



Voices from the Rwanda Tribunal

Official Transcript: Claver Sindayigaya (Part 3 of 6)



Role:	Defense Counsel
Country of Origin:	Rwanda
Interview Date:	28 October 2008
Location:	Arusha, Tanzania
Interviewers:	Robert Utter Ronald Slye
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Claver Sindayigaya explains how cases against the accused are handled at the ICTR, and how most of the accused were arrested in places outside of Rwanda. He discusses the transfer of trials from Arusha to Rwanda and the criticisms that the accused would not get a fair trial in Rwanda, how the Rwandan judiciary does not yet have the capacity to handle these cases, and how defense witnesses would not be free to speak in favor of the accused. He also discusses the lengthiness of trials – including one client waiting for 14 years for judgment – as a significant criticism. He discusses the different defense strategies used in multiple-accused cases, and the advantages of being a defense counsel from Rwanda.

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Part 3

- 00:00** Ronald Slye: So I'm, I'm Ron Slye, I'm a law professor at Seattle University. I wanted to – you just ended talking about the joinder of the case, and you had mentioned before the multiple and single accused cases and that in the multiple accused case, like you're involved in, there are conflicts or there're possibility of conflicts arising among the defendants. How do you deal with those conflicts?
- 00:34** Of course each accused has his own strategy so we have, for my client we have our, our own strategy so we try the best we can to d-, to defend. I try the best I can to defend the interest of my client and the other defense counsels also try to defend their clients. But what I can say, for instance, for the Butare joint case, is that my client really there is no-, not much conflict of interest with the other five co-accused.
- 01:15** Because our case is like separated from the other fives, because my client is accused of, of what happened in a rural village in Butare prefecture, while almost the other five accused, I mean are accused of what happened in the Butare town. So, the Butare town – we have nothing to do with the Butare town, we are just a separate case within a joint case. So the conflict of, of interest is, does not really touch us as defense of Ndayambaje, so.
- 01:57** **RS: And what's, what's your relationship with the other, the defense counsel of the other defendants?**
- 02:04** I think the, the, the only connection with the other defen-, I mean co-accused is that first of all the prefecture is the same, in terms of territory because it's Butare prefecture and the Muganza commune is within Butare prefecture.
- 02:22** And secondly I think one of the five other co-accused was at the swearing ceremony of my client in June 1994 so he also is accused of having made an, a bad speech during that swearing ceremony. I think that's the only link we have with, with the others.
- 02:51** **RS: Do you, but do you have conversations with the counsel of the other defendants? (___), do you coordinate with them; do you discuss with them the case or the strategy of your respective cases?**
- 03:06** No, no, each counsel has – of course we, we do meet outside and share a cup of tea or coffee but we do not coordinate in terms of having the common strat-, defense strategy no, each and every accused has his own strategy.
- 03:24** **RS: And do you have good relationships with them or?**
- 03:27** Yeah, we don't have any problem they are just – we are professionals and we – in the court we behave professionally and outside we, we're just friends and we . . .
- 03:42** **RS: And what about with the Prosecutor, do you have a cordial professional relations with them?**
- 03:45** Yes, yes, we, we meet outside and we just greet each other and . . .

03:52 RS: Have you been impressed with how well the prosecutors have done their cases?

03:59 Okay, first of all, what I have noticed with the prosecution side is they have been changing because the one we were dealing with in 2000, 2001, '02, are no longer the same, they have changed; they, they, they keep changing so, so we, we deal with the prosecution I mean prosecutor people who are there. If they ha-, they have assigned to other cases we don't mind, we don't know, it's up to them to, to handle their cases.

04:33 RS: Let me – you had mentioned before about witnesses that you brought; defense witnesses to testify. Could you talk a little bit about how you identified witnesses and what challenges you faced in both identifying them and bringing them here?

04:53 Of course the, the, the main problem is to, first of all to identify them and locate them where they are because most of, you know many Rwandese ha-, have scattered all over the world. It's a huge work to go and locate them wherever they are; in refugee camps or in, in different countries.

05:26 It's a very hard work, it's, it's, it's very difficult to, to locate them and secondly even when you have located them, I mean, to convince them to come to testify to Arusha it's another step because many of Rwandese people fear for their lives because they, they think if they testify here and it's known to the public, their lives may be in danger.

06:02 So we have to explain the protective measures which are in place and sometimes you don't know, I mean the, the, the response you'll get. Sometimes it's yes or no and when it's a no you have to go back there and try and because sometimes it's a, it's a key witness, you cannot find maybe two, three, four key witnesses to an event, you have to try and get your person on the board which is not very easy.

06:39 RS: So what do . . .

06:40 And there (_), we have also the financial restriction from the tribunal because if have to go for instance to US to look for somebody, the first time you don't get the person, the tribunal has paid for you the tick-, air ticket and expenses. If you ask for the second time to go back there, they might say, "No, no. You should have found that person during your first trip," which is not easy so we have so many challenges on our way.