



Voices from the Rwanda Tribunal

Official Transcript: Lee Muthoga (Part 11 of 11)



Role:	Judge
Country of Origin:	Kenya
Interview Date:	4 November 2008
Location:	Arusha, Tanzania
Interviewers:	Robert Utter Donald J Horowitz
Videographer:	Nell Carden Grey
Interpreter:	None

Interview Summary

Lee Muthoga compares the cases of Casimir Bizimungu and Mikaeli Muhimana, reflecting on the difficulties of determining the guilt of implicit political action as opposed to explicit individual action. Muthoga discusses the unique challenges posed by a hybrid jurisprudential system, stressing the need for judges to have investigatory capacity as typical of civil law systems. He calls for mandatory induction courses for new Tribunal personnel and notes that many staff may require counseling as a result of their work.

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Part 11

- 00:00** Donald J Horowitz: You know I, I didn't tell you the truth, I thought I was only going to ask one more question but I, I want, I want to – the ICC, as it has been designed, has added something about victims.
- 00:13 Yes.
- 00:13** DJH: And I, we haven't discussed tha-, that and I, I would be interested in your views on how, whether or not you feel that, or the victim should be given a greater place in the, in the tribunal.
- 00:29 Yes, I think so. In fact our rules somehow almost contemplate something like it but it doesn't materialize because I think there is no resource capacity to do it. There ought to be resource capacity to do some of these things. Sometimes one wonders. Yes, resource capacity – what resources, where are those resources going to come?
- 00:55 And institution like this one is funded by voluntary contributions of states. Are they going to be able to do that? But I think there ought to, we ought to find a formula by which a resource bank is developed over time which would be resort-, would be resorted to when a need arises. And I see that the ICC has that concept, but do they have a budget line for it?
- 01:25 Do they have something that exists on a perpetual basis which will be, make it certain that victims can be assisted? Now the t-, this tribunal has been trying to do some work in, in Rwanda in a way of attempting to, to, to develop Rwanda's jurisdictional capacity and all those things as an expression of the victim. But it is, it is so generalized and so community; it doesn't touch that much the individual victim.
- 02:11 I think it's something one would be thinking. If you were making – if you were not ma-, when you're making a post-event tribunal, it is difficult to think about those things.
- 02:25** DJH: Yes.
- 02:25 When you're doing a prev-, pre-, one in anticipation, then you can think about those kinds of things. So, but as long as these things are going to be ad hoc and they are going to be dictated by a situation which has existed and therefore are going to be created by politicians, you can forget it.
- 02:46 Because I don't think politicians have experience in their conceptual thinking for that kind of philanthropic activity. They, they, they, their, their cost benefit operation is so short that they can't, they can't do that. But yes, I agree if we were to do a tribunal and whatever it is, it would be nice if we could input in it capacity to soothe the wounds of those who got injured.
- 03:21** DJH: My last question. Right now you are speaking to the future. This film will be available one year, two years, five years, 50 years. Your grandchildren, your great grandchildren will say "That's my (_____)" . . .

- 03:41 I hope they say, I hope they say it so proudly.
- 03:43 DJH: Well that's . . .**
- 03:44 Not in a way covering, "Oh, oh . . ."
- 03:47 DJH: Well, I, if you, you're speaking to the future, and there is no, no structure to this question. As you would like to say – if there's anything you'd like to say to the future, this is your chance to say anything that comes from your heart and your mind, both.**
- 04:10 The International Criminal Tribunal Rw-, of, for Rwanda was the, the interna-, the international community's response for its inactivity with regard to the genocide. The genocide was not inevitable; it was more a result of neglect from the international policeman.
- 04:50 Unless the international, the community, international community comes together and organizes a system of policing the world ahead of the happenings of genocide, there will be other genocides.
- 05:11 And I do hope that a system will be devised which would enable the international community to come together to stop a genocide or to prevent a genocide than having to come together to oversee one or to overcome one.
- 05:34 Yes, the ICTR has done what it could do in the circumstances. It was something that can only be called better than nothing in the face of the inaction of the international community even when it was made clear to them that a genocide was in the offing.
- 06:03 And especially shortly following what had happened in the Balkans. So I hope humanity will find the courage that is necessary to establish institutional capacity to monitor and police occurrences of possible genocide so that we can always stop them from occurring.
- 06:35 DJH: Thank you very much, Judge Muthoga.**
- 06:37 Thank you.