



Voices from the Rwanda Tribunal

Official Transcript: Mandiaye Niang (Part 9 of 13)



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| 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.

The transcript of Part 9 begins on the following page.

Part 9

- 00:00 **Eric Saltzman: So jumping ahead to work you were doing more recently, can you tell me about a day, a real day or an interesting week, say in the work you've done in the last few years? Again, not a typical day, not, "I go to work and I do this" but a real day or a real week. Make it live for us.**
- 00:20 No, I, I'm not sure I, I get the question.
- 00:23 **ES: I'm, I'm interested if, if, as if you were telling somebody about your experience, the meat of your work, what you do in a, in a week or a day that's really important and explaining it tied to some interesting case, so something that was difficult in your work, something that, where you made a breakthrough, something where you felt you influenced something.**
- 00:47 Yeah, I think that in fact, my job is this mixture of always interesting thing, but very interesting but in a sense they are also my routine. And I am so involved that, you know, it's sometime difficult for me to, to be detached and just single out an event or situation. I am, I am in a, an advisory position and what you need to understand here is that the Registry is so peculiar in a sense that who is the Registrar here?
- 01:27 The Registrar here is the administrator of an international tribunal which is so different from the domestic setting in the sense that, okay, in a domestic setting, you have all these legal, administrative apparatus which may help the judicial process. You have law enforcement agent, everything.
- 01:52 Here we are just by ourselves. Tanzania has been generous enough to offer us just a, a spot here which, in fact by the way, we rent. But then, we have no authority whatsoever. We have no police. We have nothing. So in, in fact, this tribunal, what it does is just to try and recreate all those ingredients you would find in a country, in a state, in a government to enable a sy-, a judicial system to work.
- 02:20 And of course now, the Registry is the one now carrying out all those small and important function, which will enable the tribunal to function. My day is just now helping the Registrar every day to run all that machinery. Today, sometime for example, giving you – yesterday, I was early in the morning dealing with budget. We are running out of money.
- 02:49 We have still lot of case to go. We have to prepare a meeting to be in video link with New York, you know. But, five minute later, I find in my desk, you know, a complaint from a witness in Rwanda who came here to testify but upon his return, he was harassed and now he is concerned about his security and safety.
- 03:14 He, he write to the Registrar to ask, "Okay, I want to be relocated elsewhere. I can no longer feel safe in my own country," so, which require major decision. And so before,

before I finish providing advice as to how to go about it, the next thing was a lawyer from Washington who wrote and say, “Okay, my case has been very badly presented in the, in, in, in your website. I need that to be corrected.” Yeah.

03:46 And of course, another lawyer, for example, asking, “Okay, I have a work program in this case. What are you waiting for to allow me to go to New York and visit an expert?” And of course those, those are major but routine decision. And you, you may have to take maybe tens, 20 of those decision every single day, and of course not to mention sometime the Registrar has a conference in the meantime in London.

04:16 You have to do some background research about the jurisprudence and so on. You know, those are, that, that ev-, my everyday life is that you know, very diverse thing, lots of things to do – all important but which has now, which have now become my routine.

04:35 ES: Tell me what you did with the witness who, in Rwanda.

04:39 For example for the witness in Rwanda, we have here a section. Within the Registry, we have a section, which we call WVSS, Witness and Victim Support Section. For example, when – because this was brought to us for example by the lawyer and of course what I, the assessment I made in respect of the letter, and (___), you know, was that okay, our section may not have done enough to protect the witness.

05:10 Because, for example, just to take this specific case, what happened was that, okay, the witness may have been exposed by his own counsel, the counsel behavior. Because we have a framework. We have some kind of operative system of work but he was taken out of that system by the counsel who h-, invited him to testify.

05:33 And when I (___) made the assessment that, you know, most of the response was in fact directed, directed to counsel. So my advice was, “Oh yes, counsel may have misbehaved in this particular case but that doesn’t warrant us t-, not to give full support to the witness.” And we have a bit mechanism of alerting some authorities.

06:02 But, of course, sometime also, you need also to investigate first, in the sense that we, the tribunal, we are so successful in some area that, you know, sometime also, many people in Rwanda abuse the system. Very poor people coming here to testify, sometime try also to take advantage of this system, in a sense.

06:22 They may want to go to Canada or somewhere. They may not feel very happy about their current life so some of them also, they may take this opportunity just, not necessarily because they are certain as a result of their testimony here, but just because they want to have a better life.

06:39 And you know, we have a team in Kigali and some resources to investigate, you know, the truthfulness or at least the, you know, the potential of truthfulness of their claim.

- 06:53 And after a full investigation, so, we, we take the decision which may be to relocate the witness from a village to another one depending also of the nature of the threat, but sometime also it is even a bigger decision, meaning to take the witness completely out of Rwanda, so, if it, it is required.
- 07:17 **ES: Did I hear you right that this witness who you said was exposed by defense counsel . . .**
- 07:22 Yes.
- 07:23 **ES: . . . but it really isn't the job of defense counsel to – it could be in his mind but it isn't the job of the defense counsel to protect the witness. So how would, how would you insist the defense counsel (____)?**
- 07:34 Yeah, maybe I need to clarify what happened . . .
- 07:36 **ES: Please.**
- 07:36 . . . because what happened is that normally, defense counsel they may in the, in the first place identify the witness they want to call for their client. But their job should stop there, meaning that we have our own mechanism of locating the witness, of course in full collaboration of, with defense counsel or the prosecution as the case may be.
- 08:01 And then, by our own means we bring the witness here. But what happened in this specific case was that okay, maybe defense counsel did not trust enough the system because there was specific requirement. They did not want the witness to travel directly, in a direct flight from Rwanda to here.
- 08:22 So, but instead of just now leaving that at the hand of our unit to handle it, they took upon themselves to travel with the witness by using their own route, so, and of course, you know, this gave rise to some problem because our unit say, "Okay, how can we be responsible?"
- 08:41 Because you, you elected not to choose our own mechanism, so then you, you should expect this to happen. And then of course my advice to the Registrar was that, "Okay, okay, (____), yes our unit is right that counsel did not behave properly but still, you know we have to take charge."
- 09:01 **ES: Did, in this case, did defense counsel take the private route with witness so that he could effectively sequester the witness from prosecution?**
- 09:12 No, no. I think that the problem was not so much in respect of the prosecution. I think that in this particular case, their security was – they did not want some people in Rwanda to be

alerted about the trip of the witness and they say, “Okay, if that witness take your, you t-, tribunal Beechcraft, that will be known,” so they decided to take another route.

09:40 But that, that – because we also do that, but the only problem was that in this case, defense counsel elected to do it by himself and not resort to our own mechanism.

09:51 **ES: Okay, I un-, I understand.**