



Voices from the Rwanda Tribunal

Official Transcript: Hassan Jallow (Part 14 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 14

- 00:00 **Batya Friedman: One other issue that we've become aware of are the, that there can be a lot of cultural differences that show up in the courts. The, the courts are largely a western kind of law or justice and many of the witnesses coming, they may be coming from villages.**
- 00:20 **BF: They may have experience in sort of let's say African concepts about place and time and notions of justice that might be quite different than the way in which the court operates. Have you seen that play out with the prosecution and are there lessons to be learned with respect to you know, how those different systems can be addressed?**
- 00:51 Yeah, it, it's – these offenses took place in Rwanda. Rwanda is a, speaks Kinyarwanda. Let's take the language issue, for instance, speaking Ki-, Kinyarwanda. We have a team of international staff here. Even if many of them are from Africa, they don't speak Kinyarwanda.
- 01:07 They don't understand Kinyarwanda and there are maybe different, cultural differences also between where they come from and what happens in, in Rwanda. And, and we found that it's absolutely essential to integrate Rwandan staff into the process, especially at the level of the Office of the Prosecutor.
- 01:27 And so as a result, what we've done, we've had the Rwandan associate investigators working with the international staff in Kigali. We have language assistants, Rwandan language assistants who help us with the documentation.
- 01:41 We have Rwandan trial attorneys and appeals counsel, all of them working here. And, and that helps us not just to be able to overcome the language issue but also to understand, to understand the witnesses much more. You, you need that. It's absolutely essential. (___).
- 01:58 **BF: Can you think of a particular story or, or a situation that . . .**
- 02:04 Not, not off, not off head as such, but it, it's we find it's absolutely essential to work alongside the Rwandans. They do translations for us. They, they act as intermediaries with the Rwandans. They, they, you know, they explain things to us.
- 02:19 For, for instance, I mean, in, in – I'll give you an example. In, in many African societies, when you're talking of sexual violence, I mean explicit reference to the sexual act is something that is not done. It's not done at all, it's, it's, it's considered unacceptable. Instead the language used to refer to the act is something if you are a foreigner or if you don't come from part, that tradition you will not understand.
- 02:54 It's, it's, it's the kind of, the . . . the vocabulary used does not – to an outsider may not mean that at all, so you need the Rwandan to be able to explain to you that when the witness says this, what she actually meant is that the act of sexual violence occurred. So, so, so it's important to, to, to be aware of that sort of thing.

- 03:16** **BF: Mm-hmm.**
- 03:16 Of course, she will not be able, she will not refer to the act explicitly.
- 03:20** **BF: What, what . . .**
- 03:20 But she'll use a kind of language . . .
- 03:22** **BF: . . . what . . .**
- 03:22 . . . like, for instance that, "He lifted the hem of my dress," and that's all. But what she actually means is that, "He engaged in sexual intercourse with me." So you need that sort of understanding and it only comes from working with the, the Rwandan staff in, in the team.
- 03:40** **BF: And within the courts then, can, i-, is it possible that the way in which the Rwandan woman expresses that can serve to represent that act?**
- 03:51 Th-, that, that is one of the issues we've been considering in our, in our best practices, because we say to ourselves i-, if that is the witness's explanation or description of the act, why, why should the judicial process insist on the witness coming there and, and talking explicitly in the language of the court rather in his, in her language about the act?
- 04:14 But the defense counsel take the position, you know, they will cross-examine the witness. They want an explicit reference and that embarrasses the witness. It puts off witnesses from coming forward to talk about it.
- 04:26 So, so there's a need for the courts to accept that sort of language, to understand that when, when that phrase is used this is actually what is meant, and this is one of the things we, we're trying to, to, to push through.
- 04:38** **BF: So, if something like that is to be pushed through, how does that process happen within the court?**
- 04:43 Within the court, I think what you could do is you, you bring in an expert on, on Kinyarwanda language and culture. Who, who will, who will testify as an expert that the vocabulary relating to sexual violence is this and this and this and this. When this phrase is used, this is what it means, and so on and so forth.
- 05:02 I think if you do that first and the court accepts that expert's testimony, then when the witness comes you don't need to go into, into any details. She can use her own language, and the court can understand from, from the, from the expert that this is actually what she meant.
- 05:17 It may not stop the defense from trying to be, be, be terrible in their cross-examination, and I think that's, that's one thing that, that puts off the witnesses. But I think that's one of the ways in which we could, we, we, we could deal with that problem and we may do so in the, in the next cases.