

Official Transcript: Charles Adeogun-Phillips (Part 8 of 9)



Role:	Prosecutor
Country of Origin:	Nigeria/Great Britain
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Location:	Arusha, Tanzania
Interviewers:	Lisa P. Nathan Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Charles Adeogun-Phillips discusses the impact of the UN's requirement for broad regional, linguistic and racial representation at the Tribunal, which influences recruitment policies. He further emphasizes the need for practitioners, and especially judges, to understand the cultural context of Rwanda when considering evidence. Adeogun-Phillips reflects on the treatment of victims and witnesses in Court, on the merits and shortcomings of adversarial and inquisitorial legal approaches, and the need to involve Rwandans in the justice process.

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Part 8

- 00:00 Robert Utter: But let's go on to judges now, because you've had a unique experience in working at a prosecutor's level. You've also viewed the way different judges operate. What advice would you give judges in the future?**
- 00:17 Interesting. Just, just like the prosecution or the investigation staff, get the best judges for the work, for the job. I mean we, we've had a mixture of judges pass through all the tribunals. Some have had better judges than others and better in the sense that their prior experience. I have been a criminal practitioner all my life, but I've also had colleagues that have been academics, and my father was a professor of law for most of his life.
- 00:53 My father would tell me that there's a distinct difference in an academic and a practitioner; for obvious reasons. Different people have different skills and again, in an attempt to absolve people from most parts of the world, you get the impression that the rules are relaxed to be able to have as many people in the bag as, as, as possible.
- 01:19 So you, you would have for example then say people who have experience of lecturing or academia, people who have experience of judicial work or practitioners. Well, it's got to be one or the other. You either want to judge or you don't want to judge. The people who make the best judges are practitioners or people from the bench.
- 01:43 Academics have a very academic approach to things and if you read a lot of the decisions that we, we've had here, you would wonder where many of these judges are coming from. Sometimes you, you, you would imagine that a judge would be, would have a, a more positive response to the plight of victims. We've also had judges who have been diplomats, who have no experience of either academics or practical experience.
- 02:17 But more importantly we have, we've, we've had judges who – and this happens all over the world including the UK – who have no idea of what obtains in reality on the ground. They have no idea of the sort of dilemmas that I've talked about, the kind of things I've faced. They have no idea of the terrain.
- 02:42 So when a witness says, "It took me 20 minutes to cover a distance of one kilometer." Or . . . you have to be able to understand that in the context of the terrain in Rwanda that he was probably, he probably took a shortcut or he went around a hill or he could see.
- 03:07 When a witness testifies as to how the accused came to his neighborhood and even though he didn't know him before, had no prior knowledge of him, he was able to decipher that that was the Minister of Transport. Obviously, because he comes from a location where there are no cars.
- 03:28 If a man drives up in a truck or in a car, in a Mercedes in a village, in the context of that village, everyone is going to make it their business to know who he or she is. People

have to understand the cultural context of what we're dealing with. It's not New York, it's not London.

03:49 If a man says, "I saw him . . ." or, "I was able to identify him." "I was able to identify him because he stood out. His clothes were different. He's not one of us. It was obvious that he had come from somewhere." There are cultural issues that are unique to this whole area of specialization, that if you don't take the time to understand what those cultural issues are, you would not understand the context of the issues that we're having to deal with.

04:24 RU: So you want a judge who is bright but who's had practical experience.

04:28 Yeah. It's the same thing in the UK. It's not, it's not, it's not a criticism of the judges in international courts.

04:33 RU: It's all over the world, all over the world.

04:34 Absolutely. I, I, I prosecuted a case in – I defended a case in the UK when I was there, where a judge gave, the judge passed a comment. It was a rape case and said, "The victim having worn a skirt so short was inviting trouble." That was a very unfortunate statement but in retrospect when I got home, I, I, I thought about it and I said, well the judge lives in the Inns of Court.

05:03 He doesn't go to nightclubs and he crosses the street from the Inns of Court to the high court. He doesn't know what young ladies, how young ladies dress. He needs to see my teenage daughter to see what – do you understand? If you're so far removed from, from reality and from society, it is difficult for you not to, to understand what obtains in reality.

05:24 So if you say, "She was asking for it because she was dressed in a short skirt," it means you have no idea of what teenage girls wear. So it's, it's not a criticism that is unique to this area of specialization but it's, it's the entire world. They just need to know what obtains in the real world. Look for the right judges. There are loads of them out there.

05:44 RU: The rules need to be changed for a selection then, perhaps.

05:49 Yes. Well, do they have rules for selection? Well, perhaps yes. I mean the, the, the ICC has different rules; they have more structured rules. The ad-hoc tribunals have . . . they're a little bit more flexible in their rules. I mean I've looked at some of the people who appear on the list of ad litem judges and sometimes you worry as to how people make this. This is just lobbying. It's I think what, ten years' experience of either being a lecturer or diplomat or something. (___).

06:21 RU: It's not, not enough.

06:24 It's worrying.