



Voices from the Rwanda Tribunal

Official Transcript: Mandiaye Niang (Part 6 of 13)



Role:	Senior Legal Advisor
Country of Origin:	Senegal
Interview Date:	8 October 2008
Location:	Arusha, Tanzania
Interviewers:	Batya Friedman Eric Saltzman
Videographer:	Patricia Boiko
Interpreter:	None

Interview Summary

Mandiaye Niang describes the early years of UN investigations and procedures, and recounts being traumatized by his initial experiences in the field listening to the stories of witnesses. He claims that these experiences increased his sensitivity to the needs of Rwandan people. He notes that the Tribunal's capacity building initiatives have helped strengthen Rwanda's judicial sector, indicating that these initiatives have transformed attitudes of Rwandans from initial distrust and criticism to feelings of ownership and support.

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Part 6

- 00:00** Batya Friedman: We were talking about how you would change the mandate if you were going forward with a new tribunal and you've talked about the, the civil law component – this mix between common law and civil law. Are there any other aspects you would change?
- 00:13 Yes.
- 00:14** BF: And what would they be?
- 00:15 Yeah, one of the aspect I think I would, the mandate of defense counsel. I think that one of our problem here also is that we don't have – because we have a system of remuneration of counsel which in my view does not foster efficiency. I agree that, you know, accused must be fully defended.
- 00:41 So, but if you have in place a system whereby okay, counsel would pay, will be paid – because, of course you know I should clarify first is that, all our accused (____), you know, are indigent meaning that it's the tribunal which fund their defense.
- 01:04 And it is almost the same for the other tribunal, also ICTY. But with this system, I think that with this system of hourly rate, or even what we call lump sum but which is not really a lump sum system in a sense that it is based on projection of workload, and counsel they determine their own load, workload.
- 01:27 Sometime my feeling is that this does not necessarily, not always foster efficiency, particularly if some of those counsels they don't have much to do when they go back to their town. So, you know that, you know, the more this case is prolonged, the more money we'll be making. So I would, I think that, you know, I would favor a system of flat rate or even an appointment of just people with a salary to, to play that role.
- 02:02** BF: So similar to how the prosecution (____).
- 02:04 Exactly, yes, to have our own Office of Defense for example. You have, you know, lawyers completely autonomous and hiring, you know, very good lawyers, whatever the salary might be, but they have, they know that they have a tenure. This is their job to defend these people, and then they have their salary.
- 02:25 So, and they have one year, or two year or three year appointment. And if this case finish, you take another one. So, I think that with this system we, we will not be creating in-, in-, incentive of people dragging sometime very small cases just for the sake of, you know, keeping, you know, a good job.
- 02:47** BF: So I want to ask just one more question before we take a break . . .

- 02:51 Okay.
- 02:52 **BF: . . . and that is to return to what you said – that your sense is that there’s been a shift in the Rwandan people in their perceptions of the tribunal.**
- 03:00 Yes. Yes.
- 03:01 **BF: And I just like to ask you to talk about that a little bit more, what kind of shift, why do you think it occurred, how do you know? What, what gives you this idea?**
- 03:13 Okay, so that shift as I told you, in the origin, Rwanda they were given very little, according to their own ends. Death penalty, they asked for it. They did not get, you know, the jurisdictions, the timeframe, only adjudicating for the year '94. That was very little and so, and convicted person or so, being able to serve their sentence elsewhere than Rwanda.
- 03:42 I think that all that resentment was already there in the beginning and that only continued. And of course the other-, th-, I think that one of the biggest problems also was that after, after the genocide, Rwanda was completely left with almost nothing. All the judiciary people were killed. All those involved in the genocide, they flee, they fled the country and yet they were invited to co-exist with the tribunal, full of means, so to speak.
- 04:17 Millions of dollars invested into a justice system which was kind of foreign to them, which was being held abroad. They even, they barely know, knew what was going on here. So I think that all those (___), frustration were just building up and then they, they could not stand it because for example, we would invite witness here, they, you know, starving witnesses.
- 04:43 And so they, they see the staff of the tribunal very well paid and once they know about the cost involved in this system of justice, it just did not fit, bec-, for, for people who even had nothing to eat. So, and time and time again you would even hear Rwandan people okay, t-, tell okay, “So we would be better off without this tribunal if just as a means put there were given to us, to, to alleviate some of our suffering.
- 05:20 We would be better off. For example, hundreds of millions of dollars, why don’t you just give us the money?” Even at the official level, you know, you would s-, hear those kind of comment. But I think that now, the shift also, why the shift is that, you know, as time went by, I think that the wounds also naturally were kind of healing.
- 05:42 And anyway, they knew that you know, the tribunal, you know, was here. Anyway, it’s not because they did not like it that the tribunal will disappear. And they were even cooperating with the tribunal. I think that with that proximity, you know, tha-, that’s when the shift started. The shift started because the tribunal started even using Rwandan resources.

- 06:07 For example, there were some area where we could only use Rwandan, so we were also providing employment to Rwandan. For example, we needed interpreter or translator from Kinyarwanda to English or, or to French because many of the witnesses coming from Rwanda would not speak either French or English.
- 06:30 So, many Rwandan joining, Rwandan citizen joining the tribunal – they become even part of this, the system. So I think that there are a lot of tiny bits to be put together to understand why that shift occurred. And even at the political level at one point also, they realized that, because what you need to know also is that Rwanda, we don't have exclusive genocide, jurisdiction over the genocide.
- 07:02 Rwanda also in parallel is running its own court to try genocide, which is, you know, their, their main activity. And they had also a tracking team trying to get hold on grave figure of genocide. They realized that also that the level of success was not that great. So then came this idea, or this acknowledgement that if the tribunal were not even here, they would be never successful.
- 07:35 Because if you look at the tribunal record, we are trying high figure – almost all member of the former government or prefect, you know, high ranking military officers. And those people, you know, were, were completely out of reach. And at the end they now acknowledge that if the tribunal had not been here, those people may have just gotten away with their crime.
- 08:03 So that also, I think that has been an element, which they belatedly acknowledged, but which at least make them realize that thi-, this tribunal also is relevant. So I think that that also created the shift.