

Official Transcript: Charles Taku (Part 4 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.

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Part 4

- 00:00** Batya Friedman: So I want to make sure I, I understand what you're saying. The, with respect to the Prosecutor, the Prosecutor's choices about where, who to prosecute – so, you're saying that the issue here is not so much that the people who are prosecuted should not have been prosecuted . . .
- 00:21 Exactly.
- 00:22** BF: . . . but that they're an incomplete set. Right.
- 00:25 Exactly. Yeah.
- 00:26** BF: And when you say that they're an incomplete set, one thing you could say is, "Well, it is the Tutsis, the RPF, that also need to be prosecuted." But maybe I also heard you say that beyond that, there are people beyond those say in Uganda or elsewhere, that you've felt should also be prosecuted here as part of this tribunal?
- 00:53 I really hesitate to say, to put the, the, the parties in this compartment – Hutus, Tutsi.
- 01:03** BF: Mm-hmm.
- 01:04 Because we, w-, a notion has emerged where you have a group of people called Hu-, 'Hutsi,' because of etymologies (___) they're now called 'Hutsi,' Hutu Tutsi. And the, the, (_____) they're people that speak the same language, they live in the same hills, they know themselves for so long. The RPF was not Tutsi, just as the government of Rwanda was not Hutu. They, they were mixed.
- 01:29 So we find now, now. You see the, the, the pattern in which people are fleeing the country even now, you find so many Tutsi who were in the RPF fleeing the country today. You find even the king, who is now in the U.S., the, the, the, who was Tutsi. He's in the U.S. He can't come back to the country, because Kagame is saying, "You come back as an ordinary citizen." Yet this was the symbol of power before the revolution 1958.
- 01:58 And it's more acceptable even to the Hutus now than even the Tutsi. So I hesitate to put it that way. I just say that 'the perpetrators of the crimes that were committed by the RPF.' And the RPF, you find that they were soldiers of the National (_____), Registered Army of Uganda, that, that, that front part of RPF.
- 02:21 You find also that what, when (_____) was investigated, the assassination of the three Tutsi presidents; two of Burundi, and one of Rwanda. If the Prosecutor – because it falls within the mandate of the Prosecutor to investigate and go after the perpetrators. If that were to be done, if they were to prosecute some RPF . . .
- 02:47 Take note, before April 1994, the soldiers of the Rwandan army then did not control the entire territory. Large portion of the territory was under the control of the RPF. Yet thousands were massacred there. Somebody ought to be held accountable for that.

- 03:07 The United Nations tried to organize an election there, and all the Hutus who won elections – the RPF lost – all of them were killed. And in the course of this trial you had many RPF officers coming to testify in closed session for their own protection. “Yes, we were asked to killed these number of people.”
- 03:31 Or, in Burumba, Kagame 250,000 people in the stadium, Kagame asked to kill all of them. Or immediately after the, the, the shooting down of the plane, Kagame left Mulindi the north, and came to Moshya, near Kigali. Kigali (____). And he sent a company of 160 soldiers that cleared this corridor. “Any person you find, clear the corridor,” for him to be able to come close to the capital, to (_____).
- 04:04 Now this is evidence which the Prosecutor was hiding for so long. You must have heard about the decision we had on the 23rd of September, 2008. Exculpatory evidence that the Prosecutor was hiding.
- 04:20 Trial Chamber II ordered that this exculpatory evidence should be disclosed to the defense forthwith, and held the Prosecutor in contempt by saying that, “You are the minister of justice, you should be seen as doing justice, not only in this trial but to international community.” And that he should be (_____) personally.
- 04:39 Now he has disclosed some of the material. What does the material contain? Crimes of the RPF. Why has he not prosecuted them?
- 04:47 BF: Mm-hmm. And then (_____) . . .**
- 04:49 Crimes ascribed to the accused in this case; you committed these murders. This disclosed material now shows that that witnesses from whom we took statements in 2002 are saying that he got statement from them, statement about the perpetrators of the crime by the RPF.
- 05:06 The assassination of Habar-, Habyarimana. The evidence matched. The witnesses come in closed session, “we were the ones who were on the spot. We were the ones who took part in the assassination.” He kept the information. Why has he not prosecuted them?
- 05:24 The only answer is this: that he’s submitting himself to political influence. There can be no other, no other explanation for this. At least officially, the tribunal is going to end, perhaps this year, perhaps next year.
- 05:42 The official statement from the, heard from the Prosecutor every day is that, “We are investigating the RPF. Do not mind, we (___), the indictments will come.” That is the official statement. If he said that, “I’ve found no evidence at all,” one would understand. But that’s not the case here.
- 05:56 So we’re not saying that the Tutsi or Hutu – no. We’re saying that the perpetrators – crimes have no ethnicity. Criminal is a criminal. There’s a presumption of innocence though, for everyone until they’re found guilty. But if there’s any (___) of, leads to the

fact that crimes have been committed, or may have been committed, (___), we want at least the prosecution to be able to say no.

06:22 **BF: And from your . . .**

06:22 The Prosecutor should be accountable to someone. If he didn't do this.

06:25 **BF: Mm-hmm. And . . .**

06:26 It cannot be, it cannot be independence of the Prosecutor's office. Cannot, cannot (____) impunity on the part of the Prosecutor.