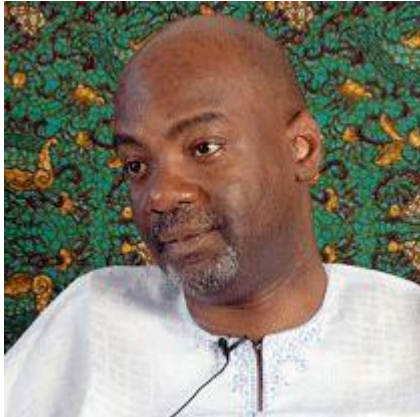




Voices from the Rwanda Tribunal

Official Transcript: Charles Adeogun-Phillips (Part 3 of 9)



Role:	Prosecutor
Country of Origin:	Nigeria/Great Britain
Interview Date:	6 November 2008
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.

The transcript of Part 3 begins on the following page.

Part 3

- 00:00 **Lisa P. Nathan: When you said, you were talking about it was completely different working in the field and I think that what you were just t-, that story that you were just explaining is part of how it was extremely different, can you ex-, tell me about, you know, even a, a story that stands out in your mind of your time in Kigali, of trying to do these investigations in the field which I imagine there were many challenges – language, culture. Is there a story that you can relate, of . . . ?**
- 00:32 The story that comes to mind is not necessarily one that affects my stay in Kigali but one that affects my, my field work in Rwanda. It's not, not, it's not Kigali related but it's Kibuye related. I have had the, the opportunity, even as, as counsel, to, to always go back into the field and one of the most trying experiences that I've had as counsel in relation to field work is in relation to the sexual violence investigations.
- 01:06 As you know, I was lead counsel on the landmark sexual assault case of Mikaeli Muhimana in 2003 or 2002, I, I can't remember the date now, and in in-, investigating and preparing that trial, we, I must have come across some of the most extreme challenges.
- 01:24 The challenges were having to deal with women who were unlike every case that I had tried here or any case that had been tried in the tribunal. The uniqueness of Muhimana was that the vic-, the, the witnesses were not only witnesses, they were victims. They were actual survivors of genocide.
- 01:47 I had tried Musema in 1999 which also had a rape count. But in Musema, there were witnesses, and this is not to demean the, the substance of the evidence by an-, by any means but just to distinguish my experience in Musema from, from Muhimana where I was dealing with a witness who saw what happened to others. In Muhimana I was dealing with the witnesses themselves, the victims themselves.
- 02:13 Now, it was often the case in Muhimana that we would have a witness statement or we would have a witness in the field that we have, we have shortlisted as a witness to a crime. I was fortunate enough to have a very young Rwandese lady on my team who had worked with me as an intern and then gone off to Notre Dame University in the U.S. for a Master's in human rights . . .
- 02:38 . . . and then came back to work with me, Florida Kabasinga who is a native Rwandan Tutsi young lady, and another Zimbabwean lady – I, I had a team full of, of, of ladies, which was a good thing because I didn't realize what the challenges would be.
- 02:55 And there were two challenges. The first challenge was that we would go into the field having shortlisted a witness on paper, thinking this is a good witness to a crime of rape committed by the accused. Halfway through the prepping process and the reconfirmation process, we then ask a question.
- 03:13 "How come you were able to see, there were four of you in the room, everybody else was raped except you. How did you survive?" And she looks at me and she says

nothing, but then she turns to my colleague and says to her in Kinyarwanda, “You know, can I trust this guy?” And she says, “Why?” “Because you know what, I haven’t told the whole truth. I was actually raped myself.” “You were? But why haven’t you said so?”

- 03:41 The cultural impact of a woman being raped in Rwanda triggers and at that stage, we have to stop the whole process and the counselling, the, the, the legal aspect stops and the social aspect starts. The men leave and the women stay, and Florida holds her hand. It might take nine hours, it might take ten hours and they very slowly get her to talk about her own experiences.
- 04:10 Now that’s the practical difficulty as opposed to the legal difficulty because now I have told the accused that I am calling ‘Miss X’ in relation to having witnessed something, but it now turns out that ‘Miss X’ is now going to make an allegation that well, the accused actually raped her herself which is, which he has no notice of. That’s one point, but that’s not the most difficult point.
- 04:36 The most difficult point for me as lead counsel was having to make decisions based upon further re-, revelations that she makes to us. So she’s now told us her story and we’re thinking what are we going to do with it?
- 04:50 So they tell me about her story and I turn and I look at her and I say, “Well, are you willing to come to court to say that?” And she goes, “Well, I have a problem.” I’m like, “What is the problem?” “I never told my husband about it.” “You never told your husband; why not?” “Well if I told him, I wouldn’t have a husband today.”
- 05:13 So right there, I’m faced with an ethical dilemma. I have a good witness. I have a victim to a crime. I need to secure a conviction; she’s a convincing witness but then she’s posed a question to me which means that in essence, if I put her on that stand and I risk putting her on the stand and I know we have witness protection, and we, we have pseudonyms, and we have anonymous protections and other things.
- 05:43 But it’s still a decision that I have to take, as to whether or not I want to take the responsibility of this woman’s husband finding out what had happened to her, and risking her marriage at the expense of her testifying on behalf of Mr. Muhimana.
- 05:59 And those were some of the difficult challenges and decisions that one had to make in the field. In the end, I dropped her because I wasn’t sure that I was able to take on that responsibility personally.
- 06:12 To be able to say to this woman, “Well, if you haven’t told your husband this, I’m not going to risk bringing you to Arusha and risk the information leaking to your husband and you having to cope with the domestic situation that emanates from what you’re trying to do for humanity and for, for international criminal justice.” A typical example of a, a grueling day in the field.