



Voices from the Rwanda Tribunal

Official Transcript: Avi Singh (Part 3 of 7)



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| Role: | Legal Assistant |
| Country of Origin: | India |
| Interview Date: | 24 October 2008 |
| Location: | Arusha, Tanzania |
| Interviewers: | Batya Friedman John McKay |
| Videographer: | Max Andrews |
| Interpreter: | None |

Interview Summary

Avi Singh speaks about his experiences defending Jerome Bicomumpaka, posing the question: Are all government members responsible if genocide occurs in their country? In other remarks, he critiques the legal aid structure at the ICTR, claiming the United Nations is plagued by inefficiency. He stresses the importance of high quality defense to avoid political prosecutions, and discusses the problem of hearsay in witness testimonies. Singh comments that alleged perpetrators of genocide typically view themselves as victims of an international conspiracy.

The transcript of Part 3 begins on the following page.

Part 3

00:00 Batya Friedman: Since you came here as an intern, you could have worked on any number of aspects of the court. How is it that – you know, was there a point where you made a decision if you wanted to work on the defense or you wanted to work on prosecution or were you just assigned somewhere? How, how did that come about?

00:18 You know, I'd love say it was a really conscious well thought out decision, but it's probably just you know, that's what I was offered and I wasn't even thinking of coming back that quickly, so I did come back.

00:30 But, I mean, to be fair, I had lots of opportunity to apply for – I, I liked being on the advocacy side. So I worked in chambers, you know, which is for six months, I worked almost six months in chambers, which is fine, but I liked the advocacy side.

00:46 So I like – and then, so the, the choice is really between joining a bureaucracy, which is the prosecution, or being fairly independent you know.

00:57 BF: Mm-hmm.

00:58 I mean I, I really don't – haven't had a boss in years. Not just here but in other (___), which is why it's hard to go back to firms and things like that. So it, it's about, it's really a choice of, you know, I'd love to say it was because I believed in one side or the other, I have, I have no problems on the prosecution or the defense.

01:15 The only thing is in prosecution I think they have, they have a more difficult task, doing – even if they want to do it, and I can't speak for them – a more difficult task doing what they think is right, because of the political imperatives of their function within.

01:30 BF: So when you think about the things you've done as a, as a defense lawyer here, what, what are the things that have facilitated you, say, doing your job really well and what are some of the things that have been barriers? Or made it harder to do what you would have wanted to do?

01:51 God, I mean the structure's, is mad. You know, the, the legal aid structure here is just, is really badly put together.

02:01 BF: In, in what ways?

02:02 In every way. The way, I mean, it basically encourages you to be, you know, encourages and wants you to be inefficient. We're only supposed to work a hundred hours a month. Which in – that's all that we're paid for and that's changed

slightly now, but that's what the bulk of the case has been. Which is ridiculous in some – you know, most months it's a ridiculous thing.

02:24 So the, the whole billing, we have to bill every time. Each member of the team bills separately. You know, there's a whole sort of . . . the amount of time it takes just to get paid months afterwards, to try and actually (____) the witness. You know, the bureaucracy, they're like seven, eight people sitting there. You should interview one of them really and find out what they do for a living.

02:45 But which has been basically designed to stop us from, you know, and I'm sure there is abuse, but the, the system the way it's designed is, is not preventing abuse it's just increasing paperwork.

02:56 So it's, it's the economics are really bad, and you can really get away by doing very little but playing the paperwork game really well. So, so sort of the bureaucracy of it, you know, is, is terrible. It really hinders you from, from doing it.

03:11 I think definitely, you know, I'll speak personally, for my team, I can't speak for other teams is, you know we could have had a full team working on things and we've effectively had two legal assistants who eventually became co-counsel working on the bulk of the case so that and we did a, I think, you know, a decent job, but . . .

03:33 You know, it's, it's been everybody's pulling their weight. There is a difference and I've seen it in other places. What else? I think it would have been far better to have this case go at, at more concentrated clip.

03:50 BF: What would you have done to have, have speeded it up?

03:53 Well, we, we shouldn't have had long adjournments. You know, it's, it's hard to maintain, sustain. You know, you go off for four months, you come back and having to turn on everything again. You know, you're going, you get a momentum going, and then you stop, you go away then you come back, you have four months off, three months off. So it gets really, really difficult to sustain everything.

04:13 You know, you go off and you've got to do other things, because, you're not, you know, if, if you're billing fairly you can't always just be working on a case remotely. So, so it's hard you know, (____) now they're doing that, they're doing that a lot more, is trying to have things more concentrated.

04:28 But still the multi-accused cases I think would have been far better frankly, and I was just saying this, is, is for the judges to exercise control. You come from a U.S. jurisdiction. You know what this is about. Don't put in stuff irrelevant. The number of times I've heard this, "We are professional judges; we can figure it out later."

- 04:45 You know, juries need exclusion of evidence. We don't. The fact is we end up with a case with, I don't know, a thousand exhibits, running in some exhibits, in hundreds of pages, 350 some days of trial. It's humanly impossible to actually go through that evidence.
- 05:06 It's impossible, and, and they should have, you know, been putting blocks around, you know, what comes in, what's relevant, what's not. You know, we've had people testifying for days and a month sometimes. One of the cases went for a month.
- 05:22 You know, no limits on cross-examination, so carry on. Nobody gets limited. Repeat, ev-, everybody's got to get up and speak, for co-accused, for counsel, prosecution, really, really. I mean, sometimes you know, just want to be a judge just for management of the case, so really bad management of cases, from my perspective.
- 05:39 BF: And do y-, do you think that affects the defense differently than the prosecution or are both sides sort of equally impacted by this . . . ?**
- 05:46 It d-, I think it affects every team differently, yeah. Some people, you know, do it. But frankly, you know, one of the things that it's, it's, it's hard not to do is get cynical here, because you can really flow through and I have seen teams flow through five years of it with just being completely incompetent. And I just, you know, I don't have that many years in the bar, but sometimes you just think of it, oh, and (), the prosecutor in our case and many cases here, entirely incompetent.
- 06:25 I know that the prosecution closing brief is confidential, but there's nothing confidential about the fact that most of their references to their own evidence – and I've just wasted five days doing this, just, I mean it doesn't help us in the closing brief, but it's just to give it a little, you know, sling at them in the closing brief – are wrong. They just plain don't – either the witness didn't say what they thought – they say they said, or they've just cited it wrong, or they've actually just made up dates which nobody testified on.
- 06:57 So forget like their – the power of legal reasoning. Just purely from high school editing standards, and they have resources. Really, really you know, sort of their, their batting order goes way down. B5's and B4's and, you know, so I'm not even talking about the strength of the legal argument which is atrocious, but I'm just talking about simple editing.
- 07:23 So when you have got to respond to this, you know, you just don't know whether to laugh. You know, how do, how do you take something like that seriously? This is the case which has, you know, after Nuremberg the first time that cabinet

members are being charged for respons-, or Tokyo tribunal, and this is the standard of advocacy?

07:41 There was a time when there was a – one of the prosecutors who tried to – I think it took him like, I remember because I've always laughed about this, it took him literally ten minutes and he just (___) ask a non-leading question. He couldn't succeed. And finally one of the defense counsels suggested it to him. So that's prosecutor.

08:04 Lot – there's some very good exception. Ex-, excellent exception, privileged to be in the court with them. Lot of defense counsel are just – maybe not as bad, but also not good. Some of them are actually as bad, but . . .