



Voices from the Rwanda Tribunal

Official Transcript: Roland Adjovi (Part 7 of 10)



Role:	Senior Legal Advisor
Country of Origin:	Benin
Interview Date:	13 October 2008
Location:	Arusha, Tanzania
Interviewers:	Donald J Horowitz Lisa P. Nathan
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Roland Adjovi compares the structure of the ICTR to other international tribunals and describes the ICTR's broad mandate for establishing peace and reconciliation. Adjovi discusses his early aspirations to improve the ICTR. He reflects on a proud moment in the case of Michel Bagaragaza, a case expected to be transferred to Norway but held back because Norway had failed to implement the Genocide Convention into domestic law. This decision prompted Norway to enact new laws, thus improving its legal system.

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Part 7

- 00:00** Lisa P. Nathan: So at the very beginning of the conversation you mentioned that when you were teaching in the international law area and your students said you critique these tribunals so much . . .
- 00:12** Note: Gap in interview (Approx. 1 minute in duration) Gaps occurred due to interruptions during the interview, technical issues, or corrupted data files.
- 00:20** LPN: So I'm asking about when you first were thinking and you were, when you were teaching international law and you were critiquing the very, the tribunals that were going on at that time which included this one at the ICTR and your students said, "You critique so much, why don't you go work in one?" Can you remember one of the critiques?
- 00:42** One of the critiques I had was that these tribunals are not using the method, the legal reasoning method in international law properly. It's really simple. Whenever you have a legal issue to address, you look into the conventions, into the customary international law, into general principle of international law and sometimes to the doctrine.
- 01:15** Recently in 2006, I criticized a decision where the judge rely only on the treaties, the conventions and the customary international law saying there is no legal basis in those two sources of international law therefore, the motion cannot be granted. And I say, "Come on, stop it there because you should also look into the general principle of international law."
- 01:44** This was a very specific issue about Rwamakuba. He has been in jail for eight years and acquitted. And he asked for compensation. And the judge is saying there is no legal basis for us to grant compensation to someone who stay in our jail, in our detention center for eight years because there is no provision in any treaty in the world and there is no basis in the customary international law.
- 02:16** While in the same decision, they admit in a footnote that there are ten country in the world where such compensation system exist. There is a presumption of prejudice and you are granted a compensation. And for me, it was a major error in the legal reasoning because you could use those ten countries as a basis of the general principle of international law.

- 02:47 And my first thought was, “(_____), the day you commit a crime make sure that those judge are not on the bench,” because I need someone else to try me who will have the courage to say there is no basis in the text we have but still, there is a moral principle; something you cannot explain but it’s just obvious that someone who spent eight years in a jail has a right to compensation. And I still believe in it.
- 03:18 LPN: So returning to your critique of how the, they’re not using the legal reasoning in them – has your view or critique changed at all? Your view of any of your critiques changed since?**
- 03:32 There are few instance. I, I – one is about the definition of a group as victim of genocide. One of my critiques wa-, w- was that Tutsi and Hutu could not be defined as ethnic group because how – what is the limit? What are the criteria for an ethnic group? If you say it’s language, Tutsi and Hutu have the same language. If you say it’s religion, they are adoring the same gods.
- 04:07 So what will be the basis for you to consider Tutsi or Hutu as separate ethnic group? It’s something easy everyone has been doing and repeating all over the time. In some cases in Trial Chamber Three, I don’t s-, I don’t think that it’s only because I had that opinion but the judge agree that the genocide convention has to be interpreted in a way that it correspond to our world now.
- 04:39 If you look into Gacumbitsi judgment, the j-, the judge clearly state ethnic or racial it’s difficult to see what is ethnic, what is racial. But what we look for is a permanent and stable group. In this society, we have two, three groups and they recognize each other as separate groups.
- 05:07 We’ve (_____), if your dad is a Tutsi, you are a Tutsi. If your mom is Hutu it doesn’t matter. Only the dad matters. Those principle allow the judge to say, “Look, in the Rwandan society, there were stable groups; Tutsi and Hutu. Any of these groups is protected by the genocide convention whether you call it ethnic or a racial group.”
- 05:41 So it’s something I’m happy about but I can’t say that all the judgment has adopted the same approach to the interpretation so that’s something I’m happy about and I’m still happy about it.