

Official Transcript: Claver Sindayigaya (Part 1 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.

The transcript of Part 1 begins on the following page.

Part 1

- 00:00** **Note: The Immediate portion of the video prior to this segment was lost due to corrupted digital files. The interview continues here.**
- 00:07 They should be around 30, around 30 but I'm not so sure because . . .
- 00:13** **Robert Utter: Of, of course.**
- 00:14 I'm not so sure, I know that there's – the c-, the cases that have been completed . . .
- 00:21** **RU: Yes.**
- 00:21 . . . 100% maybe they should be around 30 or a little bit above or less but I'm not really very sure.
- 00:29** **RU: No, and ().**
- 00:30 I know that there are maybe 65 accused at the detention, UN detention facilities. Many of them have completed their cases and are waiting for the transfer to the countries where they will serve their sentences.
- 00:47** **RU: Of the 30 to 35 cases, how many of those have resulted in an acquittal?**
- 00:57 I think we have almost five, five acquittals. I think around five. I know there is two bourgmestres, two ministers, and somebody else maybe. They, they should be around five acquittals.
- 01:20** **RU: And these were acquittals at the trial level?**
- 01:23 Yes, trial levels and appeal levels.
- 01:27** **RU: And appeal included.**
- 01:28 I think one of them the prosecution side did not appeal against the decision rendered by the, I mean the trial chamber here.
- 01:41** **RU: Are the cases similar in a number of degrees that appeared before the tribunal against people who actively were involved in the killing of others or another category of people who planned the killings?**
- 01:59 Excuse me, I have not yet – I've not understood you properly, what () – can you rephrase because . . .
- 02:04** **RU: Yes.**
- 02:04 I missed the, your question.
- 02:05** **RU: Of course, my fault. Is there a pattern in the cases that have appeared before the tribunal? Are they primarily people who were involved individually in the killings or**

were they people who planned the killings? And if, if a combination, what's the rough percentage of those?

02:29 Okay, because – what I can say is that most of the, the people accused before this tribunal were high level officials in the former Rwandan government either in the military ra-, I mean military, on the military side or the government officials.

02:53 I think it, it is a mixture of, of what you are saying; some are accused of having planned, instigated the killings and beside that, some of them are accused of having directly been involved in the killings for instance, because even we have some lower profile people, like a conseiller for instance who is accused of having killed with his own hands.

03:32 So it, it is a mixture, it depends on the, the case. It, there is always a mixture of the plannification and the, the participation; direct participation of the accused in to the killings.

03:51 RU: The more serious crimes have been charged at the tribunal level as I understand. And the less serious have been given to the Rwandan courts, is that correct?

04:06 'Til now the, the, the – most of the people who were accused before the, this tribunal were not arrested in Rwanda. That's, this – they were arrested in other parts of the world and were sent to these, to Arusha for trial so as you are aware there were, there was some attempt by the Prosecutor to transfer some cases from ICTR to Rwanda . . .

04:37 RU: Yes.

04:37 . . . and those requests were denied by, I mean, the, the trial chambers and recently even the appeal chamber has denied that transfer from Rwanda so,

04:51 RU: And, and those were primarily an issue of witness safety, is that one of the primary reasons they denied that?

05:00 Because I read some of the trial chamber decisions, they were so, the – first of all they were saying that the, the, the, those people from Arusha detention cells they cannot get a fair trial in Rwanda because of the highly politicized nature of the, political nature of the, of the cases. They cannot get a fair trial in Rwanda.

05:28 And secondly I think the trial chamber say that the Rwanda judicial system is not so independent to allow them a fair trial. And the other main reason was that I think that the defense witnesses from outside the country cannot really be free to speak in favor of those people.

05:55 So tho-, those were the three reasons why the, the transfer motions were denied and I think the trial cha-, I mean the appeal chamber upheld those (___), decisions mainly on the ground that maybe the defense witnesses cannot come from, for instance, Europe or wherever and go before the Rwandan judges and testify freely to the behavior or action of such and such persons.

06:30 RU: Yes.