



Voices from the Rwanda Tribunal

Official Transcript: Hassan Jallow (Part 11 of 15)



Role:	Chief Prosecutor
Country of Origin:	The Gambia
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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 11

- 00:00 **Batya Friedman: So I have many questions to follow up on here in different pieces. From the perspective of prosecuting for genocide, which is as we've talked about really quite different than if there's a single murder or even if multiple people are murdered by a small group of people.**
- 00:19 **BF: And if you think about how those prosecutions unfold over time and you're thinking – and, and thinking about tribunals in the future – how should I phrase this? One thing you could conclude is the kind of strategy that you've articulated is really the strategy that ought to have been applied from the beginning.**
- 00:40 The beginning, yeah.
- 00:41 **BF: Or another thing you could conclude is that in the beginning, when one is first starting to understand the territory of the genocide, there is something about needing a different kind of prosecution in the beginning that evolves.**
- 00:56 **BF: And I'm just wondering from your perspective and your experience, if you were to be mentoring another prosecutor of a tribunal somewhere else at some other time and taking the, the longer term perspective of how prosecutions would unfold, what recommendations about strategy would you give based on your experience?**
- 01:19 Well, we, we thought actually one of the lessons which, which need to be learned from our own experience is that when you do set up a tribunal and you, right from the beginning, you need to develop your completion strategy at that point.
- 01:34 In other words, you need to decide right from the beginning what are you trying to do, how many people do you want to prosecute, how long do you want to go on, who do you want to prosecute and when do you want to close down? The, the, the ad hoc tribunals did not do that.
- 01:50 Even though they had been set up as ad hoc with a, with a definite lifespan you know, a sort of a (____) lifespan, not much thought had gone into these questions and so the work was just going on. But I think one of the lessons, the first lesson is to, to, that we need to learn, right from the beginning that we need to establish a completion strategy.
- 02:10 And I think even for the ICC which is a permanent court you, you need to establish a completion strategy in respect of a particular situation. If it is Congo or DRC or Sudan, if you are going in you need to determine what do I want to do here? Who is my target? When do I want to finish the job? And at the end of the day, what do I want to have accomplished?
- 02:34 The other lessons relate to strategy and we've, we've discussed some of these issues. I think you need to, to be concerned about ensuring that the trials move on speedily and conclude speedily and, and that can be affected by the size and the nature of your indictment.

- 02:50 You need to have smaller focused indictments. You, you need to probably move away from multiple accused to single accused cases. Sometimes it's an advantage to have multiple accused. If the witnesses are common, the evidence is the same and the incidents are the same, it doesn't make sense to separate the accused. You, you put them together. You'll save time.
- 03:14 But there are dangers also in putting accused together. I mean if anything happens to any of them, the whole case gets held back. I mean I mentioned I think yesterday the, the Karemera trial.
- 03:25 We are now faced with the, with the, with the issue before the trial chamber as to when or whether one of the accused should be severed from the case because he's not, he won't be able to appear in court for the next six months.
- 03:38 BF: Mm-hmm.**
- 03:39 Should we sever him from the case and continue with the other two or should the (___), whole case be adjourned? That's one of the difficulties with, with multiple accused trials. Anything that happens to one accused or defense counsel or a judge or, you know, it impacts on, on the whole case itself.
- 03:56 And another lesson I, I, I believe is, we, we have also recognized is particularly in relation to sexual violence offenses. We have not been as successful as we would have wished; we have not had a very good record of convictions for, for sexual violence.
- 04:14 Even though right from the beginning this tribunal broke fresh ground in the Akayesu case by holding that sexual violence can const-, can constitute genocide. But we haven't gone, gone much beyond that.
- 04:29 And the lesson we've learned in respect of sexual violence is that it is important and necessary to prosecute it but you have to fast track it. You, you have to give it priority in terms of prosecution.
- 04:43 If the cases don't get to court within a number of years, you, you'll find that by time you are ready to go to court, your victim is not interested in justice, is, is (___) not interested in justice. You want to pursue the justice line. The victim has resettled, is remarried, has family.
- 05:05 They don't want to reopen those issues anymore and, and that's one of the problems we've had. They don't want to reopen. You want to push the justice angle but they say, "No. Look, I don't want to reopen that chapter again," and you end up therefore not being able to prosecute.
- 05:17 So you need to, I think, to, to deal with sexual violence very early, at a very early stage when people still, when victims still want justice and they can still, you know, pursue the, the, the justice line.

05:31 I think these are some of the lessons. Organizationally, I think even within the OTP the number of issues also or lessons – how do you organize your trial teams? I found here, for instance, a distinction drawn between trial attorneys and appeals attorneys, whereas at the national system there is no such distinction. All attorneys are supposed to be capable trial lawyers and capable appeals lawyers.

06:01 It's, it's, it's been very difficult if not impossible to change that, that separation here. But I think when, when for the future, when one is setting up an OTP you need to just have trial attorneys who can do both, both, both aspects of, of the work.

06:19 Sometimes I think the, the trial teams themselves could be, you know, reduced to more manageable sizes, more, more manageable sizes and, and these are some of the lessons I think we've, we've learned and which can be taken into account by and for the future.