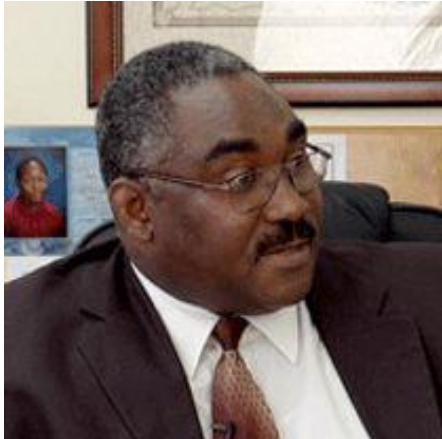




Voices from the Rwanda Tribunal

Official Transcript: Roland Amoussouga (Full Interview)



Role:	Spokesperson for the Tribunal
Country of Origin:	Togo
Interview Date:	29 October 2008, 30 October 2008
Location:	Arusha, Tanzania
Interviewers:	Batya Friedman Donald J Horowitz Ronald Slye Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Roland Amoussouga discusses his extensive history working for the UN and with the Rwanda Tribunal. As Chief of External Relations he describes the function and operation of the strategic planning section of the Tribunal and reflects on the difficulty of working in Kigali immediately following the genocide. He highlights the need to train and prepare staff members sent to work in post-conflict situations, and emphasizes the need to create training manuals for humanitarian workers placed in conflict situations in the future.

The transcript of the interview begins on the following page.

Part 1

00:00 Batya Friedman: Say your name for everyone, your title and your nationality.

00:04 My name is Roland Kouassi Géro Amoussouga. I'm originally from Togo and I'm currently a Canadian citizen. I'm one of the Senior Legal Advisors of the registry and I'm the Chief of External Relations and Strategic Planning Section as well as the Spokesperson of the tribunal.

00:30 BF: Great. So can you start off by telling us a little bit about your role in – as Chief of External Relations and the Strategic Planning Section?

00:39 Yeah. The, the section was established at the request of the management group review, which was sent here by the General Assembly sometime in 2001. And they made recommendations to enhance the efficiency of the tribunal and proposed that an external relation and strategic planning be established in the Office of the Registrar to coordinate all the external matters particularly in the area of cooperation, judicial assistance, protocol and external liaising with stakeholders.

01:25 Various unit used to handle those specific tasks and in 2003 a budget was given and a section was established and I was recruited after a competitive test to establish the section. And the section per se is the body that is in charge of maintaining contact with all the ext-, external stakeholders, the diplomatic community, in charge of the communication of the tribunal to the p-, press corps, to the media hubs, to the diplomatic community, to New York.

02:13 And also, the section is in charge of handling the outreach program of the tribunal, bringing the result of the work of the tribunal to the people at the grassroots level in Rwanda, throughout the Great Lakes area, as well as in Africa or throughout the whole world.

02:34 And the section is also in charge of handling all protocol matters that as you know we receive more than 3,000 people visiting the tribunal every year ranging from military personnel, academia, diplomats, lawyers, journalist, et cetera, et cetera. Student, local officials, government officials coming to see how the tribunal is working.

02:59 So the protocol aspect of all this is within the ambit of the section. We also have the duty to put together a capacity building program and coordinate all the capacity building activities of the tribunal vis-à-vis the judiciary sector of Rwanda as well as in Tanzania or elsewhere in Africa.

03:25 We also are in charge of mobilizing resources to support those capacity bu-, building project and we also provide support to national jurisdiction. And we are also handling all cooperation matters such as requests for cooperation emanating from the trial chambers through directives, orders, decisions, requesting the tribunal to ask member states to cooperate on specific matters.

- 04:01 Making available document, facilitating movement of witnesses, et cetera, to the tribunal. We also are in charge of helping the parties to ensuring that they have easy access to government officials abroad, to witnesses abroad, by way of ensuring that we obtain the facilitation that is required to ensure that their mission abroad is successful.
- 04:30 We are in charge of drafting all the note verbales, receiving all the requests coming in from all external entities, and preparing draft for the key organ heads in terms of their re-, their response. And basically the section also help out in terms of planning for the completion strategy, in terms of planning for the best approaches that we can use to discharge the mandate of the tribunal and to support all the respective organ of the tribunal.
- 05:07 And as head of that section, I'm also the spokesperson of both the Registrar and the President, and I carry the word of the tribunal to the media, to the press corps, to all the television stations and to all the visiting VIPs or delegations coming to find out how the tribunal is doing.
- 05:30 So any time they come in, I always happen to be the first person to brief them; to give them a short briefing on the challenges, the work, the challenges and the achievements of the tribunal. I, I believe that is not that many but those are the few aspect of the work that we do in the section.
- 05:50 **BF: Wow, it's extremely broad and extremely important, important work.**

Part 2

- 00:00 **BF: For a minute now what I'd like to do is take you back to the spring of 1994 – in your mind to go back there for a minute. And what were you doing in 1994? Where were you and . . .**
- 00:21 To begin with, I will say that after I joined the UN in '93, I was dispatched to various field mission in terms of helping out with the, the electoral process, the democratization process, the good governance project that the UN has at that time.
- 00:46 And after my mission to Haiti, I was briefly sent to South Africa for the United Nation mission to South Africa which was in charge of helping organizing the election and promoting peace and reconciliation prior to the election and following the conferences that were held in South Africa to facilitate negotiation between the establishment and the ANC as well as Inkatha and all the other opposition parties.
- 01:24 So I was, I was, I, I was sent in F-, February '94 to South Africa and one of my key role was to be a provincial coordinator for the training of all the UN observers, the Commonwealth observers, the African Union observers and the European Union observers.
- 01:52 We were a pool of ten trainers and we have to train them on the electoral law; how to monitor such an election and to get them to also understand their role in terms of the peace building and the peace consolidation through the result of the negotiation of

(_____) and all the other negotiations that took place which brought to the forefront of the political arena the issue of the end of apartheid.

02:24 So I was, I was back from my field. I was posted in the Northern Cape in the beautiful city of Kimberly. I don't know if you know of Kimberly. It's the place where you have the biggest hole of diamond in the world; where they got, they dug the biggest hole and to extract diamond. And Kimberly was in the Northern Cape. And I was recalled to cover one of the Mandela last, last campaign rally at the FMB stadium . . .

03:06 Note: Gap in Interview (Approx. 17 minutes in duration.) Gaps occurred due to interruptions during the interview, technical issues, or corrupted data files.

Part 3

00:00 Note: The immediate portion of video prior to this segment was lost due to corrupted digital files. The interview continues here.

00:08 . . . who happened to be escapees from the violences. They were in many refugee camps. We went through most of the refugee camps. We interview the direct eye witnesses. We collected documents from various ministries. We proceeded to analyze those document. We had a database. We had also gathered all the information. We processed them.

00:46 There were intelligence officers who gathered also intelligence information, a report, and all together put together, help to prepare a report and to help the team of expert to assess what has been gathered from, on the ground.

01:06 BF: Mm-hmm. So going in and a-, talking with witnesses in this situation where so many people have been killed is very different than investigating say a murder where one or two or a small number of people have been killed. I know it was quite a long time ago but what was that process like? And what about that process would you want, you know, should other genocides occur, would you want other investigators to know, especially those people who are arriving so soon after the events?

01:46 You know it was one of the most challenging experience for everybody. Because genocide does not occur all the time; it's a once upon a time and as I said evidence was fresh. I mean the wounds were fresh. It's not the bones that you are seeing, you are seeing the wounds. Even those who are dead, you see them as body, fresh bodies with their wounds.

02:24 For those that you don't have the opportunity to see the flesh, you can see their clothing and everything. And you can also see the fear; what I call the mass fear meaning that the whole group, the psychology of people who are afraid who happened to escape death who are put together not knowing their fate.

02:57 How to establish connections with them, how to draw them out of their status of fear, how to get them to talk, how to get them to trust you, how to get them to free themselves and live and allow what they have in their, their heart to come out. And for

- me, it was such a very awkward experience. I have never seen this magnitude of dead bodies in my life; thousands, thousand.
- 03:36 Babies, girls, everywhere and the smell was unbelievable. And the way they picture; I took more than 500 pictures at that time. And we all were wearing masks of course but for over three months I s-, refused to eat any meat. That was something that personally was – I found appalling, I could not because any time I take any meat in my mouth I have a flashback.
- 04:16 And also for us it was extremely dangerous because the country was not yet pacified as they say it, in the sense that it's not peaceful. There are spots of resistance and you can get killed at any given time. I lost four or five of my colleagues in the process but basically it was very dangerous. And we have not been able to get in with all the necessary equipment.
- 04:53 The status of preparedness was not good. And what I learned from it is that for future generation, once you say there is mass killing somewhere and you want to deploy people, immediately you have to draw a plan that provides all the necessary resources to help the mission; once the mission hit the ground, they can run.
- 05:24 All the equipment. You don't need to suffer to share a car. We did not have enough cars. We have to decide on the priority; who is going to have this car and you come back and you leave the car and it was a nightmare in terms of logistics. And also you have, you can not go anywhere without escort and the UN mission did not have enough people at that time to support the various demand from the NGOs, from the UN agencies, from everywhere.
- 06:01 So the lack of resources in the initial phase of deployment was acute. Secondly, you need to prepare mentally those who have to go to the ground, meaning that you have to brief them. Experts, who have gone through such an experience in the past, should let them know that this is not just a simple ball game. It's really a game where you have to have a strong stomach.
- 06:31 And you have to have a strong mindset because what you are going to discover on the ground i-, there is nothing to be compared with. And there was one thing that I was so much affected by two images that re-, remain in my mind up to today. It's two hands of babies in front of a church in Nyarubuye near Kibongo. Like this on the ground, the two hands, like this. It was like this. Not like this but like this.
- 07:14 The second one was inside a church where they cut the heads off all the statues; the, the stone statues and the wooden statues. They beheaded all the statues; the J-, Jesus, Mary, everybody, they beheaded them. There were many dead bodies everywhere and I went behind where they have the drums and I saw a young lady was tied up with her legs open and they had plugged inside her a big batons that came out – they impaled her from the bottom to the top.

- 08:01 And they tied her up with a, a, a iron, iron fil de fer, iron cord. How I could not believe it. And I was seeing the body, the lady was facing me. She's dead but, you know, the image was so intense. And also, one of my duties was to count the body count – the body – the bodies, you know, and that's where I learn how to count dead bodies, meaning that if you want to have accurate account, you have to count the heads.
- 08:45 You have to put the heads together to count them because you cannot expect to retrieve all the body parts so you have to. It was very difficult. So for me it is essential to give a training to people and to train them also on the sensitivity of their mission. How best could you approach people in such a situation? Even if you are a well-trained psychologist or doctor and everything, when you hit the ground, it's not the same.
- 09:24 Personally I almost lost my leg because I fell in one of the mass grave and for two years I could not wear any shoes. I had two surgeries; major surgeries on my leg. It was a very intense moment but it helped me to build up a character. It helped me also not to be afraid of dying because before I used to cry when one person dies. When I lost my mom, I never stopped crying. In my culture you cry your death always and every year you commemorate and you cry.
- 10:11 But this was a hell of new scale that I have never seen in my life. And again on a personal level, I tried to retrieve the girlfriend of my friend. And I went all the way to the place where she used to live because she was in touch with my friend and my friend was helping her to get out of the country but he did not succeed.
- 10:43 So I went and saw where she was buried with all her family in the house and I learned about how this has happened.

Part 4

- 00:00 And for me working along with the military personnel, the expert-, the forensic experts as a lawyer with various group, to achieve a result was a quite good experience for me. And it is why I believe that any team that goes in should be multi-skilled team that has to go in. Not just a team of doctor or a team of lawyer because everything is interrelated.
- 00:30 A group of expert being deployed and each with their responsibilities, with the, the possibility of exchanging is very helpful. Those are the lessons that I learned from this initial dispatch. And also the need, the experience that we gathered has, I believe, has been documented and has to be used in the sense that it can become a training manual for people who have been dispatched in circumstances like that so that they can be fully well prepared.
- 01:13 I also believe that given the way things are happening throughout the world, the UN should have somewhere a database of what I will call the "humanitarian firefighters," who once you have been in such a situation, they have to log you into a database and from time to time like what they do for the vets, for the people who are soldiers, they recall you from time to time and give you a briefing to update you, to help you to

update your skills, so that these people can be a reliable source, resources for any deployment that the UN can order.

- 02:05 Because this is an, an experience that is unique. I hope it will not happen all the time but the reality is showing otherwise, you see. Sudan is there. Various mission, even peacekeeping in the DRC. Those are realities that you have to equipped. And you should not allow all those expertise that have been developed to go and to die.
- 02:31 And we need such things and that's why a provision must be made to help out in due course the humanity to have at least on standby the, those firefighters. I, I don't know if it will be firefighters but I will call it humanitarian fighters who can get in and when you're putting together a program to deploy people to do it.
- 03:06 And what is very sad is that the consistent error or mistake of, of the UN is that we do not yet – or even of mankind is that we do not have a consistent approach in documenting and in keeping and safeguarding the experience that has been gathered throughout a process. And we seem to repeat the same error when we have to tackle si-, similar issues when they arise.
- 03:47 And then there is a need to develop a kind of strategy that will be a global and long sustainable strategy that will be designed specifically to record the experience. To design a strategy out of it, to design a training manual, to maintain the, these human resources that can be tapped in any time there is a need. Because those experience, those experiences are tremendous; you cannot get it if you are not there.
- 04:25 And for me I was very privileged to have been at the beginning of the process till the time of my re-deployment to Arusha where I continued the legal aspect of it because I was involved in the handling of the investigation, in the handling of the humanitarian crisis, in the rebuilding process of the society, in the capacity building process, in the, in the process of monitoring and preventing further abuses, and in the strengthening of the new state that is been in formation at that time.
- 05:09 And then after two years and three months, I moved down to here to start also from scratch the p-, judicial process. Because when I came in as a legal officer, I was in charge of designing the witness protection program. And I design it from scratch; from my own experience I tap in and then I manage it for six years before moving to this new aspect of it.
- 05:41 And I believe, and that's what makes personally myself to feel confident that I have serve a lot, I have learned a lot. And I wanted to see the process ending at some point so that I can cover the whole cycle of the whole process involving Rwanda. And by next year, I will be completing my 15 years working exclusively on Rwanda which is almost more than half of my professional years.

Part 5

- 00:00 **Donald J Horowitz: Mr. Amoussouga, first of all thank you so much for sharing not only the story but sharing yourself; very important. I want to go back a little bit and**

ask you a, a bit about your education and experience before you joined the UN. So that, to give us a bit of context, why don't you tell us about that?

- 00:25 I was born in Benin, in Cotonou in Benin. I was born to a father who is from Benin and a mother who is from Togo by virtue of her mom but by virtue of her father was from Scotland. So I was – I spent the first 12 years of my life in Benin and then the next 11 years, 11, 11 years to Togo. I did my LLB from the University of Lome, Benin, Togo. I did my Masters degree there and I worked as a lawyer for a, a shipping company.
- 01:16 I did also my pupillage there and then I went to Europe; to France for a quick one year additional studies. And from there I was fortunate to get a proposal to join a law firm – a French law firm in Ivory Coast. And I joined that French law firm and I spent two years and half with the French law firm. And that French law firm used to represent the interest of the Lebanese companies as well as many French companies.
- 01:53 And we were highly political also in terms of lobbying for the French and the Lebanese companies' interest and in that process we were doing mergers and acquisition and we were doing business law. And I decided, based on how things were going to also go back and study either in England or in the USA for the obvious reason that from my youth days, I always thought that I should never be confined in my country as a lawyer.
- 02:38 I always dreamed of being an international lawyer. My father was a lawyer – he was a judge and he retired from the Supreme Court after 32 years of the bench so I was, I learned a lot about the values that good lawyers should have. But I did not share one values with my father because he wanted me to be a judge.
- 03:08 And two, because my grandfather worked as a, a clerk to the colonial judge sys-, justice system because as he went through the First World War he acquired good linguistic skills which helped him to know more than ten languages; western languages as well as African languages. He fought the World War of One and he fought the Second World War.
- 03:40 And as a result he was recruited as an interpr-, traditional indigenous interpreter for the court and he was covering the French countries. Wherever the court has to sit, he was the one interpreting to the judges. So when he retired, they asked him to give one of his son and my father who started at that time at a bank was diverted from banking system to the judicial system to go and replace my f-, my, my grandfather.
- 04:16 And he rise, rise up from there and became a judge. So he wanted me to do, to become a judge and he has also made a program for other brothers to be a lawyer, but me I was supposed to be a judge. And I said no, I would not do that because I learned a lot about the mixture that I was privileged to have of my family, various, and many of them speaks English.
- 04:52 Others speak German and I wanted to learn languages and I wanted also to become an international lawyer. I wanted to work everywhere that I want. So my dream came true when I was in Ivory Coast. I said this is the beginning of my dream to become a true

lawyer; international lawyer. But I did not want to just limit myself to the French system.

05:18 I love the British system, my mother is from that and so I said “Let me try to go and learn there.” And I started saving. I save and I got to meet someone who made my dream to come true. And I applied to three schools: Harvard, University of Pennsylvania and UPenn, (___) and NYU in New York. I di-, I was not accepted at NYU but I was accepted at Harvard and in University of Pennsylvania.

05:53 So I decided to go for UPenn because my friend was there, so I went and I completed an LLM there. So after com-

06:03 DJH: Master of laws.

06:04 Yes.

06:05 DJH: In international?

06:06 Yes.

06:07 DJH: Mm-hmm.

06:07 And after that I joined a, a law firm in Washington to start preparing for the exam, for the bar, but I was working for them. And then they have a project. It was after the fall of the Berlin Wall where the USAID, the National Democratic Institute, the African American Institute and the National Republican Institute, they were all involved in helping building capacity in the new emerging democracies.

06:37 DJH: In Eastern Europe?

06:38 In Eastern Europe and in Africa.

06:40 DJH: Ah.

06:40 So given that I was quite fluent in, in French, they gave me the portfolio of the French countries in Africa. So I started being part of missions of the US delegation which was sent to help out in the emerging process of, or the consolidation process of the electoral processes in Africa, in Cameroon, in Benin, in Togo, in Madagascar, in Morocco, so . . .

07:21 DJH: Were you working for the US government at this time . . .

07:24 No.

07:25 DJH: . . . or the firm, or the law firm?

07:24 . . . I was working for a law firm but the law firm has a, you know it was a minority law firm and they had a program that helped them to provide pro bono assistance and then having the priority of getting a contract from the government.

07:41 DJH: Okay.

07:41 **Note: Gap in Interview (Approx. 15 minutes in duration.) Gaps occurred due to interruptions during the interview, technical issues, or corrupted data files.**

Part 6

00:00 DJH: So we were talking about you were doing the – you were in the law firm that had contracts . . .

00:05 Yeah.

00:05 DJH: . . . to monitor . . .

00:06 Yes.

00:06 DJH: . . . various elections and . . .

00:08 Mm-hmm.

00:08 DJH: . . . and things of that sort and w-, give me a year approximately when this was.

00:12 It was in 1990 to '92.

00:16 DJH: Okay and was it after that that you joined the UN?

00:19 Yes, it was during one of those assignment in, in Madagascar . . .

00:24 DJH: Mm-hmm.

00:25 . . . because I was there for the, the referendum, the presidential election, the, the legislative election that I end up meeting some peoples from the UN who had been also on the ground. And they appreciated my work and offered me to come and help them because we, we happened to work together in Morocco and in Madagascar.

00:56 And funnily I was often the only black of the group so it gives them a sense when I tell them, no I'm not an American, I'm just from this part of Africa and everything. So it, I have very good rapport with them and they offered me the opportunity to come and join them; to help them in Cambodia for 1 week or, and in Haiti for 6 months.

01:25 So when I accepted I negotiated with my law firm, say, "Okay, give me a leave of absence for one, one year and then we'll see." And they agreed and after one year I said, "No, I'll take the risk to stay with the UN." So I stayed with the UN since '93 and since '93 up to today and here is my almost eight or nine duty stations since the time I joined the UN. I was posted on very short missions in various countries and then since '96 I've been deployed here in Arusha.

02:07 DJH: In Arusha. I want to go for a moment to a, a question we sort of talked about a little offline, and I'd like – you had said when you first heard about what, and saw

what was going on in Rwanda and you came out of the shower and so forth, that this was not a place you wanted to go. But ultimately you did go there.

02:30 Yeah.

02:31 DJH: Why did you make that decision?

02:34 You know as an African I believe that when the call came I have to answer that call because I have to give something back to my continent. By virtue of my training, by virtue of my experience, I became an asset. An asset. And I also in my thinking, I was also close to that country because it's in Africa.

03:01 And as an African I thought that the genocide which was a genocide of proximity committed by neighbors on neighbors, family members on family members deserve first to be addressed by neighbors within the family context, the neighborhoods, the country, the continent, elsewhere. So I felt that it, I was duty bound to offer my expertise, myself, to help clean up that mess.

03:33 And I seriously believe that this mess is, was a very bad –dirt on the conscience of the, any African because you cannot believe it's the first time that we went beyond that horror of seeing black people taking machetes, killing one another within the same family because you happen to be different by virtue of your ethnicity in quotes.

04:02 Because ethnicity does not find justification in terms of its definition within the context of Rwanda but basically I felt that I was, I needed to answer that call – personal interest set aside, because I wanted to go back and rest with my family. But I felt that there was a call beyond my humble self that I needed to answer and to go.

04:28 And I know that by going I can get killed. There is no mind in my mind. Whenever I make a decision I know that whenever I go somewhere I can get killed or I will come alive. But I put that call first before my own humble interest of looking after myself or my family and so say, "Okay my continent needs me."

04:53 And I went. And when I went I felt good about it because I was part of the very first group of people who went to start cleaning up that mess. And i-, it was a tremendous assignment. But I was very happy that I deferred to that call without preconditions. It was very important for me.

05:17 DJH: And, and now you've been meeting that call in a variety of ways for almost 15 years.

05:23 Yes, yes. Particularly on the Rwandan case . . .

05:27 DJH: Yes.

05:28 . . . because as I said, Rwanda has taken more than half of my lifetime in terms of my professional experience.

05:41 DJH: Okay.

05:41 Okay, I started working in '84 . . .

05:44 DJH: Yes.

05:44 . . . and ten years later I was in Rwanda. And Rwanda since then is part of my life.

05:56 DJH: Thank you. Thank you.

Part 7

00:00 DJH: I need to, I want to ask you about one of the very important things you did among many I'm sure: the witness protection program. You – as you, I think you said you designed that program . . .

00:12 Yeah. Mm-hmm.

00:13 DJH: . . . for the, for the ICTR and for the Rwandan – for justice relative to Rwanda and what happened. Can you tell us please your, your story of how you did that . . .

00:27 Yeah.

00:27 DJH: . . . and w-, and what you were thinking, what your considerations were.

00:31 This, the story of creating the witness protection program is for me my most successful story which show me how much I have contributed to the work of this tribunal. Because I came – I joined the tribunal – I got my offer some, some time in May/June '96 and my office did not want to let me go immediately.

01:10 DJH: You, your private office or?

01:11 In Rwanda . . .

01:12 DJH: Okay.

01:12 I was serving . . .

01:14 DJH: Mm-hmm.

01:14 . . . in what we called at that time The UN High Commissioners' Field Operation in Rwanda; UNHRFOR. And I was the head of the Kigali office and I was head of that office for over two years. And that office were playing, was playing the key role because the capital city you have to entertain the diplomatic world; the government, everything that is a power center in Rwanda.

01:48 So it was quite, quite great. And I never applied for the job per se to come and work to the tribunal to begin with, because I used to provide briefing to certain people of the UN Assistance Mission in Rwanda, UNAMIR. And those fellow top senior officials of that mission happened to appreciate my briefing to them on the situation of human rights.

02:19 So one of the executive directors of that mission, one day called me and said, "Could you come and have lunch with me?" because I often go and have lunch with him. And I

went and he said, "Look, you have done a very good job for us," because there was at that time in la-, late '94, early '95 a trend of Rwandan citizens seeking refuge in UN offices in Kigali or elsewhere throughout the country.

02:56 And we did not know how to address that issue. And there was a need to adopt a policy. So the mission assigned me to think about that policy and I drafted the policy covering the Rwandans seeking refuge in UN offices for protection purposes. So my policy was reviewed along with proposals from the legal staff of the UNAMIR, meaning the UN Assistance Mission in Rwanda, their offices. And we work to finalize it and then it was adopted . . .

03:40 **Note: The remaining portion of video for Part 7 was lost due to corrupted digital files. A second interview with Mr. Amoussouga occurred on October 30, 2008 and begins with Part 8.**

Part 8

00:00 **Ronald Slye: Okay, so I'm Ron Slye . . .**

00:02 Yes.

00:03 **RS: . . . a law professor at Seattle University.**

00:04 Nice meeting you.

00:06 **RS: And we're continuing our conversation from the other day. You had mentioned in the earlier interview capacity building. Could you tell us a little bit about what you and your office have done in capacity building?**

00:19 Okay. You know at the beginning of the tribunal we felt it was important to have a program that we call the Outreach Program. 'Outreach' for the simple reason that the tribunal is based in Arusha two hours away from Kigali, the site of the genocide. So it was important to bridge the gap between the grassroot and the mass of, the masses of Rwanda and the place where justice is being rendered.

00:57 As a result we designed an outreach program that has the main target which was the Rwandan population from bottom to up. We focus on communication and we establish one of the key documentation center called Umusanzu in Kigali. Thanks to the graciousness of the government of Rwanda, they made available to us free of charge a big building that we transformed into a huge documentation center.

01:38 We wired that documentation center to enable the public to follow what is happening here. It's a place where we have books, where we have tapes, where we have computers, access to internet that help the legal practitioners as, as well as the, the population to come research, read about the tribunal and also listen sometimes to what is happening through the tapes.

02:12 And our colleagues on the ground organized a roving tour, mini-exhibition tour to various provinces to hold town hall meetings with the population to show them the

- tapes about what is happening in the tribunal, and answer questions. We also design a strategy with the national radio station to broadcast live decisions of the court.
- 02:45 Unfortunately we did not have authorization to link up the tribunal to the national radio so that they can follow on a day-to-day basis live proceedings from Arusha. Unfortunately it did not happen. We also target the university by providing scholarships to students to come and spend three months minimum or six months in Arusha to research and to prepare their dissertation around topics relating to ICTR works, international humanitarian law.
- 03:22 We also offer similar programs to professors to come and help out. We also help the civil society; the human rights groups, the survivors groups to come and learn, to see what is happening, counting on them in return they can pass and share their knowledge acquired during their stay here with the people belonging to the groups.
- 03:51 That is what the outreach program was intended to do until the time when in 2005, as part of the completion strategy, a resolution – not a sol-, a -solution but a declaration of the General Assembly invited us to help Rwandan people to strengthen their judicial sector. And then what we did was to couple our Outreach Program with a program aimed at enhancing the capacity of the judiciary.
- 04:28 And in order to do that we ha-, we proceeded to do needs assessment in conjunction with the Rwandese authorities. We set up a task force designed to put together a plan, joint plan with Rwanda to identify areas in the judiciary sector where we can assist. Based on the action plan that has been designed and adopted, then we move in to have target groups.
- 05:03 To begin with we identify judges, the cl-, the court clerks and how, how could we enhance their ability to go high tech by introduct-, by introducing information technology into the management of their docket, similarly to what we have here. So our legal library and reference service has been very . . .
- 05:42 **Note: Gap in interview. Gaps occurred due to interruptions during the interview, technical issues, or corrupted data files.**
- 05:53 **RS: You were talking about the, the different target groups.**
- 05:57 Yes, we identify different target group starting from the judges and the court system, the media, the coverage of any proceedings because we understand that one of the key issues there is the communication of the information coming from the judicial sector to the public and also all the other periphery-core elements such as universities for the training, student, the civil society like human right groups et cetera, et cetera.
- 06:38 So basically although the UN did not give us money to put in those programs, we managed to use the scarce resources that we have as well as some resources that were given to us by the European Commission. And we were able to set our training module for the people of Rwanda. One of the training module targeted the legal information

management, the legal reporting, the media case jurisprudence for legal reporting journalists.

07:25 We also trained them in the case management, the use of online tools for legal research for lecturers, legal methodology to student, to legal practitioners. The use of specialized documentary software training for legal librarian, which are working for the Supreme Court in all those judiciary sectors.

07:56 And we also initiated a mentoring program through an attachment. An attachment meaning that we are going to have lawyers or judges or registry members of the judiciary in Rwanda coming to spend three months with us here in Arusha, and they are going to be assigned specific tasks. And then throughout the process they will learn by seeing others practicing and getting themselves associated to the management of the daily affairs in those respective areas.

08:45 And this program is designed to strengthen their abilities. We have also training that our judges as well as former judges or former prosecutors organize for prosecutors, for judges, for defense counsel. We have also initiated program to en-, to bring accused persons to trust Rwandese defense counsel.

09:14 And one of them has been appointed as co-counsel, which was unique, and some lawyers from Rwanda are part of the defense team which is a great deal of progress. And we organized also symposia in Rwanda to bring the judges together to exchange. Here of course we have to be very careful in terms of attaching judges to the chambers.

09:45 But in various areas like the prosecutions area we have various Rwandese who have been recruited who are assuming highest responsibilities in the Office of the Prosecutor to enable them to acquire a lot of experience that they can transfer back to the people down there. So we have initiated those programs and slowly, slowly we have been doing it.

10:15 The Prosecutor's office is closely in contact with them. They're associated to whatever we have in terms of training and at the end of November we have a major forum designed to bring together all the prosecutors of the international criminal tribunals and the national prosecuting officials of various countries.

10:44 And they are going to have three days here to exchange about the techniques. And we also train them to know how to make use of the database that we have in terms of evidence management that can help them to prosecute, before the national domestic jurisdictions, crimes committed by Rwandese who are in their country as refugees.

11:13 That at least they can use the universal jurisdiction principle in the case it is accepted in their country to prosecute crimes of that levels, by relying heavily on the database that we have. How could we share that, how to have shareable folders containing evidentiary materials relating to those kind of criminals who are at large.

11:38 We want also to help the Rwandese people to enhance their knowledge; theoretical and practical knowledge. And the exercise that we did with them, particularly through

the Office of the Prosecutor, resulted in their confidence to request that cases be transferred to Arush-, to Kigali because they believe forcefully through this capacity building program, that they have receive enough knowledge which will enable them to effectively handle cases that ICTR could transfer to them.

12:22 But unfortunately for reasons contained in the decisions of the appeals chamber, such cases have not yet been authorized but the door is still open. If they improve on their system, they may have the advantage or the good fortune to receive some cases. But the legal education process is ongoing. It's not just even in the normal judiciary; it is not one time business.

12:56 As you know, you are a professor, is nobody has ever learned enough. We have to continue learning and continue helping out. That's why ICTR in cooperation with the Commonwealth Judicial Education Institute organized this for this a biennial meeting and are discussing issues and responses co-, to contemporary judicial challenges in the area of judicial education.

13:26 To which Rwandese magistrates, judges including the vice president of the Supreme Court were invited and they are attending this. And if you were in the room yesterday, the first lecture of the president was on the, on a very key issue – the heritage of the international criminal jurisprudence.

13:56 How could you domesticate the heritage of the international criminal justice jurisprudence? To make sure that you have case law available to you and you can draw inspiration from the case law and making sure that you apply the concepts that have been developed by the tribunal and make this to grow.

14:18 And as you know, the tribunal has influenced and continues to influence the normative progress in Rwanda when it comes to the concept, the definition of concepts, when it comes to the legal reform as well as the legislative reform that led to the abolition of the death penalty, that led to the establishment of the framework, the legal framework that will enable the prosecution of cases that ICTR referred to them. And ICTR has a multi-faceted program to support the capacity building.

Part 9

00:00 RS: Can I, can I take you back to pre-2005 – the pre-mandate to focus on a judiciary? When did the outreach activities start?

00:10 Out-, outreach activity started, if my souvenir is correct, in 1980-, '99.

00:20 RS: 1999?

00:21 Yes, two years after we began our first cases.

00:25 RS: And, and what, what led to that decision, why did it happen in that year?

00:29 You know, interestingly enough it was a, a change in the culture of the way we think. We came out from the box. The, the, the box of the thinking process was very narrow.

The Security Council did not have Rwandese to serve as judges, one; the Security Council decided not to establish the tribunal in Rwanda for three reasons.

- 01:03 First, they don't want death penalty. Second, they want serenity and peaceful conditions, and third, they have no provision to enable the victims to claim compensation in our statute. Therefore, they de-, decided to establish it here. That created a challenge – how to sensitize people down there about that?
- 01:31 And the challenge is how to do it without exposing ICTR independence and autonomy to any attempt from the government of Rwanda that has not yet been in my view immune completely from reproach. So how could you play a middle role without releasing or without giving up on your freedom?
- 02:02 So as a result we did not even have Rwandese to work with us within the tribunal. It was very scary to have Rwandese to work inside the tribunal, except those Rwandese who were taking care of witnesses and Rwandese who can come and interpret in court. Before them there was kind of a, a, a very uneasy feeling. So I remember that it became self-evident to all involved parties that you cannot do the business alone. You need good partners.
- 02:52 Not only that Rwandan government was the request to have the tribunal. But don't forget that at the time of the decision making to establish and pass the Security Council resolution, Rwanda voted against the tribunal but promised to support. So to begin with it was like a, a cat and dog relationship. We were observing how this would react, et cetera, et cetera.
- 03:24 So it became self-evident also that we need their cooperation fully to make ends meet in terms of protecting witnesses, identifying witnesses, taking them out, bringing them, investigating, collecting evidence from the ground. So we started relying heavily on them, but from two thou-, from 1999, the Registrar, the then-Registrar Mr. Okali, thought that it will serve a great deal if we have an office in Kigali which is not located in a same compound as the prosecutor but which will be a neutral office to try to convey the message coming from Arusha to the people.
- 04:23 So he decided to inaugurate a program which was called, at that time, Support to Potential Witnesses. And witnesses. And the program was conceived in a way that we shall provide psychological support, material support to potential witnesses and witnesses. And it exposed the tribunal to criticism from the other side of the defense.
- 04:53 But at the same time we decided to narrow down the program and focus only on the witnesses. And by so doing we also wanted to spread a message among the people. So he negotiated with the government of Rwanda and they welcomed the idea and they gave him a big building and said, "Okay, free of charge. You can fix it as you wish. Well located and you can use it until you finish."

- 05:21 That where the idea came from to have now a very forceful outreach program. Before we only have communication program that goes from here to Rwanda but we did not have a relay office in Kigali to take the message and spread it throughout the country.
- 05:43 RS: Do you think it would have been better to have started that outreach at the beginning or was that just not possible?**
- 05:48 Yes, I believe the lesson learned is that even before you establish a court you have to start an outreach program. To sensitize people; to say, “We are coming, we are sending a court – the court, () this is the mission of the court,” and you start doing so. And second, when a decision is taken, when you’re deploying, you have to deploy also a powerful, a powerful team that will be on the ground, hitting the ground and bringing the message to everybody.
- 06:19 But given the circumstances, that was one of the shortcomings that was, was justifiable at that time because of the condition that existed on the ground at that time. But it is a lesson learned.
- 06:36 RS: And on-, once it got started, once that outreach started, with trying to educate the Rwandan public about the tribunal, what were some of the major challenges that you faced in getting that message out?**
- 06:48 The major challenge is that you don’t have the full cooperation of the host country government. The government is so touchy; sensitive on issues that are not screened to be brought directly to the people. For us our first move was to have the government to authorize the broadcasting of all the proceedings. It could have been magnificent because the Rwandan people are known to listen carefully to radio.
- 07:21 TV is something that the most fortunate have. But the radio, my goodness, they can listen. And we know the role that the radio played in the genocide. And it was our philosophy that by using the radio to convey this, it will be very effective. But we did not get support from the government. The only exception we got was only when we have a decision.
- 07:46 Then the decision is read in court and we relay the decision directly without – because we cannot allow anyone to screen us.
- 07:56 RS: And why was the government reluctant to allow that?**
- 07:59 It’s only the government that can answer that question. You can – I would not like to elaborate on it but you can elaborate on it yourself . . .
- 08:09 RS: Okay.**
- 08:10 . . . to understand why. But what is very sure is that that was a hindrance. ().
- 08:18 RS: Are there, are there things – I mean I’m thinking of future tribunals that might be in a similar situation.**

- 08:23 Mm-hmm.
- 08:23 RS: Are there things that you think the tribunal could have done that would have made it more likely for the government to have cooperated?**
- 08:30 You know I propose, because of my past experience and exposure in Rwanda, I propose to the second regis-, to the third registrar when he took over in March 2001. I said, "Sir, there is a need for you to request New York to give you access to the bandwidth utilized by the broadcasting station of radio UNAMIR in Rwanda.
- 09:02 So that the equipment that they use there we can use it and have to throw directly all what we have to Rwanda, to DRC, to Burundi, to Uganda, to Kenya as the Security Council Resolution said that our judicial output could contribute to this." Because I was in Rwanda and I know how effective was the UN radio. And it was powerful because I was very often on the radio training people, having debates with the people.
- 09:38 And I believe that at the beginning if we were given while we were getting deploy, the outreach was given a powerful tool, like broadcasting of the proceedings that we're having in those targeted countries, it would be so good in the sense that it will go straight to the grassroot without being screened and people can make up and learn through the judicial process.
- 10:08 And it would influence the way, the perception that people have about this luxurious court proceedings that is been going on in Arusha. And it would help them also to look beyond their own and draw strength from it and try to move towards achieving the excellence in setting up a reliable, credible and full of due process and transparent, fair and equitable judicial system.
- 10:41 That is the key lesson that we have to have. Unfortunately the UN told us that they will deploy the materials to another duty station, I believe in Afghanistan, and that they don't have it. And Rwanda did not give us also full access to their radio. It would have been good but for obvious reasons the will was not there.
- 11:06 But the lesson that one has to learn is to give also the capacity to the future tribunal to reach out beyond the normal reaching out process that is paper, leaflet, books, and. That is good for you but not good for the people on the ground. The people on the ground wants to hear "What did they say?" Because for some cultures, hearing things from the radio is like God is speaking through the radio.
- 11:35 And you can have debate and of course we have to have a program that will start from the beginning to organize town hall meetings. To move, roving program that will go from point A-B-C-D to cover, not do what right now the ICC is doing. The ICC has learned a lot from us but they have not been innovative enough, they have not been truly proactive enough.
- 12:07 Of course there is also political considerations. The political considerations are simple; the regimes want to manipulate and instrumentalize the international criminal justice

system. Provided that you go along their philosophy and their main objective, they will support you. If you go against their main objective, they will turn their back on you.

12:32 A clear example is what is happening with ICC in Uganda. So in order for us to avoid this in the future, we need to set a strategy that will give that resources to – and the tools of mass communication, mass broadcasting, to reaching out to the people that you're targeting not only in a specific area but the whole region. And that will be very helpful and radio should be instrument of priority in those circumstances; it's very important.

Part 10

00:00 **RS: One last question before we shift gears – what, what is do you think the largest misperception in Rwanda about the tribunal?**

00:10 You know we made a survey two years ago from a scientific survey that we ask the Rwandan University and one of their, an association that deals with international law. We, we, we order that survey, we agree, we participated in how to determine the criterias, the – how the sampling of the population, the target group and the techniques that we have to agree on and they come out with fascinating results.

00:57 And that result was so amazing for us that they love what we're doing. They love what we're doing and the perception that some of them have about the luxury of this court, the delay process, is also reinforced by the political manipulation to diabolize the tribunal; to make us look very bad and to make us look good when it serves a cause.

01:31 And you know we have had decisions that have tested the will of all parties concerned. Barayagwiza – when the court decided that ok, Barayagwiza, the Prosecutor violated his rights therefore he should be set free. Immediately there was a big fight with Rwanda government. They even forbidden the Prosecutor to enter, Carla Del Ponte.

02:02 They put pressure on witnesses not to come and there was a threat from the tribunal to report Rwanda to the Security Council until the time appeals chamber come and reverse and then we got – the relationship got normalized. And during that time, you should have seen how the NGOs through victims were going after the tribunal.

02:32 And they have a good forum to broadcast whatever they want against the tribunal. But the reality is that by virtue of our presence, we have greatly contributed to bringing good sleep to the people of Rwanda; to bringing peace and security to the people of Rwanda.

02:56 Rwanda itself would never have been able to arrest any of the top fugitives that we have arrested because they did not have extradition treaties and they did not yet build trust and confidence relationships with those member state to enable them to send freely the people that were hiding there.

03:24 Thanks to the work of this tribunal, we have taken out of the main traffic obstacle to peace and reconciliation in Rwanda through the people who were the main target of the Prosecutor. When they were before free of their movement in a refugee camp or

elsewhere Rwanda was not sleeping. There were always attack, attack from the bordering.

- 03:55 They were transforming the DRC, the eastern part of DRC into a boot camp, into a, a place where they were launching attack against Rwanda. And as you know because of that, you witnessed almost the first African world war in there because the Rwandan people decided to go in and to close down those camps that nobody wants to c-, to close.
- 04:21 But ICTR was effective by arresting 16 out of the 19 members of the government, by arresting the leadership of the army, by arresting the middle ranking officers of the army, by arresting almost at least 90% of the political leadership of the government structures from the top to the bottom, by arresting the militia leaders, by arresting the business people, the clergy leaders.
- 04:55 Those are including the media leaders; those who have contributed to make the genocide a success. And that was a powerful message of the ICTR struggling to fight against impunity and to substitute the culture of impunity by a culture of an accountabil-, of accountability. Because it was the first time ever that a leadership, a political leadership of a country happened to be behind bars – not by virtue of at gunpoint, but by virtue of the power of the paper.
- 05:36 In Haiti they used to say constitution is paper. Guns are iron. And they all believed that it's only through iron that you get power because that has been the reputation in their countries. But we proved to the Rwandan people that with the paper, with the strong will of the international community, impunity shall not be allowed to prevail.
- 06:04 And that message, the people – the grassroots people understood it. And being a chief of witness protection, the first time I cry in this court was the day I brought in an old lady, 85 years old lady whose kids were all killed, husband killed, and she was raped. And I brought her in court here to testify in the first case.
- 06:32 And this lady – I did not speak sh-, Kinyarwanda, I used an interpreter. We developed a kind of special relationship. She was so funny; you will never, you would never believe what she went through. And when she entered the courtroom, we prepare her, when she entered the courtroom, she, she was smiling. And then when they asked her, “Witness, could you identify the accused person?”
- 07:10 The old mama stood up, walk, went to see the prosecutors’ face; they were all white. Look at them, look at one of the few blacks in the team of the prosecutor, she moves away, she looks at the court reporter, she moves away, she look at the judges, she moves away, she look at the registry members, she move away, she look at the defense counsel, she move away, she look at the accused person, she move away.
- 07:39 And when she came again to see the accused person, she bowed to the accused person and she went back and sit. (___) say, “Where is the accused person?” “He’s there.” “Who, who are you talking about?” “He’s there.” The judges said “Can you point the

finger?” Say “In my culture you don’t point the finger to powerful people.” Said “No, he was the mayor.”

08:09 And the mayor was the most powerful. And the court agreed to – agreed that the lady has recognized the accused person on the basis of that sign. And then when we went home, I said, “Mama, how do you feel?” “I’m so happy. I could not believe that I’ll have this day in my life to see the son of God to be there with handcuff. No, it’s not possible. I can die today and go and see my kids and report back to them that justice has been done.”

08:50 By simple view of this, the old mama say, “I’m very happy.” And that has been the symptom of the reaction of the people who got the opportunity to come and (____) it, and they’re happy when they hear that those guys who thought that were, they were not touchable happened to be touched and they are behind (___).

09:15 So for me, that is what I prefer to retain as the feelings of the people of Rwanda; the true people who suffered, not the politician – we can argue with the politicians, but the majority. And that is what the survey identified and we were so happy personally that the politician view did not alter completely the true feelings of the victims of the population about the impact of this tribunal work on the national reconciliation process.

09:54 That we are confident that this is tremendous. It’s something that history will recognize that without ICTR, peace would never have been in Rwanda and would never have been a long or sustainable peace; never.

10:14 **RS: It’s a very powerful story.**

Part 11

00:01 **Robert Utter: Three very short questions. First of all, I would like to know what the condition of the Rwandan judiciary was after the genocide in ‘94 and what has improved since then.**

00:18 The condition was disastrous. Everything was almost wiped out and Rwanda has to build from scratch. In terms of human resources, about 90 percent were killed or were away, run away or were involved or running for their lives. The offices, most of them were destroyed. The files were destroyed and Rwanda was really a state without a judiciary.

01:02 But it shows how much they were committed to come out of the ashes. They have done a tremendous job. They were willing to receive assistance from NGOs, from governments, everybody focused on setting up a program for the rehabilitation of the judiciary. The UN member state, like your country the USA, the UK, the Scandinavian countries, Belgium, European Union, various NGOs, helping out to train, to identify, to train and to help.

- 01:48 The Former Minister of Justice, the first Minister of Justice – he died now, Mr. Alphonse Nkubito – was a personal friend. He did not even have a car at that time; everything was destroyed. Sometimes I used to go and give him a ride from his home – a government home where you have no chairs, nothing – to his office.
- 02:12 And the office, nothing; destroyed, the door broken, everything. The Minis-, the Minister of Internal Affairs who was also, who also died now, Seth Sendashonga was a personal friend, I was helping a lot. Sometimes I was even buying from my own pocket, some reams of papers that I gave to them. It's just to highlight to you how down the system was.
- 02:46 But today Rwanda has been at the forefront of renovation, of reform, of reconstruction. And they've reached a level now where they are, they can be trusted and the judiciary is on the safest path. I believe it will just be a matter of few more years for Rwanda to become one of the top well-equipped – w-, which has one of the well-equipped, in terms of human resources, in terms of material judiciary.
- 03:37 They are young because the population is very young now. They don't have the luxury of extensive experience. Some of them who come from abroad are now in a process of sharing experience with the youth. The current president of the African Court of Justice and Human Rights is a Rwandese. He was the first president of the newly reconstituted Supreme Court.
- 04:13 He's now here in Arusha. He's been elected last, this year as the new president but they are moving very fast. And it's tremendous; the reconstruction and rehabilitation of all sectors of Rwanda is tremendous. Even myself when I go back to Rwanda I don't find my way easily any more. The country has changed completely.
- 04:38 Good governance became the rule of the day, not only the judiciary, but in all sectors. They have made headway unbelievably, including in sport. They qualify for the African Cup. Now they're running, they're in a competition for the World Cup. They are doing tremendously. The only downside is that for sake of for stability, the democratic space is not yet wide; it's still very narrow.
- 05:15 RU: Where are the judges selected from?**
- 05:18 I cannot give you specifics in terms of that and that the best way for you is to get more direct information from Rwanda. I would not like to pass any judgments about it. I know that they're Rwandese, some of them are lawyers, some of them have gone through the process of selection.
- 05:43 As you know, Rwanda has two type of judiciary: the quasi-judiciary which is the Gacaca; the community based justice system, and the normal judiciary system that has to follow the, the norms of any judiciary where you have university training people and then they go to the judiciary training center. They graduate, they get recruited and they get trained and deployed, et cetera, et cetera. They are from Rwanda.

- 06:13 Others who come from abroad by virtue of their education and they get there also can come. And Rwanda has opened wide its doors for its kids. There is no more exclusion. They won't tell you because you are Hutu or Tutsi you are no longer authorized to come. You can come. So it's a very inclusive and they have now institutions; higher learning institutions that prepare them, equip them.
- 06:42 And at that level we are also ICTR intervening to help shape the mind of these new or youth who are the leader of tomorrow. So we, they are also the Gacaca system of recruitment of judges, which is based on other criteria that they have adopted. So that's what I can tell you with respect to that. They are all Rwandese; sometimes they may have Rwandese who happen to be living in the DRC or in the diaspora, including Burundi, Uganda, Tanzania, Kenya, USA, UK, Germany.
- 07:28 They all come back. And you know they have one language that unifies them; Kinyarwanda. All of them speak Kinyarwanda. And now Kinyarwanda is the official language. French and English are secondary languages; they are no longer first languages. So they all understand Kinyarwanda.
- 07:47 That's why it's so artificial the division that they brought in by saying that there are three different ethnic groups in Rwanda. It does not make any sense at all because if you go through the definition of ethnic-, -city, of ethnic groups, the definition cannot be applicable to the case of Rwandan people; among the three groups that they classify as ethnics like Batwa, Batutsi and Ba-, and, and Bahutu.
- 08:16 It's not possible. They have the same language, they have the same culture, they, they have the same religious belief. It's just societal classification that turned into ethnicity based on the colonial heritage.

Part 12

- 00:00 **RU: The appeals court as I understand rejected the referral of cases back to the Rwandan courts, is that correct?**
- 00:09 Yes it's correct.
- 00:10 **RU: And what were the reasons for that?**
- 00:13 There are three reasons and I will invite you to try to get those decisions. The first chamber – some of the chambers, they, they grounded their decisions separately. But the commonality of the grounds that they retained were as follows: One believes that the institution of a single judge trying genocide case is weak and cannot resist pressures from the political body given the previous interference of the political body into the judiciary matters.
- 00:50 And they cited the example of Barayagwiza when the government put pressure on there. So, on that ground they believe one single judge cannot resist the pressure from the politicians if we transfer the cases to them. Second, they also grounded the

decision on the fact that the sentencing structure of the Rwandan law does not provide for guarantee of the basic rights of convicted people.

- 01:28 By, by putting into the provision the fact that if you happen the maximum sentence to be applicable to ICTR transferees will be life sentence which you shall serve in solitary confinement. In the view of the chamber, this does not respect the basic covenant governing human rights, basic human right. That is not acceptable.
- 01:57 Thirdly, they also believe that the Rwandan are a, a – let me gather back my thought. The second one is the solitary. They also believe that witnesses cannot for the defense come and testify freely and depart and testify in the same commissions as prosecutors' witnesses who happen to be on the ground. They will not enjoy equal conditions because most of the defense people come from abroad and they are people who are asylum seekers or who have refugee status.
- 02:53 If they go back to Rwanda they are deemed to have abandoned their refugee status. And lastly, they believe that the law itself does not guarantee full proof of due process; that they need to fine-tune the law. So when it went before the appeals chamber, the appeals chamber dismissed two grounds and retained two.
- 03:28 The fact that the trial chamber believed that the institution of a single judge will not be adequate to guarantee the fairness and to resist basically the pressure of the political body, the appeals chamber was of the view that the chamber did not have sufficient evidence to support that findings.
- 03:55 Therefore they dismissed that ground and they sh-, tell the trial chamber that there is no statutory provision under international law that compel any countries to have more than one judge to try genocide cases. They understood the objections of the chamber that they were not convinced that the chamber has enough ground to base its decision on that.
- 04:32 They also rejected the issues relating to the law by saying that of course the law can be amended at any given time. But the two grounds that led them to believe strongly that Rwanda is not at this time in a position to receive cases have to deal with first the solitary confinement provision that is an infringement upon the basic fundamental human rights.
- 05:08 Because if you happen to be sentenced to life and having to serve it in solitary confinement is inhuman and degrading treatment. Certainly in the USA it's acceptable for people like those like they have in Guantanamo and for certain crimes when you're sentenced to maximum security prisons. You may end up being alone in solitary confinement even serving your life sentence.
- 05:40 But that is not – it can be viewed as grave violation of fundamental human rights. You cannot afford that. So the court is of the opinion citing authorities from the European Court of Law, various authorities to say that no, Rwanda as long as this provision is

there is not capable of offering this. No matter – because Rwanda has even advanced to the trial ch-, to the appeals chamber that they are ready to change that provision.

06:19 The court say, “At this stage you have not changed it and we cannot take for face value what you are saying.” The second ground is the witnesses. They said the witnesses Rwanda cannot guarantee that the defense witnesses will enjoy the same conditions. And that the witness protection program is not yet in a state where one can arguably believe that it will be enough to support fairness and due process.

06:58 So on those grounds, the appeals chamber confirmed the decision of the lower court not to move in that direction by sending people to Rwanda.

07:12 RU: So as commendable as your institutional building program is, it would still not cure the defects that the appeal chamber has found.

07:22 You know as my mother would say, you cannot cook better than the lady who teach you how to cook. We have taught them, but they have not yet reach the level where they can claim to be equally competent as mama, because they have their own way of cooking and they have not completely adopted our cooking method.

07:54 And as long as that is there, it will be difficult. If they agree to move and agree to do things mama way, then mama will approve it. Because any time they will have any provision that will enter into conflict with international law, or with the covenants guaranteeing the basic human rights, they will be struck down immediately.

08:25 Although they believe that they’re making great exception already, for them they don’t do things that way. Because of us they abolished death penalty. Because of us they say, “We’re not going to apply this,” all these concession just to receive those people. But we are not fooled. How – we are not going to be there behind them all the time.

08:51 So one solution out of it for Rwanda would have been for them to agree to go Sierra Leone way by having hybrid court whereby they can have you as one of the judges. They can have a panel of three; one Rwandese and two foreigners as they have it in the common law – Commonwealth system where you can have one.

09:22 If you see – if you take the case of Kenya; the recommendation of the Waki report over the electoral violence was to establish an international criminal court of Kenya; a tribunal for Kenya composed of three. A chamber will be composed of three people; one Kenyan and two members of the commonwealth system. Now Rwanda is joining the commonwealth so they can use that by amending the law and providing that.

09:54 But they believe strongly that they’re capable, they’re strong enough to handle all that by themselves and this is unfortunately a clear cut rejection of that accession that you are not yet ready. So put your house in order better and align yourself with the international covenant, with the international standard, with everything and give all the guarantees and then we can consider you as being ready. And it’s not easy.

10:30 RU: No.

10:30 It's not easy, it's not easy at all.

Part 13

00:00 RU: Let me commend you for your institution building program. I've read the, the report of the Commonwealth Judges Association Program . . .

00:10 Thank you.

00:11 RU: . . . it matches very closely what you're planning to do.

00:13 Thank you.

00:14 RU: As a, an aside, I had the privilege of teaching Iraqi judges . . .

00:18 Mm-hmm.

00:19 RU: . . . for three years in various programs in Prague . . .

00:22 Fantastic.

00:22 RU: . . . for (____) judges there. Ironically with all the problems they faced; with the killings, with the shootings, the instability of the government, their primary fear was how to deal with the press.

00:35 Mm-hmm, mm-hmm.

00:36 RU: Seems to be a universal concern . . .

00:38 Of course.

00:38 RU: . . . on the part of judges. One last question.

00:42 Yes.

00:43 RU: Do you have hope for the future of the Rwandan courts? And if so, why?

00:49 Rwandan courts or ICTR?

00:51 RU: No, the Rwandan courts.

00:54 The Rwandan court I do not wish to get involved into politics there. If you, if you rephrase your, your question, I might be able to answer it better.

01:09 RU: Ah, that's a challenge.

01:12 RS: I can rephrase it.

01:14 RU: Well, I, that thought had crossed my mind. Is that, is that fair (___)? I think I have just been tossed what we call a puff ball. I, I will toss – you've been to the United States so you understand – so I will toss it back. I'll let you answer your own question . . .

- 01:31 Mm.
- 01:31 RU: . . . hope for the ICTR.**
- 01:34 Good.
- 01:35 RU: Better.**
- 01:37 My hope is that ICTR – I want to dream of the end of the ICTR proceedings that will be judged by history of having been fair to all parties involved. I do not wish the next generation to say that we failed Rwanda. My fear is that Rwanda has gone through a tremendous havoc and everybody was dirty.
- 02:22 Some people were more dirtier than others. And for me I really hope that nobody among the Rwandese at the end of the process of ICTR shall feel that he has received a special passport labeling impunity passport. That he can flag and say, “I can enjoy impunity.”
- 03:02 My fear is that would we have the necessary courage to live up, to the full extent, to the beliefs of the people of Rwanda that justice that is not possible within the confines by their own brothers and sisters, that that justice could also be attainable at the international level.
- 03:41 They place hope in international justice the same way the people of Rwanda were placing hope in the UN soldiers – to hope that they can intervene and stop the killings and save them. But ultimately most of them were not saved, they died. And they were save by their own brothers who fought to win the war; by winning the war, they did also some bad acts certainly.
- 04:31 I want to believe that international justice, that all those whether they’re Hutus or Tutsis or Twa, we’re hoping for will be one that will appease them forever but not one that will be a cause for future revenge or future attempt to bring about bloodshed.
- 04:58 I love that country so much that I want to believe that when we stop as ICTR, when we give to Ban Ki-Moon or whoever will come after Ban Ki-Moon the keys of this tribunal. That all of us will go with a peace of mind saying that yes we have done something that will survive and make Rwanda not to go back again.
- 05:31 Will that be possible? I hope to live and see it. But with respect to Rwandan judiciary, I pray to God to bless them, to urge them to forgive one another, to tell the truth to one another, to accept that not al-, everybody was clean. Some were dirty, some were more dirty and they should all repent and find a way to bring all into their own game.
- 06:11 To clean up their mess and to trust one another to live again not under the control of any guns, not under the control of any law and order but with the willingness. The same way that your founding members or founding fathers got together in the middle of slavery and adopted the now famous unanimous declaration of July 1776, that we all

hold this to be self-evident truth that we're all born equals, we enjoy the full rights. We don't want nobody to take advantage of the others.

06:58 Let's see the new Rwanda, be Rwanda for all, not Rwanda for the minority, or not Rwanda for the majority, or not Rwanda for the other disenfra-, disenfranchised group. All of them should be in and enjoy fully the fruit of their renewal. This is very important.

07:24 The redemption of the whole country and the renewal process must be something that should come from Rwanda. And the justice system will only be successful if they all want it. That is my, I believe, my closing argument on this. Thank you.