

# Official Transcript: Mandiaye Niang (Part 4 of 13)



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 4 begins on the following page.

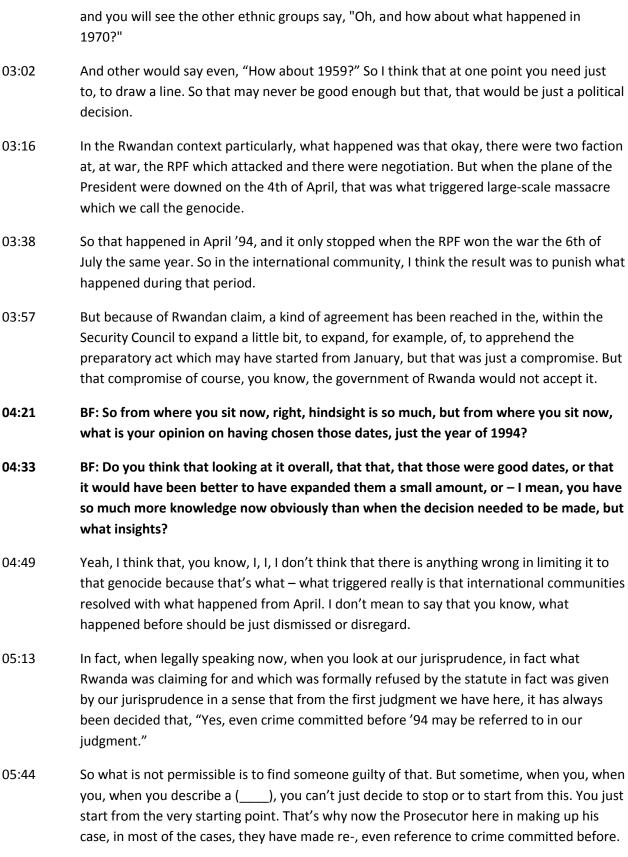
### **Mandiaye Niang**

## Part 4

00:00 Batya Friedman: So, just to – there's so many ideas that you've put out there. Yes. 00:04 00:05 BF: Just following up a bit on the relationship – or the way in which you feel the Rwandan people have responded to the tribunal and that there's been this shift. Can you talk about that a little bit more? I mean, what are some specifics that help you feel like there's been a shift in, in, in how the Rwandans are viewing the tribunal? 00:28 So I think that that shift – first and foremost, (\_\_\_) you, you need to look at the beginning of this tribunal. What happened in the beginning was that Rwanda first requested for the creation of the tribunal. (\_), it, it was not something which was imposed upon Rwandan people. That was a move from the Rwandan government to request for an international tribunal to be created in the model of the former Yugoslavia. 00:59 But immediately thereafter, because at the time Rwanda was sitting as a member of the Security Council, they voted against. They voted against because they say, okay, what was given to them was too little. 01:17 BF: And too little in what way? 01:19 Too little in a sense that - okay, that was, you need to understand that was still in the year '94, so the wounds were quite fresh. They wanted death penalty; so the UN tribunal would not uphold death penalty. So, even the timeframe, because if you look at our statute also, our tribunal has jurisdiction to, to adjudicate over only what happened during the year '94. 01:51 So. And the Rwandan government position was, okay this genocide, which occurred starting in April '94, was prepared for quite a long time. Crime occurred and there were recurrence since '90, at least to say the least. 02:07 BF: What is your opinion about that? 02:10 So I think that, you know, it's, it's, it's very difficult. I think that, you know, what they say, there were crime committed and even this tribunal, and now later crime have been committed in '90, before '94, but the problem was that, okay, where to draw the line? It was very difficult to do, find. You see, for example, in Burundi, they have a similar issue but they can never now agree on a tribunal because of this very issue. 02:39 They say – because you know, in those country where they have a cyclic violence, you know, sometime a group is targeted and some other time another group is targeted. For

example, in Burundi they say, "Okay you have to take into account what happened in 1973"

### **Mandiaye Niang**



© 2009-2015 University of Washington | Downloaded from tribunalvoices.org This work is licensed under Creative Commons Attribution 3.0 Unported License

### **Mandiaye Niang**

06:09 But what is required for them to do to convince the judges is to show continuity. If the mindset w-, started before '94, the judge admit the evidence, but of course now the only limitation is that they cannot find someone guilty. 06:28 But in – what I mean to say is that in the tribunal practice, you know, in fact we are reconstituting the history of the genocide. But, and in doing so, we are not necessarily stopping at the starting point which is fixed by the statute. 06:46 BF: So was that a change that happened over time, to begin to look earlier and allow that continuity to carry forward, or do you think, or was that there from the very beginning? 06:55 No, from the very beginning it was there, but at one point, of course this point has been litigated. Because the defense says, "Okay, so you are in breach of the statute." The statute says specifically that the only charges that can be brought would be charges starting from, or element, even factual element you should be referred to would be the element from 1st January '94. 07:18 But then, that would be, that point was litigated and we had a decision from chambers and as that went up to the appeal, appeals chamber, and the appeals chamber say it's okay to do that. So long as it's just sometime to show continuity or to show intent, it's okay to do

that, but it would not be permissible to find someone guilty for act committed prior to '94.