



Canadian Centre for International Justice
Centre canadien pour la justice internationale



GUILTY VERDICT FOR GENOCIDE THE CASE OF DÉSIKÉ MUNYANEZA Q&A

WHAT IS THIS CASE ABOUT?

Désiré Munyaneza was living in Toronto when he was arrested for participating in the 1994 genocide in Rwanda during which an estimated 800,000 people died in 100 days. Page Rwanda, a Montreal-based organization of survivors of the genocide, assisted in bringing the evidence to light. Munyaneza was a militia commander in Rwanda's Butare region during the genocide.

WHAT WAS MUNYANEZA CHARGED WITH?

Munyaneza was indicted on two counts of genocide, two counts of crimes against humanity and three counts of war crimes. The charges were laid under the *Crimes Against Humanity and War Crimes Act*, which gives Canada the power to prosecute these crimes wherever they were committed if the perpetrator later moves to or visits Canada. He was found guilty on all charges.

WHY IS MUNYANEZA IN CANADA?

Munyaneza arrived in Canada in 1997 at Montréal's Mirabel airport. Using a fake passport from Cameroon, he filed for refugee status. His refugee claim was denied, a decision that was upheld through various legal appeals. He settled in Etobicoke, Ontario, a suburb of Toronto. He was living there when the RCMP arrested him in 2005.

WHERE DID THE TRIAL TAKE PLACE?

The trial was in the Superior Court of Québec in Montréal. The judge presiding in the case was Justice André Denis.

HOW MANY WITNESSES TESTIFIED?

A total of 66 witnesses, 30 for the Crown and 36 for the defense, testified during the trial. Many of the witnesses traveled from Rwanda to Canada to appear in court, while others testified through proceedings in Rwanda, Tanzania, Kenya, France and Belgium. The prosecution's witnesses generally presented Munyaneza as a leader who ordered killings and carried them out himself. Several women testified that Munyaneza raped them. Defence witnesses generally testified that Munyaneza had no role in the genocide and they did not see him on the streets or at roadblocks in Butare. The judge said he found the prosecution witnesses more credible.

WHAT KIND OF SENTENCE WILL MUNYANEZA FACE?

The conviction could result in a life sentence. A ruling on sentencing will be held in September 2009.

WILL MUNYANEZA BE IMPRISONED IN CANADA?

During the trial, Munyaneza has been held at the Rivières-des-Prairies prison in Quebec and he will now continue to be imprisoned in Canada.

WHY SHOULD CANADA CONDUCT TRIALS FOR THINGS THAT HAPPENED ELSEWHERE?

Although legal systems around the world regularly punish offences to send a signal that such criminal behaviour is unacceptable and to deter the commission of future crimes, until recently individuals who carry out campaigns of terror, mass killing, rape and torture could do so with impunity. In a strong move to begin holding human rights abusers accountable, a permanent International Criminal Court (ICC) was established in 2002, a historic achievement in which Canada played a lead role. But the ICC was designed to deal with only a few cases at a time against the highest level perpetrators.

The remaining majority of investigations and trials must be handled by national courts around the world. Ideally, the cases can be prosecuted where the crimes occurred but when this is not possible the courts of other nations are empowered to take them on. Canada's *Crimes Against Humanity and War Crimes Act* used to charge Munyaneza was created in 2000 as part of Canada's implementation of the ICC treaty. Real deterrence will only come about through a robust international system combining prosecutions in international and national courts.

In addition, there are about one million people in Canada who have been affected by torture and war trauma, according to the Canadian Centre for Victims of Torture. The opportunity to see justice served can play an important role in the healing process, and sends a strong message to survivors of atrocities that the Canadian government and Canadian courts care about the situations that affected them in their home countries.

ARE THERE SIMILAR CASES IN OTHER COUNTRIES?

In recent years, investigations and trials have taken place in 13 European countries, resulting in over 50 indictments and numerous convictions. In the United States, the son of former Liberian President Charles Taylor was recently convicted on criminal torture charges.

Even more significantly, the courts of countries in which mass abuses occurred are also increasingly changing their laws and addressing their histories through judicial proceedings. Criminal cases have gone to trial in Latin America, Asia, Africa and Eastern Europe, resulting in prison sentences for some of the worst offenders.

WHY HAS IT TAKEN SO LONG FOR CANADA TO BRING A WAR CRIMES CASE?

In the 1990s, Canada did attempt to prosecute alleged Nazi war criminals living in Canada. One of them, Imre Finta, was acquitted when the trial judge allowed Finta to present defenses that he was following orders and that he actually believed Jews were the enemy. The acquittal came despite his admission that he participated in shipping Jews from Hungary to Auschwitz and other camps by cattle car. The possibility of other war crimes trials was shut down by the Supreme Court in 1994 when it upheld the Finta verdict.

The passage of the *Crimes Against Humanity and War Crimes Act* in 2000 clarified the authority of the Canadian government to prosecute human rights cases and addressed these potential defenses. This also created hope that Canada would build on its reputation as a trail-blazer in international justice through renewed commitment to war crimes trials in its own courts.

ARE THERE OTHER CASES LIKE THIS IN CANADIAN COURTS?

Reports by the Government of Canada indicate that at least 1500 alleged war criminals and torturers from countries around the world are currently living in Canada, often in the same communities as their former victims. Despite these figures, the Munyaneza case is the only one of its kind to result in criminal charges and a trial to date.

The federal War Crimes Program tasked with pursuing these cases has not received a funding increase at any time during its ten-year existence. Of the four government departments in the Program, the two assigned to the investigation and prosecution of criminal cases, the RCMP and Department of Justice, receive only an approximate 7% of the Program's funding. The Canada Border Services Agency and Citizenship and Immigration Canada, which focus on exclusion and removal of alleged war criminals with no regard to the need for justice, receive the lion's share of the budget. This funding imbalance has very real, practical consequences -- it appears that only one criminal prosecution at a time may be possible.

WHY DIDN'T THE CASE TAKE PLACE IN RWANDA OR BEFORE AN INTERNATIONAL TRIBUNAL?

The international justice system is designed to encourage national courts to try war criminals. Under international law, Canada has the power to prosecute suspects found on its soil regardless of where their crimes were committed. The Government of Rwanda has supported Canada's efforts to try Munyaneza here. Although Rwanda has a large network of local courts -- known as *gacaca* -- as well as more formal judicial processes to deal with the numerous perpetrators of the genocide living in that country, the system is both overwhelmed and raises concerns about due process protections. Human rights groups have been critical of these shortcomings as well as the conditions of Rwandan prisons.

The International Criminal Tribunal for Rwanda (ICTR), a United Nations body created to try the top perpetrators of the genocide, has a limited time mandate and is currently wrapping up its work. In fact, the ICTR is looking to other countries to prosecute some of the remaining cases.

The International Criminal Court cannot try cases related to the Rwandan genocide because it was not in existence at the time and does not apply retroactively.

WHY IS THE CCIJ INTERESTED IN THIS CASE?

The Canadian Centre for International Justice works with survivors of genocide, torture and other atrocities to seek redress and bring perpetrators to justice through cases like this. Human rights abuses like torture, rape and the murder or disappearance of family members have been experienced by some 25-30% of refugees and immigrants in Canada. Many came to Canada to seek protection from the persecution they suffered in their home countries. All too often, survivors find out that some of the people responsible for their persecution have also moved to Canada. Such a discovery, and particularly a face-to-face meeting with a perpetrator, can significantly retraumatize survivors and lead to strong feelings of insecurity. Justice can play an important role in the healing process. Trials like this one are also critical to creating deterrence by sending the message that future atrocities will result in real and significant penalties.

WHERE CAN I READ MORE ABOUT THE CCIJ?

Please visit the CCIJ's website at www.ccij.ca.