

THE AD HOC TRIBUNALS ORAL HISTORY PROJECT

An Interview with

Jean-Pelé Fomété

International Center for Ethics, Justice and Public Life

Brandeis University

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Interviewee: Jean-Pelé Fomété

Location: The Hague, Netherlands

Interviewers: Leigh Swigart (Q1) and
Linda Carter (Q2)

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Q1: This is an interview with Jean-Pelé Fomété for the Ad Hoc Tribunals Oral History Project at Brandeis University's International Center for Ethics, Justice and Public Life. The interview takes place at the International Court of Justice [ICJ] in The Hague, Netherlands, on May 26, 2015. The interviewers are Linda Carter and Leigh Swigart.

We thought we would start with where you were when events started to unfold in Rwanda, what your reactions were, and what you were hearing about it.

Fomété: Yes, it's quite interesting because when the genocide started, I was in Yaoundé, Cameroon. We were holding a meeting of a body that was established under the United Nations [UN]. I think it was called the Standing Advisory Committee on Security Issues in Central Africa, and it's something that Cameroon took the lead on. I was in the UN department of foreign service—young diplomats. It was part of our job to be the secretariat of that body. The body was established exactly to anticipate things like that instead of reacting to them. It had drawn a few things from *An Agenda for Peace*, from [Boutros] Boutros-Ghali, and things like that. So we're in Cameroon and I think there was even a Rwandan representative at the meeting so he was quite—and Jacques-Roger Booh Booh [later of the United Nations Assistance Mission for Rwanda] who ended up—. We were in Cameroon, so those are the circumstances when those things happened.

Q2: Were you part of or aware of the UN's involvement in having the Blue Helmets in Rwanda, or any of the internal workings of the UN at that time?

Fomété: Yes, but as a government representative. I was in the department in charge of UN political and legal affairs in a foreign service, so we were looking at it from that perspective while trying to improve a few things at the regional level. Because up to then, and maybe even now, many of the things happening in Africa—you always had this external eye looking at it or external hand being extended to it. In those days the idea was, listen, we should put in place our own mechanisms and simply ask for external assistance when it's needed. We are properly equipped to understand what's going on in our countries. We can anticipate what is coming on and take the required measures. That body ended up developing—there was a non-aggression pact or something between member states of the region. The idea was to piggyback on existing institutions like the Economic Community of Central African States and create synergies to ensure that we can achieve the best. So I was doing that as a member state representative at that time.

Q2: Were there a lot of discussions from the governments of Cameroon and others about what the UN should do in that situation, where Rwanda was just imploding?

Fomété: Those things were mainly happening at the UN headquarters, with Boutros-Ghali trying to persuade the powerful members of the international community not to pull out and things like that. But again, what took place—I would say it came as a big surprise

for those who were not really, really involved, who were not privy to the details of what was being prepared. So the way it exploded was quite a big shock and a big surprise.

It's quite interesting because, when I then joined the ICTY [International Criminal Tribunal for the former Yugoslavia] and we were going through the records of what the Office of the Prosecutor had been able to put together, I saw lots of similarities between what had happened in the Balkans and what was kind of emerging in countries like Cameroon. We're talking about 1994 when I was at the ICTY here, so we were reading about what preceded; what happened in the Balkans; reading newspapers; some groups being identified as the "enemy." At that point I felt like, listen, there's a reason probably why I'm here, because I started to be a bit fearful about what was happening in Cameroon. If you had followed a little bit what was happening in Africa at the time, you heard all about this quest for democracy, and the highest point in that fight for democracy in Cameroon was 1992-1994. So when I joined ICTY in 1995, we were really worried about what was going on in Cameroon also. So it was very natural to compare what took place in Rwanda, what took place in the Balkans, and try to draw some possible lessons there.

Q2: So you were first at the ICTY?

Fomété: Yes.

Q2: And what was your position at the ICTY?

Fomété: It was quite in the early days of the ICTY. I think I joined in 1995. Initially it was just for a short program, I think nine to twelve months, sponsored by the European Union at the time. They were looking to enlist younger lawyers to come and help kick-start the ICTY. In 1995 the ICTY was overly equipped, overly staffed, but also with only one person under arrest, [Duško] Tadić. The ICTY started off with nothing and with lots of accused persons, and in a very, very difficult set-up. So we're here, a group of young lawyers helping the ICTY to kick-start, and there were so many other UN staff members from the secretariat on secondment or recruited just to help put in place the administration and the support services. That's what I was doing here.

Q1: And you were in what organ of the ICTY?

Fomété: In the Registry and the Chambers. I started off in the Registry but then I clerked for Judge [Gabrielle Kirk] McDonald, Judge [Fouad Abdel-Moneim] Riad, and Judge [Claude] Jorda. I stayed only for a year and few months because then help was needed in Arusha, and at the time very few people were interested in moving to Africa. There's nothing in Arusha, really.

Q1: So you went directly from the ICTY there?

Fomété: Yes.

Q1: Tell us what it was like when you arrived in Arusha.

Fomété: First of all, before leaving there was also something that really affected me. At the time, the Office of Internal Oversight Services of the UN had just been established, and the first office that they decided to audit was the ICTR [International Criminal Tribunal for Rwanda]. They came up with a very negative report. I remember the headline in the *New York Times*—"Another African Failure." So we were here [in The Hague]. We were overstaffed. You spent a month or two researching for a paper. I think I spent a few months just researching one article of the Directive for the Registry, so it was quite comfortable. Then this report came, and I was not happy over it. Then I tried to link up with the then registrar through the Office of the Prosecutor here to see what was happening in Arusha. They said they needed people, so I expressed the need of going. We were told, "Where you are going, there's nothing. If you have young children, there's no school." So I said, "I'll go."

So Arusha, it was quite—. You leave The Hague in the morning, you get to Arusha around midnight, and it's dark. You drive from the airport to the hotel. You have power cuts and all those things. I don't think I was surprised, but—so I came to the tribunal. It was very difficult. They were still squatting in some corners of the AICC [Arusha International Conference Centre] building. Compared to The Hague, it was quite difficult.

Q2: When you went to the ICTR, you were within the Registry?

Fomété: Within the Registry, yes.

Q2: What were some of the first things that you needed to do in the Registry?

Fomété: At the time in the Registry you had very few lawyers. Cécile Aptel—she's now in the Office of the High Commissioner. Prisca Nyambe, who's a judge in the Residual Mechanism [United Nations Mechanism for International Tribunals - MICT] now.

Q1: Yes.

Fomété: Judge Fred Harhoff. It was a small team of jacks-of-all-trades. We were doing everything in the Registry and supporting the Chambers. But the key thing was the entire Registry was yet to be organized. One of the first assignments I had was to kind of put in place a real legal aid program, and we worked very closely with lawyers including doing things that were done elsewhere later, like involving them in the decision-making process for the adoption of the rules. They had to participate in plenaries, and then to make their own proposals for amendments, and then to defend them at some point, which developed later. It was amazing also when I learned that the—I looked at the judicial calendar at the time; I remember they had planned four months for the entire [Georges] Rutaganda trial.
[Laughter]

Q1: And how long did that end up taking in the end?

Fomété: I don't remember but it took many years, and if you look at the "Butare" case [*Nyiramasuhuko et al.*], I think that's been there for seventeen years now.

Q2: The last one.

Fomété: Yes, the last one, but it took so long. So we were to put in place the legal aid program. We also had to build proper courtrooms, and we did not have the funds so we also had to do some resource mobilization using our own contacts. I remember selling the project for a modern courtroom to the French government, and Cécile Aptel using her contact with the French government to get the money, and working with the first president of the ICTR—the late Judge [Laity] Kama—going to the European Commission and selling all those things. They got a million euros for the two courtrooms. At the time it was quite sizable. I think we tried to get some money from the European Commission also to replicate the lawyers' program that was developed at the ICTY. I don't think we got it. We got something else later.

Q2: I saw that you mentioned that you were able to get funds for a media room?

Fomété: Yes, that's something interesting also that we realized, that Arusha, in terms of media attention, was in the middle of nowhere. To report on the ICTR you really had to be interested when you travel from Nairobi to come for that purpose. I won't say it was better here, but you already had international media presence. People who were interested may fly from London or from Brussels, and if you miss your morning flight it's easy to

catch the next one, or the train. For Arusha, if you miss your flight, you've missed it. In those days, you had two or three flights per week. That was it. So we realized that the battle was not just about substantive law; it was about communication also. We engaged those who were interested in justice at the time. So we came to the conclusion that we needed to build a press center equipped with the required facilities for those who were interested in coming.

In those days just having an email was—let alone being able to record videos and to transmit them through the Internet to a media outlet—sending an email was a success. I remember just making sure that colleagues from Kigali, from the Office of the Prosecutor, were able to know the plans that we had for the proceedings, just the judicial calendar. You spent hours sending a fax to Kigali. So we came to the conclusion that it was critical to have a press center, something that's attractive to the press, with the basic facilities. That's one. But we also came to the conclusion that it was important to have a few news agencies posted in Arusha, just reporting on the activities of the tribunal, and that's how you had this special agency—

Q2: Hironnelle.

Fomété: Hironnelle, and then Butabera with Thierry Cruvellier, and one or two others. They became big names. You have in *Le Monde* Stéphanie Maupas, who reports on international criminal justice. She was in Arusha also. That's how it all—you had to do

things on your own to attract the smallest attention. It took time to happen but that's what the Registry had to do.

What else? Of course, we would develop this program later on to facilitate the transcription of court proceedings. We had to develop applications to ensure that we could produce real-time transcriptions in French also, because the North American application we were using at the time only had English. On the French market you didn't have real-time, so we had to build the capacity in-house—work with an external consultant to develop our own application to do that. We did it and I think our colleagues were very happy, proud of it, and we offered to help Rwanda with it. We also offered to help a few countries like Senegal in using applications like those ones.

Something else that we had to do, which was I think at the heart of the judicial process, was that the UN said English and French were the two official languages, but the witnesses were speaking Kinyarwanda. And on the market you had no professional Kinyarwanda interpreters. I remember sitting down with my compatriots from the language services and asking ourselves, "What can we do?" So together with Judge [Erik] Møse we came up with this idea of recruiting people without expertise in the language area but who have the potential, and training them in-house. So we did that in Arusha. Progressively we moved from consecutive interpretation of the proceedings to simultaneous interpretation of the proceedings.

Q1: That must have made a huge difference.

Fomété: It made a huge difference. People were all the more proud of what they achieved, and later on the expertise that was developed was extended to the Special Tribunal for Sierra Leone when they had the same problem of Krio and things like that. So my colleagues from the language services went several times to the Special Tribunal for Sierra Leone to assist. Also they were able to do that because some colleagues had left the ICTR, joined the Special Tribunal for Sierra Leone, and knew what was going on in Arusha. In between we had also developed this inter-tribunal cooperation because we came to the conclusion that, if we don't talk to each other, we keep on reinventing the wheel or misspending the funds put at our disposal by the same donors.

Q1: And so this was between the Special Court, the ICTY and ICTR?

Fomété: Yes, and the ICTY and ICTR, and we even associated the ICC [International Criminal Court] through the process. It was something done at the level of the Registries. The registrars were meeting at least once a year, but there was a lot of cooperation at the operational level—language services, court management services, legal aid. We did a lot in that area.

Q1: Just so you know there's a legacy, we interviewed the head of language services at the ICC yesterday, who said the first thing that they did when they knew that they were going to be—the first situation was dealing with Acholi—they got Justine Ndongo Keller to come and to talk about how they had done it for Kinyarwanda.

Fomété: It was Justine Ndongu Keller and [? Oscar ?] that developed the program in Arusha for Kinyarwanda. On the Kinyarwanda part we had Méthode Sentabyo, and because Justine and Oscar were lecturers in the Cameroonian school of translation and interpretation, they had what was required. That's the kind of things that we had to—you identify the problems and you need to be creative in terms of crafting the solutions that take into account your own realities.

Q2: What about the Victims and Witnesses Unit? Were you part of getting that organized as well?

Fomété: Yes, because for many years I served as the special assistant to the registrar, and all those services you mentioned were under the registrar. I spoke about Dr. [Agwu Ukiwe] Okali, so of course we had colleagues especially focusing on one aspect or the other, but yes. The key persons when it came to Victims and Witnesses were Roland Amoussouga and later on Sylvia [? Beti ?].

The registrar at the time came with an idea that was not espoused by the UN; in fact it was criticized heavily for thinking about something else than what the wonderful UN legal minds had thought at the time, but that's what the ICC's doing now—distributive justice with retributive justice. What he said was, "Listen, you can go to Rwanda and ask witnesses to come and testify before the tribunal. You go to a witness who cannot eat, who is sick, and you can't close your eyes on that witness and say, 'Come and contribute

to international justice.' Even if you decide to take care of his needs, health and otherwise, are you in a position as a human being after the testimony just to put an end to that assistance you've been extending?" That's something that came also from Dr. Okali at the time.

Of course, it was first of all rejected, heavily criticized, and then when he persisted, they say, "Okay, it's not the job of the tribunal. Please partner with other UN agencies to see if they can help." But there was no way they could help, so the tribunal ended up doing it with resources from donors, voluntary contributions, and things like that. So again, it took commitment, knowledge of the environment, and willingness to be creative in crafting solutions or listening to those who have the solutions, and implementing them or contributing to the implementation. Of course, many people came also from outside with ideas about how to deal with victims of rape, and so on and so forth.

Q1: And were they always helpful, or did you feel that sometimes organizations from the outside didn't understand the realities?

Fomété: People always come with a different perspective. You may speak about different agendas, or they come with a different perspective, and you have to understand and see how to work with them. I'll give you one other example. People come with different perspectives, but they can be helpful, like something we did with the first U.S. ambassador for war crimes issues, Ambassador David Scheffer. He was the very first one. He came to Arusha and we had a conversation like this one, explaining the

challenges, so on and so forth. It was extremely constructive. He picked up one idea; we had no library at the time, so he said, "Okay, Jean-Pelé, I'll link you up with Trinity College in Ireland. I know they're interested in things like that." I got in touch with the then—there was a law professor, Rosemary Byrne. She, through her own contacts—I don't remember how much we got, but that's how we started the skeleton of a library. Then they [the Americans] funded a big program on monitoring the proceedings of the ICTR, comparing the influence of common law and civil law, things like that. There were interesting reports that were published. So he came with American eyes, working for the American government, but listened to our concerns, our challenges, and was helpful even if they were critical in some other respects.

Q2: Speaking of civil law and common law, of course I know Cameroon basically has both.

Fomété: Yes.

Q2: But you were in an environment at the ICTY and at the ICTR where you would have had judges, attorneys, people coming from both systems. Did that pose any interesting questions or challenges?

Fomété: Yes, of course. You had lots of practical problems. There was an interest, for example, from the judges to see to it that you don't only have western lawyers coming to represent, for obvious reasons. You need a different way of seeing things and doing

things. You could feel, because many of the judges may be common lawyers and things like that, that it influences the way things are proceeding. You'll see francophone lawyers struggling not only because of substantive issues but also because, like it or not, there are two official languages but there's one dominant language, so you have to find your way through all these things. The literature will also at the time be mainly in English, so you have to struggle with all those things.

You also have to find your way through a UN bureaucracy which is Anglo-Saxon, like it or not, so all those particular things. During that period also, you had to deliver while building a system. You have lawyers who need to be paid and they're telling you, "This is what I get from my country." You can explain to them that this is the UN, but you also are unable to tell them exactly what you're giving them because the UN does not know, because the UN was not used to working with lawyers or criminal lawyers. How do you bill them?

We also had all the problems, like how do you account for what you're giving to, let's say, informants? How do you capture it in the UN accounts without jeopardizing your work? We had a secret team traveling all over the world trying to track fugitives, and they don't work like this is the UN, and I give you money, can you sign this voucher? Because the UN rules say we should put the name of Leigh because she—no. So we had to sit down, look at UN rules, look at the requirement of an international criminal justice system and see how to do it. So it took time also. We ended up crafting something, for example, using pseudonyms for informants, or using different levels of reporting when

we'll know exactly who the informant is, but in the formal channel what we state will just be the pseudonyms or something. Then the payments are effective also [from French *paiement en effectif*, "in cash"].

Something I remember also is we had to look after Jean Kambanda. He pleaded guilty and we had to keep him somewhere secret for a longer period of time, and I was dealing with those things. We had to visit him regularly, be in contact with his family, and look for a safer place for his family, and also meet our part of the requirement in terms of deals, and working secretly with some governments to assist justice without them being exposed and things like that.

Q1: Could you tell us a little bit about what it was like to negotiate for places for the convicted to serve sentence? And also where people who have been acquitted should live out their lives?

Fométié: I think the most disappointing experience that I'll take from the ICTR is the fate of acquitted persons. I thought that western countries would be begging the tribunal, or even be fighting, to get the acquitted persons. That's what I really thought, so when the first persons were acquitted, I was saying, "Oh, wonderful. This is justice." You have convictions, you have acquittals, so I was expecting countries to fight and say, "No, this one is for me. Maybe the next one is yours." But we knocked at doors everywhere, and up to now if you spoke with the current registrar, or even the registrar of the MICT [Mechanism for International Criminal Tribunals], it's a great disappointment. Those who

were able to be relocated somewhere—it was based on maybe the connections of their lawyers or the combinations of the connections of lawyers and the willingness of some countries, for example. Have you spoken to François Roux with the Special Tribunal for Lebanon?

Q2: No.

Fomété: For example, I worked with him very closely for the relocation of his client—I think it was [Ignace] Bagilishema—somewhere in the eastern part of France. Because he was a media figure in France, he was able to make noise and knock at a few doors, and then would follow through the diplomatic channels to get the authorizations and things like that. He also used his personal connections to get a family to host Bagilishema. So I personally went to drop him in the eastern part of France there, and it was not easy.

Now, we negotiated also for the relocation of a few other people in Belgium or in the French islands, but it was based on the connections they had there. [Georges] Ruggio was welcome in Italy because of his nationality. It was not easy, and still is not easy. Mr. [André] Ntagerura is still in Arusha, and I feel bad about it because I'm the one who went to Cameroon to organize his transfer when he was arrested, and I remember seeing him saying he was not involved in those things. I went to Cameroon later on to bring his wife, who appeared as a witness. I met with his family and they were saying the same thing, he had nothing to do with it, and then he was acquitted. Then we fought to get him to be hosted somewhere, and we failed.

Q1: What's your interpretation of that? Do you think that people who've just been charged with crimes like that are simply tainted by the process?

Fomété: Of course. Of course they are. And I think the tribunal has been let down also. Member states are giving little support, but they are not really assisting. Those people are entitled to some form of compensation from the United Nations, but we had, I think, some legal opinions that they were entitled to nothing. I don't think it's acceptable. Ntagerura is there. I think he should be in his seventies or something now, and he's lost somewhere in Arusha. The tribunal is winding down, the Residual Mechanism will take over, but it's a shame that no solution has been found. I don't know if a solution will be found. That's a big problem. The next one is for those who have completed their sentence. Maybe they might even be luckier than those who were acquitted, because if you serve your sentence, let's say in the UK [United Kingdom] or in France, they won't kick you out. I don't think so. I don't have examples, but I don't know.

Q1: What about those who've served sentence in Mali? Has that been a successful experience?

Fomété: Yes, and I have to say, we were positively surprised by the feedback we got from Mali. When we were looking for African countries to host our convicted persons, we wrote here and there. When we went to Mali, at the time the president was in before Amadou Toumani Touré—President [Alpha Oumar] Konaré. We were received by him

and he said, "It's our duty. These things took place in Africa. We are lucky that the international community invested in organizing the trials, but now you need assistance. We will do that," and he did. We went around Mali looking for the best facilities where we could invest in improving the living conditions, not just for the international prisoners, but also for prisoners from Mali—making sure you have a library, making sure you have basic medical facilities, and training their prison officers in terms of respecting international standards. So yes, they accepted and they had no problem with the number of people they were hosting.

We got the same feedback in Benin. Of course, in other countries where they said, "No, we don't want to be contaminated by genocidal ideology if you bring those people here"—and I'm quoting what I heard from senior officials. I don't have updated details as to what happened. I don't know if one of them completed their sentence. But we had an issue because we were seeing, when it comes to the management of the sentence, it's something that should be done under domestic law. If you're in a western country where, after a certain number of years of sentence if you behave properly, you can have a pardon and things like that. What we included in the agreements was that if there was a plan by domestic authorities to reduce the sentence, they should first ask for the green light from the Tribunal or from whatever authority would be representing the Tribunal after it winds down, just to make sure that there's some kind of consistency in the way a pardon is approved. Because in an African country—at least the countries with whom we exchanged at the time, Benin and Mali—you didn't have those things. Twenty years is twenty years.

Q1: Were any of the countries that you approached concerned that the convicted persons from the ICTR would have a higher standard of living within the prison than their own prisoners?

Fomété: When we were approaching them, it was clear we had conditions. We said the international standards, the rights of prisoners, were adopted under UN auspices and that it was our duty to ensure that convicted persons from the ICTR were awarded the minimum. They knew it was what we were asking for, but together it was agreed that whatever we were asking for our convicted persons, we should make sure it's extendable to the maximum number of persons in those facilities. In Mali, they had different types of detention facilities. You had one for the common person, then you had facilities for civil servants; they were of better quality. You had for even higher-level civil servants, they could even have AC [air conditioning] in their facility.

We started off with the central prison in Bamako. It was not the best but it was good, so the UN kind of invested directly or made contributions to ensure that medical facilities were improved, that there was a real library, and that if you had one convicted person and his cell was renovated, we would make sure that maybe there are nine or ten additional cells renovated that could be used by other detainees. We were conscious of those issues. The idea was, through the presence of the UN, to somehow contribute to lifting the general standards. I remember we even organized a training program for detention officers on international standards and things like that.

Q2: There's so much that falls within the Registry in each tribunal, and another aspect would be outreach. I'm wondering if you could talk a little bit about developing outreach for Rwanda.

Fomété: Yes, that was a big one also. In addition to creating the press center that we mentioned earlier, it became very clear that our key target audience was Rwanda, and that whatever CNN [Cable News Network] or the BBC [British Broadcasting Corporation] would say about our work—which is good for the powerful—if we don't reach out to Rwanda, maybe we might have failed. So together with civil society organizations in Rwanda—but also with member states, friends of the ICTR, the European Union—they were in the field. They were telling us, "This is what we're getting from—. You are not present. You're so remote." So together, we crafted something and there were many elements.

One was, for example, to make sure every time there were hearings, we would bring a representative from Rwanda, a journalist, a representative of civil society. They would come and they would report on what they had seen, positive or negative. Frankly we did not care, but they could come and see it themselves. We extended it to all the sectors of the society. We got even members of Parliament, we got magistrates. We also organized many, many, many, capacity-building initiatives, like we brought members of the bar to Arusha regularly; we went to Rwanda regularly to brief them on international criminal

law with friends from the ICRC [International Committee of the Red Cross], from other universities, and—

Q2: At some point there was an internship program created for young Rwandan attorneys, right?

Fomété: I'm coming to that, yes. That was part of it. One of them is now teaching at the Institute of Legal Studies in Rwanda. Yes, it was a very good program. It was specially designed for them with a stipend, but that one I think was funded by the UN regular budget. So they were coming, they would be posted, and, yes, you had that. Of course, we recruited colleagues from Rwanda also, because we thought it would be the best place to understand—you could talk to them in Kinyarwanda, and write, and there were *dessins animés*.

Q1: Yes, cartoons.

Fomété: Cartoons and so many other things that were done to reach out to Rwanda. But it was never easy dealing with Rwanda in any case, because whatever you do [Laughs]—. We started off with a hiatus. The Tribunal thought it was an international institution, independent, and that it had nothing to do with Rwanda—that it would render justice, that's it.

I remember a special session of the plenary in Arusha where we were discussing how to build rapport with Rwanda as government, with Rwanda as people, and at that session—Judge McDonald was president of the Appeals Chamber at the time. We invited the Rwandan ambassador to Tanzania. She came to the plenary. It was very touching just talking to her, listening to her. She made a point, and after there were discussions between judges—what do we do? There was this idea of taking, if not all the judges, but many of them to Rwanda just to see how it goes. We ended up going there, a delegation of Judge McDonald and a few other judges. We started off—it created a rapport and then we were able to organize proceedings in Rwanda. It was not just to gather evidence or be in the field and look at the sites of the crimes and things like that. But justice needs to be seen to be done.

Q2: An office was created in Kigali. I've been in the office in Kigali. I don't know if that was only the OTP [Office of the Prosecutor] office or if it was a general ICTR office in Kigali.

Fomété: From day one, it was the base for the ICTR investigators. It was at the Amahoro building, but then the team started growing up and they needed administrative and logistic support so the Registry needed to be present there. Also, to facilitate contact with witnesses and follow-up of the support program for witnesses, and also later on the outreach program, you needed a presence there. So it grew up and we established these information centers. Umusanzu and the UN managed them, and later on the management was delegated to local authorities there. There were even branches in regions.

Q2: So you were there at the ICTR until 2009.

Fomété: Yes.

Q2: That must have been quite a transformation during that period from 1995 to 2009.

What are your thoughts about how it transformed? Were you pleased by the time that you were about to leave with how things were operating?

Fomété: I would say I had mixed feelings. Mixed feelings. I think something we all took from Arusha—and I say "we," that is, all those who worked there—was that unfortunately there's only one Arusha. We have been looking for the Arusha spirit wherever we are. I mentioned to you about friends and colleagues who are judges here, and many in Geneva. Every time we meet we try to—. There was only one Arusha, and I think it was wonderful because when we came to Arusha there was literally very little, and you ended up being part of something. As I said, you had to deliver while being creative, not only in terms of substantive law, but also in terms of crafting operational solutions to problems that were new to the UN. And I think somehow we did it.

That's one of the differences between the ICTR and also the UN Dispute Tribunal.

Compare it with the ICJ. The ICJ is an old institution from the League of Nations. It preceded the United Nations so it even looks at the UN with some—you know? It's an institution of tradition. We're in a palace [the Peace Palace in The Hague], so things have

their own rhythm. The ICTR-ICTY, the Dispute Tribunal—challenges do find new buddies, and you are on the alert looking for new things. So you miss that—

Q1: That dynamism?

Fomété: Yes. With an old institution, "Oh, why do you want to do things differently?" So in that sense—of course I have to mention just a few things. We do not have time to go back to my notes to refresh my memory, but there's so many things that we did, and I think we even compiled something just to show how we somehow contributed to something. I think I mentioned the court reporting system. We saved the court time by maybe forty-percent, just shifting from producing transcripts after a week or two weeks to having real-time transcripts, saving money. The facilities, which were able to deliver justice and things like that—that was done by people, and a big number of people.

Of course you have regrets. There are so many things that we were not able to do; I mentioned the acquitted persons. It's also a pity that the oversight system that was put in place through the completion strategy came so late, more than a decade after both tribunals were created, but it helped a lot. Just with the idea of having to report to the Security Council every six months, the tribunals were forced to better plan. It's normal in any organization to plan. The judicial bodies, they tend to say, "Oh, we are so [Unclear]. We don't want the pressure," and so on. But it worked for the ICTR and the ICTY because then we were used to planning and reporting, to get money. I think that was quite interesting.

Today, if something else had to be developed, it could be done differently. The other regret is the ICC did not really learn [from the Tribunals], and on purpose they decided not to. You had people from both Tribunals, but for some reason they made some of the same mistakes that they should not have remade. Arusha was Arusha.

Q1: Yes, that's interesting that you say—of course the Dispute Tribunal at the UN is also a new body. Do you feel that you could take some of the things you learned, your inventiveness from Arusha, and take it to —

Fomété: Of course. We took a lot. For example, one of the first things I did was to bring my [UN Dispute Tribunal] colleagues from Nairobi to Arusha to see how the court management system was working there, because we were working on developing an application that took into account the specificities of the Dispute Tribunal. So we were in Nairobi, but covering the whole of Africa, and then part of Asia. How do we allow people to file their cases? They're working different time zones. How do you organize hearings with people? Because we organize hearings with parties in The Hague and elsewhere, so of course you build on those things. You build on those things, and at the Dispute Tribunal we needed also lawyers with a good knowledge of the United Nations to assist other lawyers, so we were able to tap in the resources of the ICTR by telling them, "The ICTR is winding down. There's an emerging field of law at the United Nations. You have what it takes to get in." We have many colleagues now working in the UN internal justice system from Arusha or from The Hague.

Q1: We're coming to the end of our time, but I wanted to ask something about your views about the criminal chamber that's proposed for the African Court of Justice, which will add on to African Court on Human and Peoples' Rights. Is that something that you think is workable? Is it a good idea? Will we ever see it?

Fomété: How can I put it? I think it's the expression of a need. Is it the solution? I'm not very sure. The African Court as it functions now is going through its own difficulties to implement the basic mandate. Adding that chamber is a good idea, but how it can be converted into something operational is something that is yet to be done. But we cannot discard the idea just based on the fear that it may not work, or just based on the difficulties that are there. No. I wouldn't think so. Again, in the African Court there are a few people from the ICTR also trying to use the experience they have acquired there to contribute to the cause of justice somewhere else. You have many like in the special [unclear] tribunal. You have people from Arusha as well.

Q1: So they're everywhere. They're taking their experience everywhere.

Fomété: Yes. I think it's useful in the end because the tribunals have developed—it was a wonderful opportunity for lawyers to get their way into the UN. I think it was the biggest opportunity lawyers have had over these fifty or sixty years of the UN. Now they are going everywhere, and I think somehow they are doing something.

Q2: Maybe as an even broader question—maybe this a good final one. With your experience in seeing the ICTR from the very beginning, and you've seen the ICTY, and now going forward, you can see the ICC. But we also are seeing national prosecutions as well—much more than we had ever seen before, international crimes divisions of the courts.

Fomété: Yes.

Q2: I'm wondering what you see as the future of international criminal justice. What do you think will happen in the future? How will this unfold?

Fomété: That's a very big question. Looking at what had happened with the ICC in African countries, it's a pity that the ICC fell into the trap of—let's say the "Kenyan Trap." They have failed to learn from past experiences. I think there was a lack of understanding of the Kenyan context and things like that. It's as simple as that. Then the whole fate of the institution was at stake because of misreading these things and maybe not putting the right people in the right place to—

So the future of international criminal justice—again, we should be working at the national level, building capacity, fighting against poverty, and insuring that democracy and all rights can be strengthened. I think we can do more with less at the local level.

Q2: Thank you.

Q1: Thank you very much.

Fomété: Thank you.

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