# Voices from the Rwanda Tribunal

### Official Transcript: Hassan Jallow (Part 7 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 7

- 00:00 Donald J Horowitz: Is there some sort of c-, you come from a, you have a personally, a significant background in the law in your own country and internationally before you came here, and you of course know about continuing legal or judicial education.
- 00:15 DJH: Is there some sort of continuing education or training periodically for your staff? Do they for example, both formally and informally – I'm thinking after a trial perhaps – get together and critique their performances? Do your different trial teams interrelate and learn from each other?
- 00:39 We try to run a continuing legal education program. It's not been maybe as effective as we would wish. We have what we call the legal forum in the OTP, which is supposed to be organized monthly to discuss particular legal issues or sometimes to review the outcome in a particular case and try and draw le-, lessons from it.

#### 01:00 DJH: Or tactics or strategies (\_\_\_\_)?

01:02 Ye-, exactly, strategies, et cetera.

#### 01:03 DJH: Right.

- 01:04 We, we do that, try to do that every month. I-, it's not been that, that regular though. But in addition, I have a weekly meeting of all the senior trial attorneys at which we, we disc-, we consider progress reports from each trial attorney on the cases under their responsibility.
- 01:24 Any legal issues that are pending or that may come up, we exchange ideas on how to deal with them, et cetera. What has been a major challenge, of course, in the OTP is ensuring that trial attorneys, senior trial attorneys who are in charge of trial teams coordinate their actions and they share information. That continues to be a major challenge.
- 01:44 When you have a prosecutions at the national level, you have 50 cases. They are all separate. There is no connection between them and so you, you, you hardly need to sit together to discuss strategy except in a general sense. Well, here you have 50 cases, 50 accused persons but essentially it's one case.
- 02:05 It's one case of genocide and all the in-, cases are interconnected. What one, what one witness says in one case may be relevant and potentially exculpatory in another case.
  And so it becomes so important to share information, to share information because we have a duty of disclosure, for instance.
- 02:27 If one trial team is in possession of information which, which is inculpatory of its accused, but exculpatory of another accused being handled by a different team, he has an obligation to disclose. But unless he, they, they coordinate their actions and share information we run the risk of failing in our disclosure obligations. (\_\_\_\_)...

- 02:48 DJH: Well, it's very interesting because you led right into another question I was going to ask, because in fact we've already interviewed a number of prosecutors and they stated, and I believe them, that they know the duty of disclosing exculpatory evidence and they, they adhere to it as best they can.
- 03:06 We've had lapses.
- 03:07 DJH: But, but you've had, but you've ha-, of course, there's been some, some . . .
- 03:09 Serious lapses.
- 03:10 DJH: . . . some serious cri-, criticisms.
- 03:11 Yes. Yes.

## 03:12 DJH: Serious lapses. And, and I-, I'm glad to hear you acknowledge that and, and one of the reasons you've just des-, described is, is the lack of communication. Yeah.

- 03:23 Communication between, between this, the, the teams themselves. We, we try to, to get them and that's one of the reasons why every Friday I, I arrange this meeting. It's usually two, three hours with all the senior trial attorneys and each of them talks about the case, their case.
- 03:36 What did they do last week? What do they plan to do next week? Who are the witnesses they are calling? So that something might be of interest to somebody else, another trial, senior trial attorney who's attending the meeting and then they can coordinate.

#### 03:48 DJH: Okay.

03:49 But you also need to coordinate positions, you know, positions on issues like case theories. I mean, it's no use one team putting forward a theory for instance, that its accused people were the ones responsible for organizing the genocide and the other team also takes a view that no, it's their accused who, who, who were responsible, who were the top culprits – because there's a temptation for the, every team to make its case appear to be the, the most important.

#### 04:16 DJH: Of course.

- 04:17 So, so you, you have to, to monitor those, those issues to, to try and make sure that the theory is the same that our, our explanation of the genocide is consistent from, from case to case.
- 04:30 I have a Chief of Prosecutions who, who monitors that sort of thing and, and tries to make sure that we have a kind of uniformity and consistency in approach, we have a coordination in our, in our efforts and trials and we have a sharing of information, that we live up to our disclosure obligations. But it's, it's the biggest challenge we face in the OTP.

- 04:50 DJH: Okay. I want to go to one other legal we were talking about the civil and, and the common law.
- 04:56 DJH: Some of the people we've interviewed have said it might be better if the ci-, civil law, the civil law were used in terms of the ability of an inv-, having an investigating judge versus the prosecutors being in charge, without any criticisms of any of the specifics.
- 05:17 DJH: They're used to that system and some of them feel that it, it might be better in or at least some aspect of that might be better included in the total . . .
- 05:26 The total . . .
- 05:26 DJH: . . . package of the, of the tribunal. And I, I'd be interested in, in your thoughts on that subject.
- 05:36 I, I, I mean I only think that it, it may lead to a duplication of, of the work and instead of saving time, it may extend the time for, for trial because the role of the investigating judge will still not exclude the process in court where the trial court judges sit to hear the evidence.

#### 05:59 DJH: Of course.

- 06:00 You know, the, so, so you, you may not be saving time by having an investigating judge and I think the current system we have is probably, probably, probably good enough. In Cambodia, in the Cambodia tribunal for instance, they have the investigating judge.
- 06:17 But, but y-, you have an investigation first by the prosecutor who then goes to ask for a, an indictment, then you have an investigation by the investigating judge and then you have a trial. I think that process is too, too much drawn out, too long and maybe the, what we are operating now, I don't know, may, may be much better.
- 06:37 DJH: Well, of course, I think earlier we talked about the fact that international criminal justice particularly in these areas is developing, and people are trying different experiments and . . .
- 06:47 That's right.
- 06:47 DJH: . . . perhaps at some point we'll figure on the best system or . . .
- 06:50 Best system, yeah.
- 06:51 DJH: . . . et cetera.