

Official Transcript: Claver Sindayigaya (Part 2 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 2 begins on the following page.

Part 2

00:00 Robert Utter: Is there anything about the process that you've been involved in that is particularly frustrating to you? Something that could've been done better that hasn't been?

00:14 Okay, what, what I can say is that, mainly I can say that the, this international criminal procedure, international tribunal, the process is too long. For instance, my client has been arrested in 1995, he's presumed to be innocent. That is now 14 years later he has not yet been judged to be acquitted or condemned so – and I think we can expect that even in the next one year he will not get his judgment probably because it will take another one or two years to get the judgment. That means 16 years.

01:18 RU: Yes.

01:19 16 years waiting for, to know I mean what, what is your verdict. I think this is really, it's something with, I think the national jurisdiction are better in terms of respecting the rights to, to, to be tried without undue delay. I think 16 years – I know that in, in Rwanda some people who have participated in the killings who have, they have been tried by the Rwandan courts and have been sentenced to maybe ten years, 12 years, have served their sentences and are now free people.

02:04 And what will happen if, for instance, he's, he's acquitted 16 years later? I think the damage he might have suffered personally, on a personal level I mean, on a family level is, is so incredible that no remedy can be done about that. So in terms of the delay it's, it, it is really frustrating me because I s-, I think that the international community should not keep somebody presumed innocent for 16 years without I mean trying him. (___), it's a violation of human rights to be tried with undue delay.

02:54 RU: If you were to design a better system, how would you suggest?

02:59 (___), that's a very – it's not simple question.

03:02 RU: Yeah, I know.

03:09 I don't think that I can really – I'll sit down and learn from the, the past failures and then design a system that will try to tackle those failures, that's what I can say, (___).

03:29 RU: You have suggested if I hear you correctly that perhaps the defendants be tried in a national court rather than an international court because it would come to a decision more quickly, is, is that correct?

03:45 No – because I remember when my client was arrested in Belgium in 1995, he was arrested with some other people, Rwandese who were there and there were I think five or six, and the ICTR Prosecutor only chose two and he requested for the referral to the ICTR competence. All those who were, who remained in Belgium were tried by the Belgian judicial system.

- 04:25 They were sentences to some I don't know, 15 years or I don't know, I don't remember. They have served their sentence.
- 04:34 RU: Yes.**
- 04:35 I mean w-, I think in the Belgian legal system, when you serve a third of your conviction you can be freed for the – I mean, you don't have to serve the, the, the 15 years en- . . .
- 04:51 RU: I understand.**
- 04:52 . . . entirely.
- 04:53 RU: Yes.**
- 04:53 When you have served, I mean have been jailed for instance for four years you are freed and then you go about your normal life for the remaining part of your, your sentence.
- 05:07 RU: Yes.**
- 05:07 I'm not sure if I'm quite clear, because I'm conf- . . .
- 05:10 RU: You've ex-, you've explained it well, thank you.**
- 05:12 Okay so I said for instance that if my client had remained in Belgium, he could have had his fate, I mean, clearly determined there. He was sent to Arusha to get a, I mean, a quicker and better trial, but because of the, the, the joinder because it's not the defense who asked to, to, to have a joint case,
- 05:44 RU: Yes.**
- 05:45 it's the prosecution side. We opposed that vigorously saying that if you joined different people in a joint case, this would cause undue delay to them.
- 05:58 RU: And it has.**
- 05:59 And it has and at that time the Prosecutor was saying that it will help to speed up the proceedings and the, unfortunately the trial chamber I mean (), I mean accepted the prosecution theory and at the end of the day look at the result is.
- 06:23 RU: And, and here you are eight years later.**
- 06:25 (), and it's not yet over.
- 06:28 RU: Yes. At this point let me turn the interview over to my co-counsel Professor Slye.**