a library also with all these documents and things like that. So it might have some impact on them in the future.
- 02:56 RU: Mm-hmm. And that depends on records of what's happened and publication of what's happened.**
- 03:01 Yes . . . yes, yes, yes.