



Voices from the Rwanda Tribunal

Official Transcript: William Egbe (Part 2 of 12)



Role:	Senior Trial Attorney
Country of Origin:	Cameroon
Interview Date:	30 October 2008
Location:	Arusha, Tanzania
Interviewers:	Robert Utter Donald J Horowitz Batya Friedman
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

William Egbe discusses the ways in which the Office of the Prosecutor (OTP) has evolved during his ten years at the ICTR. He describes the OTP selection processes for determining which perpetrators should face trial. He also compares the sentencing processes at the ICTR with those at other international tribunals such as the ICTY. Egbe identifies the limitations of the ICTR Statute and discusses the impacts of these on the Tribunal's work. He highlights best practices for new international tribunals.

The transcript of Part 2 begins on the following page.

Part 2

- 00:00 Robert Utter: How many fugitives do you anticipate are still there to be apprehended?**
- 00:06 It might be difficult for me to, it's extremely difficult for me to, to place a figure on that.
- 00:14 RU: Approximately?**
- 00:15 We are – we have approximately – I may not very accurate, 13 to 15 fugitives but your precise question is how many I think we might be able to apprehend.
- 00:25 RU: Exactly.**
- 00:25 It may be difficult for me to tell you that. It's like you asking me when – it's like you asking me to state when we think we can arrest Kabuga. It's almost impossible to say that. The most I can say is we are very optimistic and we are working. We have a very robust, we have a very robust team that is actually engaged in this exercise. And I am still very optimistic that we would be able to get some of these fugitives if not all.
- 00:51 RU: You used a figure if I understood of somewhere between 14 to 15 are still out there and waiting apprehension.**
- 00:59 Yeah.
- 01:00 RU: How do you determine which ones you are going to seek actively to find and arrest?**
- 01:07 No. All the persons who had been categorized as fugitives – I'm talking of that number of 13 to 15 . . .
- 01:15 RU: Yes.**
- 01:16 . . . are people that we are actively looking for. I would, I would just back up and state the following. The UN Security Council Resolution 1503 . . .
- 01:16 RU: Yes.**
- 01:30 . . . that sort of asked the Prosecutor to end the life of the tribunal – well, end the cases that has to be tried by 2008 was a judgment call for the Office of the Prosecutor.
- 01:42 RU: Of course.**
- 01:43 We had to sit down – the Prosecutor had to sit down with his staff to work out a realistic workload.
- 01:52 Persons who, number one, fell within the category of perpetrators that should be tried here – we did that and that was the process where we arrived at who to be tried and who are fugitives that we need to be tried here. All other cate-, all other persons who

did not fall within that category who may have been small-time perpetrators or middle-level perpetrators were not in that category.

02:19 So we are actively pursuing everybody who has been listed today as a fugitive. We have no preference. We're actively prosecuting – pursuing all of them.

02:30 RU: And what factors would you look at to say, "This is a major figure that we will actively pursue"?

02:39 Well, among the factors that we consider – and when I say "we" I don't want to take anything away from the intelligence of the Prosecutor Mr. Jallow, of h-, or of his sense of management because we are at the level where we brainstorm but we actually work within policies defined by the Prosecutor.

03:01 One of the, well, important factors that we're taking into consideration in determining the importance of the target were, number one, the seriousness of the crime in terms of the number of victims. We also consider their role, the position of the individual and his ability to command persons who – or, or his ability to influence the, the, the crimes.

03:32 Those were basically two of the, two of the factors we consider and we had no difficulty in arriving at that because the resolution had made it very, very clear . . .

03:42 RU: Yes.

03:43 . . . that we should deal with the persons who were the most senior or, or the leaders, for example. Yeah. So basically when we look at the leadership map, we look at the individual.

03:56 For example it would have been very – it would be difficult for you to leave out someone like Jean Kambanda if he had not been tried, because he was a Prime Minister. He was in a position of authority. He additionally had the ability to stop crimes if he thought that those crimes – or if he thought that they should – the crime should not be com-, committed.

04:18 So basically those are the issues that we were looking at; the role of the individual, the, the nature or the extent of the crimes that were committed either by him or under his authority. We looked at those as essential factors in determining.

04:40 RU: And what will happen to those who you feel were perpetrators close to meeting, meeting your criteria but not quite there? Are they referred to Rwandan courts or what is, what's the process there?

04:54 Well, it will be – it will be certainly a very – an unpleasant situation if we, a tribunal like this that was created by the UN Security Council to deal with those specific cases, people who are actually grave perpetrators of crimes against humanity, genocide, if at the end of the day we are forced by either political reasons or reasons of donor fatigue, we are forced not to go the extra mile to try, try all the people who committed these crimes.

- 05:31 It will be a tragedy. I am not dramatizing it but it will be – it will be something that is undesirable.
- 05:39 Now, it would depend a lot on the Security Council how they decide to deal with the aftermath of this tribunal. Because I believe that the international community is, does not intend to send a contrary message about what impunity, how, how impunity should not be allowed.
- 06:01 If we close the tribunal and there are serious perpetrators who have not been tried, I do not know how many other countries apart from Rwanda will be willing to take over the cases.
- 06:18 But at the end of the day I think the international community has a responsibility to ensure that there are trials of these persons, whether in Rwanda or in any other arrangement that the Security, the international community will find, will find suitable.
- 06:35 Let me say something additionally because it brings upon idea in my mind that we have discussed in this tribunal and it is about what we have coined here to be the “impunity gap.”
- 06:47 RU: I understand that, yes.**
- 06:50 Imagine that we close the tribunal today. One of the persons you have talked about, a serious perpetrator is arrested in a country that is not willing to try him for the offenses of genocide, crimes against humanity and war crimes. That country relies on the jurisprudence of the ICTR appeals chamber that indicated that there will be no fair trials in Rwanda.
- 07:26 Now, you have a situation where there is someone against whom serious charges are proffered. He cannot be tried in a third country. He cannot be sent to Rwanda either. There is an impunity gap. And those are the things that are really of grave concern to us.
- 07:46 So we are still looking up to the international community to see how they will fashion out a legal instrument or how they’ll come across the hesitations and maybe what I’ll describe as the misperceptions that are out there about the capacity of Rwanda to try the cases that we would not be able to try here.
- 08:13 So that would be something for the international community to, to deal with but I would respond to you upfront that I believe that if we are not allowed to actually go the extra mile and deal with the persons that we have identified as persons bearing serious responsibility for the crimes committed in Rwanda in 1994, if, if, if we are not allowed to do that it will be a very, it will be regrettable.