



Voices from the Rwanda Tribunal

Official Transcript: Hassan Jallow (Part 2 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 2

- 00:00 **Lisa P. Nathan: Can you speak to some of the challenges of that role? You came into the role knowing quite a bit because of your previous work investigating and learning about the ICTR and the ICTY, knowing the criticisms that have faced the court and the challenges here. So it's, in a very, in a way unusual because it is an international court, there's a lot of politics involved.**
- 00:26 **LPN: Can you speak to some of those challenges that you have faced in your role as Prosecutor?**
- 00:33 It, it's a difficult function. I mean investigating and prosecuting these crimes. When you are a national prosecutor, you, you, you have the advantage of having a lot of institutional support within the state structure.
- 00:48 You have the police there to whom you can give the instructions. You have the prison services. You have the state machinery to rely on. So you, you don't have difficulties with tracing the accused person to start with in the country. You may not have th-, if there are difficulties, you have institutional support to look after that.
- 01:05 You may not have difficulties with wi-, tracing witnesses, running your case and if the person gets convicted, you have a prison readily available to put them in. If they are acquitted there is no difficulty as well.
- 01:18 The, some of the challenges which we face at the ICTR are, are sort of inherent in the nature of the system itself and some because of the nature of the offenses which we have been, have been, have been dealing with. These tribunals, I mean especially the ICTR, sort of are, they are not embedded within any national structure. They are international tribunals.
- 01:43 They essentially have to rely on international cooperation from states to be able to function in, in respect of all their activities – from searching for the accused persons, from locating witnesses, making sure they are available, from, from getting counsel, defense counsel, employing defense counsel, relocating witnesses and protecting them where, where their, the-, the-, the-, their safety is an issue.
- 02:11 And even sort of finding places of imprisonment for people who have been convicted. In the case of Rwanda, for instance, particularly, the, the people we are supposed to prosecute almost – I think all of them, not almost, actually all of them had left the country.
- 02:29 They had fled and, and so the biggest challenge was actually looking for them, trying to locate them and making sure they, they, they are brought back here for trial. We depend on that; we depend on state cooperation for, for that process and it has been forthcoming generally.

- 02:48 The fact that most of them are now here, either having been tried or on trial, I think is an ample testimony to, to the level of support we've had. But there are still quite a number of them outstanding out there.
- 02:59 We have 13 fugitives whom we are still looking for, so that, that has been a, a big challenge. Investigating the offenses also, because, because of their magnitude, it has not been an easy thing. Putting together teams actually which can investigate these offenses is, is a challenge because it is an international tribunal.
- 03:21 The staff are mostly, overwhelmingly non-Rwandan. So there is a difficulty in them understanding and actually communicating very well even with, with victims and witnesses on the, on the ground. And them becoming familiar with Rwandan language and culture to start with, in order to be able to reach out to the people you want to talk to.
- 03:45 You have difficulties, we've had difficulties in dealing with, for instance, investigation of sexual violence offenses. Tho-, those, those are very sensitive and, and difficult area. And beyond that, of course, there was, of course, the first challenge – that this sort of thing had not been done for a very long time, not since, not since Nuremberg.
- 04:05 The ICTY had just started, but really h-, it hadn't been well established enough for us to be able to learn anything from them in terms of practical operations. So the novelty of, of the whole venture itself wa-, was, was also a, a major challenge.
- 04:23 Nuremberg had taken place some 50 years earlier but Nuremberg was useful as a precedent in terms of setting down the, the, the notion of accountability, that people have to be held responsible and accountable for these offenses.
- 04:41 But it didn't provide much guidance to us in, in the nuts and bolts of, "How do you investigate these things, these crimes. How do you prosecute? How do you put together trial teams? How do you manage your, your, your trial chambers and the courts, et cetera? How do you manage witnesses?" So on. So there are a lot of, lot of challenges at the beginning.
- 05:03 LPN: I have a specific challenge that I would like to have you speak to and that is you, you talked about working with different nations?**
- 05:11 Mm-hmm.
- 05:12 LPN: And the challenges that that brings, but there are also specific challenges for you in working with the country of Rwanda and the ICTR has been critiqued a-, as delivering victor's justice because it has on its, the, the prosecutions, the indictments that have been . . .**
- 05:30 LPN: . . . that have gone out have been all towards a, a certain group of people and there are accusations that the Rwandan Patriotic Front also has some atrocities that soldiers within that army committed, and yet the ICTR has not gone after those**

particular people and there's a long history of this challenge and I would like to give you the opportunity to speak to that.

- 05:56 Well, this court does not administer, has not been administering victor's justice. I mean our mandate is to prosecute the persons responsible for serious violations and wi-, within that context I think we have to, to, to bear in mind that the genocide in Rwanda is the major crime base.
- 06:17 The genocide in which al-, about a million people were killed is a major crime base and for that reason the tribunal has for much of its lifetime concentrated on investigating and prosecuting that crime.
- 06:30 Of course, we have evidence, or we, we have, we've had evidence of, of, of violations of international criminal law also by members of the Rwandan Patriotic Front. There has been no decision not to investigate those.
- 06:46 We have been investigating them. It has been a matter of prior-, prioritizing. We have been investigating those offenses. As a matter of fact, my office has a special unit devoted entirely to that and as a result of those investigations, for instance, we, we were able to identify one particular case which we wish to prosecute this year.
- 07:09 The Rwandans acknowledged that that incident had occurred. This was the Kabgayi incident in which some members of the clergy had been killed and they wished to be given the opportunity to, to do the prosecution and we agreed to that.
- 07:23 We agreed to that, subject to them recognizing the primacy of the tribunal, meaning that if the prosecution was not properly done, effectively and fairly, then notwithstanding the process in Kigali, the Prosecutor here would be entitled to file fresh indictments for the trials to take place here.
- 07:42 They've just fi-, concluded the trial. Four, four persons were indicted before the military court, two generals and two other junior officers for murder as crimes a-, as war crimes. And the result has been that two were acquitted and two were convicted.
- 08:00 I've asked for a copy of the judgment, which is Kin-, in Kinyarwanda. I have yet to, I have yet to receive that. But it's an example of the fact that there has been some work going on in, in, in respect of allegations against the, against the RPF.