



Voices from the Rwanda Tribunal

Official Transcript: Hassan Jallow (Part 15 of 15)



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 15

00:00 Batya Friedman: Then, another thing that you've spoken about is that even though these are separate trials, you've said it was one genocide. It happened in one country . . .

00:10 One country.

00:11 BF: . . . right? These things like language, the language in this case goes across the country. Does every case need to establish the same kinds of things with respect to these cultural means of expression, or are there ways – I mean this is a way in which a tribunal prosecuting for a genocide is, is perhaps different from if there were many separate different, say, murder trials.

00:39 BF: Are, are there ways in which certain understandings about cultural expression can be established once . . .

00:48 (_____).

00:49 BF: . . . and then used across?

00:50 Across, yeah.

00:51 BF: Are, and, and are there other aspects, because it is a single genocide, that it makes sense to establish once, say in a future tribunal as a, as a, as a way to think about how one lays out a common sense of what the discourse will be? Does that even make sense? (___).

01:12 No, you're, you're right. It is possible to do that. Let me give you an example, the relation to, to the genocide, for instance. Until, until two years ago, (___), yeah, until 2006, every, every single case we prosecuted, in every case we prosecuted we had to, to lead evidence to prove that a genocide had occurred in Rwanda.

01:37 The judges would accept it happened. But it didn't stop us from proving it again in the next case (___) before the same judges. And so, and so we said, "No, th-, this can't go on like that." You are trying to, you are having to lead evidence on the same issue and each time you succeed in establishing it.

01:53 So we, we resorted to the mechanics of judicial notice, the judicial notice process. The judicial notice process empowers the court to take notice of a fact and say that, "This is so notorious and well-known that you don't need to prove it anymore."

02:10 So we went to the appeals chamber and asked the appeals chamber of the tribunal to, to find that the occurrence of the genocide is such a well-established and notorious fact that it does not require proof.

02:24 And the appeals chamber agreed with us. So immediately then it, it lifted the burden from us of having to lead any more evidence before the tribunal, and before any trial chamber of the tribunal, that the genocide had occurred.

- 02:36 And so what we now concentrate on is to lead evidence about the involvement of the individual accused in what had happened. You can do the same with regard to, to, to these other issues.
- 02:48 I mean, the cultural issues, the language issues, et cetera and so on, try and establish – but it, it must be established a number of times by evidence before the appeals chamber will say, “Yes, that is enough. This is so well-established that you don’t need now to go on proving it each time.” That’s what the system of judicial notice can, can do for us.
- 03:10 BF: So, well, we’ve had quite a while to talk. I wonder is there anything else that’s on your mind, that you would like – not just people in the next three to five years to know – but to be a part of your voice and your record about, especially from your position well, both as the Prosecutor and, and as a human being in this experience?**
- 03:36 Well, it’s, it’s been a difficult and long process here over a decade now, and a lot of time and a lot of money also has gone into it. But it’s been worth, it’s been worth the effort. People have been held to account whom it would have been difficult to, if not impossible in earlier times to, to, to bring before a court of law. A lot of law has been created or clarified by the judges, substantive law to procedural law.
- 04:09 We’ve had a lot of experience too in investigations and trial management, management of witnesses, et cetera and organizational issues, et cetera. And all of this could be, would be beneficial I think for the, for the future if such a similar exercise was to be engaged in.
- 04:27 There are many lessons also to, to learn from this but I think the, the greatest lesson is that the, the process of accountability is feasible. It can be done despite the challenges, despite the difficulties.
- 04:42 The process of accountability at the international level is, is feasible and that it al-, it’s also necessary to do it. It’s also necessary to do it in order to, to ensure that you have justice and also to ensure that you have peace in, in these communities.
- 04:58 BF: And for yourself personally, as you think about your experiences here, is there anything about that you would like to share?**
- 05:07 I think it just, it’s, it strengthens my faith in the law, but also beyond the law it strengthens my faith, you know, in, in, as I said, in the need for going back and strengthening those basic values of peace, of love, of good neighborliness, of justice between people, of respect for, for the rights of others.
- 05:28 If you have those things, if everybody works towards those it’s probably inconceivable than you could have a tragedy such as happened in Rwanda. If we all worked hard at making sure that we are good neighbors, that, that we tried to like each other but at least we respected each other’s rights and tried not to violate them. It’s quite possible we may not have these kinds of tragedies.
- 05:54 BF: Thank you.**

05:55 Thank you very much. Thank you.