



Voices from the Rwanda Tribunal

Official Transcript: Hassan Jallow (Part 10 of 15)



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| Role: | Chief Prosecutor |
| Country of Origin: | The Gambia |
| Interview Date: | 5 November 2008, 6 November 2008 |
| Location: | Arusha, Tanzania |
| Interviewers: | Lisa P. Nathan Donald J Horowitz Batya Friedman |
| Videographer: | Nell Carden Grey |
| Interpreter: | None |

Interview Summary

Hassan Jallow emphasizes the need for extra-legal responses to post-conflict reconciliation and calls for the involvement of local communities in the justice process. He discusses the challenges of prosecuting gender violence and its role as an act of genocide. Jallow refutes the notion that the Court has delivered 'victor's justice', drawing attention to an investigation into war crimes committed by RPF forces. He suggests that the process of holding leaders accountable is feasible at the international level.

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Part 10

- 00:00** Batya Friedman: So I'm Batya Friedman, professor at the University of Washington and I am here with Mr. Jallow, the Prosecutor at the ICTR. It's November 6th, 2008 and we are continuing our interview with Mr. Jallow.
- 00:14 You're welcome back again.
- 00:16** BF: Thank you so much.
- 00:17 Okay.
- 00:19** BF: So, I know that as the Prosecutor, the overall Prosecutor, you have a, a very unique role that, different from the other prose-, different from the lead prosecutors of each of the cases and that I'm wondering if you can help us understand that a little bit better.
- 00:39** BF: Things that I'm wondering about are how do you set the overall strategy for the prosecution as a whole? And also, you've come to this about four years ago so you've inherited, you know, from prior prosecutors overall strategies.
- 00:59** BF: So what, what did you inherit and how did you appropriate that and, and what is your vision for how the prosecution as a whole should go forward?
- 01:10 You're right. I, I came in well after the institution had been set up almost a decade after it had been set up, so I, I came in midstream also at the time when the Security Council had passed a resolution the same year requiring us to close down, finish our work and close down by end of 2010 in, in various phases.
- 01:32 Such as the closure of the conclusion of investigations by 2004, the conclusion of trials at first instance by 2008 and then the conclusion of the appeals by the end of 2010. Here we, within the OTP, the Office of the Prosecutor, we organized essentially in, in, in a number of sections. You have the immediate Office of the Prosecutor responsible for policy issues. You have the Investigations Division in Kigali.
- 02:02 You have the Prosecution Division here in Arusha and you also have the trial, the Appeals, sorry, Appeals Division also based here in, in, in Arusha. And they are supported by the IESS, Information Evidence Section, which is responsible for holding and managing our evidence database.
- 02:21 Now the, the trial section is split into trial teams, each of them headed by a senior trial attorney and comprising other members of staff and they report immediately to the Chief of Prosecutions who then reports to, to, to the Prosecutor.
- 02:38 It's the Prosecutor's responsibility to decide on who to indict and with what crime, based on the recommendations which come up from the senior trial attorneys (___) to the Chief of Prosecution and on to him.

- 02:53 And it's for him, the Prosecutor, also to decide whether we should ask for an amendment to an indictment and then also other policy issues. Senior trial attorneys of course are supposed to, to run their cases in, in the routine way – decide who their witnesses should be and how, how they will deal with them in court and so on and so forth.
- 03:16 The, so the, the Prosecutor, Prosecutor's role in the actual conduct of cases is usually – I've, I've confined it to being there at the beginning like doing an opening statement, going in for the judgment, also working with the coordinating counsel and particularly the President of the tribunal in scheduling cases for trial, in, in deciding which, which, in helping him decide which cases should be scheduled for trial when and so on.
- 03:47 Now, the, the, the Prosecutor also presides over trial readiness meetings. You know, for each case we have, we, we, we hold a review of all the senior staff, by all the senior staff in the OTP, first, to, to look at the draft indictment which is presented by the trial team and approve it or suggest changes before the Prosecutor considers it.
- 04:12 And thereafter, we also convene what we call, the first one is called indictment review. The second meet-, the second meeting is called the trial readiness review and that is then meant to, to evaluate the level of preparedness by the trial team for, for conducting the case, whether they've done all the things they are supposed to have done like dealing with the disclosures, whether they have any witness issues, and so on and so forth.
- 04:36 Now, I, I came in as I said almost midstream and my task immediately when I arrived was then to dis-, to determine what was the level of work that we could accomplish within this timeframe which the Security Council had given us. We had quite a lot of targets, a lot of cases on hand at that time.
- 04:58 So it was for me to decide and advise the Security Council what were the cases we thought we could complete. That of course required us to decide the criteria by which we would select the cases which we thought we would finish.
- 05:12 So we, we organized a forum within the office and for some time, we devoted some time to deciding the criteria and in a nutshell what we, what we decided was that we'd look at the status of the offender, if he was a government person, who was involved in the genocide.
- 05:28 We, we'd looked at the nature of the offense that was committed by the person. We would also look at the, the extent of the crime. You could have a person who was not, who's, who was of a low level, a low level perpetrator in terms of status, an ordinary citizen but one whose participation was so notorious that you had to prosecute him.
- 05:52 We looked at the nature of the crime as I said and here we, we thought wherever we had evidence of sexual violence, strong evidence of s-, sexual violence we would try to proceed to, to, to a prosecution.
- 06:03 And then the fourth criteria we decided on was the need for geographic distribution. Given that the genocide had been a widespread phenomenon in Rwanda, we did not

want to let any of the administrative areas not be represented in the, in the number of indictees who had been prosecuted.

- 06:25 And because this, this we thought could have an impact on national reconciliation, so we were careful also then therefore in, in making sure that every area was represented in our list. So then wha-, then we reviewed the cases we had on the basis of that criteria and settled now for the cases we now have in hand.
- 06:45 Then with the second stage was to evaluate the strategies for prosecution that, that, that were in place at that time, and we felt it was necessary to change strategy if we were going to finish our trials on, on schedule.
- 07:01 And you'll find for instance, we, we decided that the indictments themselves had to be much more focused, much shorter, much leaner because the old indictments we had here were quite big, I mean very lengthy documents and we thought we should try and have what we call "lean and mean" indictments rather than big ones.
- 07:24 Try and focus on less crimes in respect of an accused, focus on the offenses with which, with which, for which we thought we had enough evidence and which could easily be established, rather than charging a dozen counts. If you had, if you could proceed on three counts you, you, you did that.
- 07:44 We thought we needed to reduce the number of witnesses as well because they were running into hundreds, close to 100 in some cases. Pick the best witnesses, proof them, prepare, I mean confirm them, make sure they, they are ready for court even before we filed our indictments, rather than the reverse which, which had seemed to be going on before.
- 08:08 And, and one of the major strategies also we, we decided upon was to move away from multiple accused cases. We'd had a lot of multiple accused cases and these had been going on and are still going on for a long time. The, the Butare trial, for instance, has been going on close to seven years now and is not yet closed.
- 08:27 And it's not likely to finish in terms of having judgment delivered before the end of next year or up to end of next year. So we, we decided that we had the, the evidence and the, and the witnesses permitted to avoid duplication, for instance. We should have single accused trials.
- 08:44 So you'll find since 2003 we've only filed indictments in respect of single accused and what, what this – and it has worked. It has worked. We've had more – we finished more single accused cases in the same period, in fact almost double than the number of cases concluded in the, in the previous years, and I think this is because of that, that change of strategy.
- 09:09 So that, those are sort of things we had to do you know, as soon as, soon as I came in midstream we had to sort of change, change tack in, in, in that direction.