

Official Transcript: Adama Dieng (Part 4 of 10)



Role:	Registrar
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Interview Summary

Adama Dieng discusses the challenges of establishing the 'rape as genocide' jurisprudence, the importance of training defense counsel, and the need to strengthen Africa's national courts. In his reflections on the important role played by Gacaca in Rwanda's healing, he emphasizes the serious challenges that domestic justice has posed to witness protection, as well as the need to avoid 'victor's justice'. He stresses the importance of the presumption of innocence at the international level while advocating for compassion for detainees.

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Part 4

- 00:00 And that is that restorative form of justice that the Rwandan authorities decided to introduce in Rwanda. It is known as the Gacaca system of justice. It was not invented by the Rwandan government. The Gacaca system was there long time ago, it belonged to their tradition. And one may ask a question, that Gacaca system when the ancestors of these people today in Rwanda invented that system, it was not to address massive violations of human rights. It was not established to address these large number of crimes committed at that scale. No.
- 01:02 It was to deal with, I would say, very reasonable. We're talking about cases which are of a very limited number of killings and also it relates to interpersonal conflict as well. So the question is, was that system prepared to confront this large number? Because at the time the Gacaca system, which we generically call a traditional system of justice, was introduced in Rwanda, there was, at that time, more than 100,000 people in prisons.
- 01:49 And with those people being tried according to the modern fashion of trying people, according to the basic principles, namely Article 14 of the Covenant of Civil and Political Rights, which guaranteed the right to everybody for a fair trial, et cetera, which guaranteed right of the accused, then it would have taken more than two centuries to try those people.
- 02:26 And that is why I personally back it, that initiative. A) It helped to provoke some kind of a healing process. However, one should note, like in every system the Gacaca also had its some part of weaknesses. For instance, some people were in the hills and they were living with people who they know were among the killers. But still, they accepted to continue to live in those hills with those people until the day they were called to testify before the Gacaca. They get really traumatized because of that happening. So that is to say there also nothing is perfect.
- 03:28 And the other element, which was also extremely important, is that some of the judges who were elected to serve for the Gacaca system, and we are talking about more than 250,000 people who were elected as judges, the result is, in many cases, it was discovered that some of them were corrupt. But this is also something which is not new; even in the modern judicial system you will find corruption in the judiciary.
- 04:01 And – but what is really important, at the end, is when you face this situation like the one in Rwanda, like the one we are facing in Darfur today, when you are facing situation like the one we witnessed in South Africa during the apartheid days, you need to be creative and find a way. Because at the end of the day, not everybody can be tried.
- 04:40 And that is why the International Criminal Tribunal for Rwanda decided only to try what the Prosecutor considered, those the Prosecutor considered as the ringleaders, the men responsible of the genocide. Not everybody, because, in, if you search the data

bank of the Prosecution Office, there were more than 3,000 people but the Prosecutor decided to focus on the ringleaders.

05:12 And that is why, if you go through the cases which have been tried, and which are being tried still in Arusha, you have cases dealing with the military. There has been cases dealing with members of the media. You have cases dealing with government people, ministers. You have cases dealing with bourgmestre. You have cases which were referred geographically, what is called the Butare case, the Cyangugu case.

05:48 And one should just understand that these cases, the way they were separated, was to have some kind of a sample of what happened in Rwanda. Where it did happen, who were involved, so that this will serve as the symbol for the justice which were rendered on behalf of the international community, on behalf of humanity. Because what happened there, although it happened in Rwanda, committed by Rwandan, against Rwandan, still those crimes remain crimes against humanity, and crimes which concern each of us.

06:33 And that is why when today we refer to universal jurisdiction, some people wonder why a Belgium court is going to try a Congolese. Well, simply because what that Congolese did, the crimes he committed, every single human being would have felt that it's like if those crimes were committed on him.

07:02 And that is the same with torture. If someone is today tortured in an African country, it's like if you in United States were tortured. And what we have to learn from all this is that justice is a long process. It's a long process. It's not something which is simple.

07:30 And I cannot but encourage wherever it is possible to use the traditional method of settlement of dispute. Many years ago, when I was a young African human rights activist, I did invite African leaders to introduce what we call in French la mediation penale, which is kind of an amicable settlement of criminal action. When I made a proposal, I did not receive the favorable answer I was expecting from those leaders.

08:25 And that is only many years later, when the issue was put in the agenda of the Francophone Ministers of Justice meeting in Paris, when they notice that in France, they introduce it, la mediation penale, they open what they call Maison du Droit et la Justice, which are some kind of house of law and justice. That is only after that that some African countries, including my own Senegal, decided to introduce that system.

09:07 It is to say, I mean, I'm mentioning it not because I was frustrated, not being heard at the time, but I just mention it to say that the African continent has so many hidden resources, which we just have to embark upon a journey for their discovery. It is for us and for the future generation to continue that journey and try to find all these hidden, you know, tools which can help to improve the life of the African people.