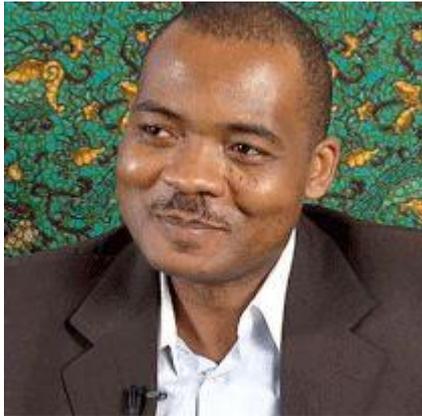




Voices from the Rwanda Tribunal

Official Transcript: Jean-Pele Fomete (Part 11 of 15)



Role:	Program Director
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Interview Date:	24 October 2008
Location:	Arusha, Tanzania
Interviewers:	Batya Friedman John McKay Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Jean-Pele Fomete speaks about his role in court management services, overseeing legal aid and capacity building for pan-African justice systems. He highlights the need for civil society support to make the Tribunal a success, which has been challenging in Rwanda. He also comments on the lack of infrastructure in Africa, and the difficulty in mobilizing resources and ensuring adequate access to information about the Tribunal's work. He discusses the positive and negative impacts of the ICTR and international human rights standards on Rwanda's justice system.

The transcript of Part 11 begins on the following page.

Part 11

- 00:00** Robert Utter: Let me introduce myself for the camera. I'm Robert Utter. I was in the judicial system in Washington State for over 34 years. I served as a trial judge in a lower-level, higher-level Court of Appeals and then on the Supreme Court for 24 years and had been Chief Justice there for a period of time.
- 00:23** RU: I did work in court administration. I was National Chairman of a group called the American Judicature Society; it's a society that's over 100 years old that focuses on court administration and selection of judges.
- 00:36** Okay, okay.
- 00:38** RU: So when you spoke of what you were doing with court administration it rang many familiar bells in my mind. I ad-, admire what you are doing. I could just simply nod and say yes. I've heard those problems before and we have some of those in the states as well.
- 00:56** RU: It's been my privilege to be part of this group, a number of distinguished colleagues, almost all of whom have introduced themselves at this session, not quite, we have a few in Rwanda now; Judge Don Horowitz and Lisa I believe is there as well.
- 01:14** Lisa Nathan.
- 01:15** RU: But their regret is that they can't be here to watch you and speak with you as well, so I pass their regrets on.
- 01:24** Thank you.
- 01:24** RU: Let me go to some basic questions of justice that I think we need to talk about at first.
- 01:31** RU: The one that strikes me always in these situations is the old axiom, "Justice delayed is justice denied." And would you agree that this is at the heart of what we're trying to do in the justice system?
- 01:46** Absolutely, absolutely. And I will agree with you because that's one of, that's one of the issues we have been trying to address as well, because the length of detention, you know, pre-trial detention here has generally been long.
- 02:13** RU: Yes.
- 02:14** And if you add to it the difficulties we've been facing in terms of contemplating the possibility of even issuing provisional releases to accused persons because it has been very, very hard . . .
- 02:33** RU: Of course.

- 02:34 . . . to arrest them because they have been, they were very organized, scattered all over the world. So when there were even applications for provisional release just looking at those difficulties to get hold of them and the risk of having them disappearing I think wa-, was so high. That's one.
- 02:56 But two, in terms of planning the process, putting everything together at the international levels to, to reduce the length of the process to the strict minimum was not easy.
- 03:11 But towards the, over the past four years there have been significant improvement in, in, in that area you know, aimed at reducing the, the, the duration of the detention and the entire judicial process here at the, at the tribunal. And I think people like Judge Møse, our former President . . .
- 03:34 RU: Yes.**
- 03:35 . . . have made a significant contribution in, in that direction.
- 03:41 RU: We had the privilege of interviewing him earlier this week. And reading some of the articles he's written about lessons learned . . .**
- 03:48 Yeah. Yeah.
- 03:49 RU: . . . and I'm sure you've observed and re-, read those as well, but he's a man as are you who's recognized some of the obstacles to achieving justice and the steps taken to correct these.**
- 04:02 RU: Another almost conflicting principle that I think is at the basis of achieving justice is the word "impunity" and as we travel through Rwanda and talk to people at the ICTR we heard that stated continually, there should be no impunity for people who have committed offenses.**
- 04:20 Yeah.
- 04:22 RU: Do you see that in conflict with this principle of "Justice delayed is justice denied"?**
- 04:31 I, I don't see a, a conflict. When you look at the complexities of the operations that we had to, to put in, in, in place here you can understand even if you disagree because when you look at what it takes to bring a witness from Canada to testify in Arusha let alone what it takes to identify that witness. That's one.
- 05:01 Two, when you look at our judicial capacity itself, initially we had what? Six judges with a heavy workload and then we – to struggle to have additional judges, it takes ages because it's very expensive. So some of the situations that led to lengthy pre-trial and judicial process are things the judicial institution itself had very little control over.

- 05:37 So that's part of the, the lessons. Meaning if other inter-, international judicial ventures are to be put in place we have to make sure that, you know, we avoid those difficulties because there's a problem also. What can a witness tell you 14 years down the road about what he actually saw? And when you follow our proceedings you see also something cultural.
- 06:05 In Rwanda for example, there's, there seem to be very little difference between what you heard a third party telling you and what you actually saw. So somebody will ask me, "Do you know John McKay?" I will say, "I know him," simply meaning we exchange emails or we are living in the same neighborhood but knowing somebody means something else.
- 06:39 So I'm saying when the process is too long and you factor in the failings of the memory and things like that it might contribute to, like, questioning the, the end results.
- 06:54 So I'm saying, yes, they have been delayed and normally justice delayed might seem to be justice denied, but in some cases like dealing with the highest crimes like the genocide, dealing with those cases at the international level, taking into account all practical difficulties – it might not be defensible but understandable that we face this situation.
- 07:26 And if you add to it efforts aimed at limiting, reducing that negative impact we can say the tribunal has been trying its best.