THE AD HOC TRIBUNALS ORAL HISTORY PROJECT

An Interview with

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Q2: We have looked at your CV, and your biographical note. You have a wonderfully elaborate CV — is that the one prepared for the ICC [International Criminal Court] election?

Mindua: I am sorry for that — because I was busy, it was difficult for me to shorten it.

Q2: No, no, it was actually wonderful. But looking at your CV, it looks like perhaps you were in Europe at the time of the Rwandan Genocide. Is that correct? [Mindua: Yes] So could you just tell us when you heard about what was happening in Rwanda and what your reactions were?

Mindua: Yes, when the genocide and the massacres took place, I was indeed in Switzerland, completing my Ph.D. in international law. But I was very much interested because I am from the Democratic Republic of the Congo, and I was following the news, especially as it is the case like today with the turmoil in Burundi. People are fleeing, going into DRC, and at that time people also were fleeing Rwanda, and were going to our eastern provinces — Kivu, Maniema, and a little bit of Katanga at that time. So I was following the news, and I knew that a lot of massacres and political turmoil were taking place. Sure, I was aware of that, yeah.
Q2: Were you in contact with people in the region, or were you following the local press?

Mindua: In Geneva we had an African community as well. And inside our community some people were from Rwanda, mostly from the Tutsi ethnic group, and the Hutu, so we had an opportunity to hear the news. And, of course, I also knew people in The Congo, so I had the information from there, and of course from the international media. So I was able to collect all of this news and to judge and to make my own evaluation.

Q2: Were you surprised by the lack of international intervention? What was your view on how the whole thing unfolded?

Mindua: Surprised, yes and no. Because I was, as I told you, completing my PHD, and my topic was Armed Interventions and Human Rights. So, I had already had the opportunity to study the issue in the case of Iraq, Somalia, Liberia and so on. Rwanda was also a chapter of my study. And I know by experience that there are so many interests, implications, and political considerations that motivate countries to intervene in national problems. In the case of Rwanda, we know that there was a United Nations mission in Rwanda, and we know that the United Nations mission withdrew when the massacre started. That's why I was saying that I was surprised, but at the same time I was not surprised. Yeah, that depends. For example, I know that when the time comes for States to sacrifice their soldiers, their own sons, they don't want to do so, and they just remove the troops. [Little laugh.] It is like that very often.
Q1: You completed your studies in —


Q1: And then in 1997 you came to the ICTR. Is that right?

Mindua: Yes.

Q1: Can you explain that trajectory, and what brought you to the ICTR?

Mindua: Good question. Before going to Geneva to complete my Ph.D. I had worked in the police, in the judiciary, and I have always — I have always worked between the university, the judiciary, and diplomacy. So, in Geneva I had the opportunity to work as an intern with the UN, and during that time I met people. Finally, when I was expecting to go back to my country to continue my work at the university and the judiciary, I was convinced to go to the Tribunal for Rwanda and to try to participate in the work of the Tribunal. I met, for example, the then President of the tribunal, Laity Kama, immediately after his election and after the first plenary which took place in The Hague. He came to Geneva. At that time, I was a researcher at the University of Geneva organizing — I think it was for the 50th Anniversary of The United Nations — and we organized at the University of Geneva a conference on International
Mindua: We discussed international law as well as the events in Rwanda because he was appointed as president of the Tribunal. And we thought that it was very important for us to participate and to work to try to bring about justice, to bring the perpetrators to court to end their impunity, to address victims if possible, and to bring reconciliation to the country. So we were moved by very noble ideals, I think.

Q2: I know that Laity Kama was the first president — I know the Kama family quite well, actually; they're a very interesting family. But was there a concern, or were there efforts made, to include as many Africans in the staff of the ICTR as possible? Or was it the usual UN thing where every region had to be represented?

Mindua: I remember Laity Kama was very upset and angry when somebody used to say that it was an African tribunal or it was "our" tribunal. He always was keen to say, "No, this is an international tribunal." According to the ideology or the principle of the United Nations, as you know, an international tribunal should be staffed or manned by people from all over the world. So the idea was to bring people from all over the world. I don't think that I was recruited because I was African. I had completed my Ph.D. in Geneva, so it was my domain. I had just
completed my Ph.D. in Armed Intervention and Human Rights, and Humanitarian Interventions, and so on. So it was maybe an opportunity to put in practice what I had just learned. But of course, we were very anxious to have all possible nationalities represented in the staff of the Tribunal, yeah.

**Q1:** What were your impressions of the ICTR when you first started working there?

**Mindua:** The impression was that there was nothing. [Laughter]

**Q2:** And it had been created three years earlier, correct?

**Mindua:** Yes. The Tribunal was created in 1994 by the Security Council. The judges were elected in 1995. They had the first meeting here [in The Hague], elected Judge Kama in the first plenary, and they were allowed to go to Arusha permanently, in 1996. I arrived in the beginning of 1997. I remember in the Registry at that time we were just three legal officers. And actually, in the beginning, I worked for Judge Kama as a legal assistant. But in the Registry there were only three people, which is why I very quickly moved to the Registry, to head the office for judicial support.

**Q2:** And was the Registrar —?
Mindua: The Registrar was — in the beginning it was Andronico Adede from Kenya, and then they replaced him with Dr. Agwu Ukiwe Okali.

Q2: And then Adama Dieng came after?

Mindua: No, no, no, Adama Dieng came in 2001. Yes, 2001. Okay, so in the beginning we had to face two problems, two major problems. First, physically to establish the Tribunal, and then legally to put in place the legal material and the legal instruments. When I came, when I joined, as I told you, Judge Kama had just arrived a few months before, and the first accused were arrested in Nairobi just a few months after. So the first trial started in my presence. Why? Because there were no courtrooms, no offices, no — no computers, no telephones, nothing. Sometimes you were working in the office and water was just leaking from the ceiling. And so we had to find offices to hire staff, which was very difficult to do, and to recruit people all over the world, and then to put in place legal instruments to run the Tribunal. So everything was new; it was very, very difficult in the beginning. You were asking about my impressions.

Q1: Yes, and how did you go about addressing those initial issues?

Mindua: Yes, you could say we did that very progressively. That is why, in the beginning, people used to say there were criticism against the Tribunal. I think it is one of the reasons the first Registrar was removed. People were complaining about the cost, about the lack of
judgments that had been shown. So because of all of this, it was very not easy. For example, we experienced shortages of electricity, power, and water, not to mention a difficulty in communications with the defense lawyers and so on. So we tried to solve those problems progressively.

For example, people were complaining because the proceedings were very lengthy, and during one of the plenaries in the beginning, we suggested changing some — some procedures. For example, we used to hear every motion in the courtroom, and that was very time consuming, very costly. So we proposed — I was among the people to propose this — that we allow motions to be decided in writing. That was a change during the third plenary of the judges in Arusha. And that brought a great deal of benefit, because you could imagine our defense lawyers were coming from all over the world, from Canada, the United States of America, Europe and so on. So when the accused were in the detention facilities, and his lawyer sent a motion, for example, to request a medical examination, or just to request a change in the diet, nutrition, we would have to go to the courtroom. It was when I was in the Registry; it was my job to prepare for the defense lawyer to travel from Canada to Arusha. It was not always easy because in Canada he had his own agenda, his own business, so we had to organize all of this, to bring the lawyer to Arusha, and then we went to the courtroom to hear from him, from the Prosecutor, and to decide whether the accused should be allowed to change his nutrition, his medical doctor, or not.

So we decided to put an end to this system and to consider the motions in writing. There was progress in this case. Another improvement, legally speaking, was about the preparation of the
There was surprise in the courtroom when counsel read off the lengthy list of witnesses, and we were surprised by the content of the testimonies in the courtroom. We proposed that, in the future, defense lawyers should send the list of witnesses and the summary of their testimonies well in advance, and then the judges should have the opportunity to shorten the list of the witnesses and even to decide to admit some testimonies, or statements, just in writing instead of calling those people to the Tribunal. So this is the kind of improvement we tried to introduce in order to improve our proceedings in the beginning.

**Q2:** I believe your title was Chief of Judicial Proceedings, right?

**Mindua:** Yeah. Yeah.

**Q2:** So what are all the areas that that job encompassed? What were you called upon to oversee?

**Mindua:** Okay. We were very busy. I was very busy. Because when I left the office of Judge Kama, I was sent to the Registry to try to organize all the support services to the chambers. And this means that I had to organize the proceedings in the courtroom, to put in place the staff, the courtroom officers, the ushers, to organize the judicial calendar — on which date, which day for the appearance of the accused, which case should be heard, for example. In the beginning, we used to have one case a day, and of course the pace of the proceedings was very slow. And we decided it was between — I don't know how to say in English, um…
**Q2:** Stagger?

**Mindua:** One week, one trial, and another week, another trial. Why? Because very often, you know, the defense counsel were not living in Arusha. So from time to time, they had to go back. Or if an accused was sick, there were no proceedings, as is the case now for my accused [at the ICTY]. So, we introduced this system, one week to have Trial A, and the second week Trial B. So during the week of Trial B, people involved in Trial A would have to prepare to get ready for next week, and to prepare a document so that the Tribunal didn't waste time. And after that, we introduced another system of shifts, one in the morning and another one in the afternoon, in the same courtroom, so that we don't leave our courtroom unoccupied. All this was made to try to improve, because it was the first time since Nuremberg— except for the ICTY, of course— to have an international tribunal, so everything had to be rethought.

It wasn't easy; this is why we had to improve all the time. It was part of my work. And also, of course, before going to the courtroom, we had to have the accused. The accused were not always in Arusha; they were hiding all over the world, especially in Africa. So it was my job also, in conjunction with the prosecutor, to go — first to address the tools, arrest warrants, court orders, and different orders or judicial documents, to send the documents to the government, to discuss with them, and to obtain from them the transfer of the accused. I used to do that; I used to travel often. Burkina Faso, Cameroon, Benin, to bring documents to Ministers for Foreign Affairs, or to Ministers for Justice, to discuss the transfer. Once they were in agreement with us, I used to go back to Arusha. I had an aircraft at my disposal, to travel and physically get the accused and to
bring him to the seat of the Tribunal. That was my work; I did that for years as well. So once the accused was in Arusha, we sent them to the detention facilities, and I was able to continue preparing the court schedules and to bring people to the court.

Q2: So, this is when, through the Prosecutors' investigations, they had discovered where the accused were residing, [Mindua: Yeah.] So let's say somebody was in Cameroon. Was the Cameroonian government always in agreement to arrest the person and extradite him or her? I know there was only one woman, but—?

Mindua: We were talking about extradition. You know that extradition is when there is an agreement between the two governments or two countries — in our case, the United Nations never signed an agreement of extradition with a country, but we had at our disposal the Security Council resolution requesting, demanding all countries to contribute, to cooperate with the Tribunal. So my task was a little bit — I would say, easy, because I had to travel to say to the Minister of Foreign Affairs, or to the Minister for Justice, "Look we are here, we have an arrest warrant. According to the statute of the Tribunal, and through the Charter of the United Nations, you are obligated to comply with the Security Council through our Tribunal." So what would they say? Often they were in agreement to cooperate for the transfer.

Now if you are asking if it was easy to arrest the people? Of course, no, because they were hiding. Up till now, I think we still have nine people at large, from the Tribunal of Rwanda. So generally, African governments were reluctant to initiate investigations, and to arrest, because
those people who were hiding were very high profile governmental people, or in the military, generals or ministers, and they were very good friends of all the East African governments and states, for example. I don't remember one state that initiated an investigation or arrest — the job was done by the Office of the Prosecutor. The Prosecutor had a lot of investigators, a lot of intelligence people and so on, and so the Prosecutor was aware where the people were hiding, and initiated investigations, and then told us to go to negotiate and to bring them to the seat of the Tribunal.

Q2: Did the Registry also have to arrange for the Prosecutors office to have investigators go into particular countries, or is that something the prosecution, the OTP did separately?

Mindua: No, the Prosecutor was able to do the job himself. The Registry was intervening when it came to secure the arrival or the trip for witnesses, for victims and so on. In the Registry, we didn't want to give the impression or to be involved in prosecutions, because we would like to be very neutral, available to the defense lawyers and to the prosecutors as well.

Q1: Can you give us — you were talking about some of the difficulties that you faced in the field working on these extraditions. Can you give us an example of your memories from one of these experiences?
Mindua: I have not said that I experienced difficulties in transferring people to the seat of the Tribunal. I said that it was difficult for African governments to initiate investigations and to arrest suspects or accused, you understand?

Q2: But did you have to sometimes use your diplomatic skills in order to have a dialogue with the government so that you could remove somebody from their country?

Mindua: Yes, of course, because as I told you people were — I can say, for example, in Burkina Faso and Cameroon, they were there openly, hiding from the Tribunal, but living openly, known to the government, because they were ministers and generals, friends to those states. So many of them received the right of asylum, they were refugees somehow, and I used to convince the government that, of course, they came as refugees, they have got asylum, but now there's a problem because there has been an indictment by the Prosecutor of the International Tribunal for Rwanda. So the situation had changed, and the State could not continue granting asylum to them because [small laugh] there was the Statute of the Tribunal and also the Charter of the United Nations. So, in the beginning, they were reluctant to accept but they understood when we clearly identified the person. But when the person was not, no I don't want to say, yes identified by the Prosecutor, when the person was, but it was the case for example for Alfred Mosema [and then today we heard that he was in Kenya, in The Congo, nobody knew exactly which place, so the government would say, "I don't know where he is. But if you show him, yes, come tell me and I will let you arrest him if it is really this person."
Q2: I'm just curious. So you had this UN plane at your disposal, [Mindua: Yup] and you had to transfer these indicted persons. What was it like? did you take your own security guards? Did you actually talk to the accused? Did they ever try to convince you that they shouldn't be in that plane? What was it like to be in a plane and have that trip?

Mindua: This is a very interesting question. Of course — it's very difficult, you know. Myself, in my life before, [small laugh] I was a clergyman; I wanted to become a Catholic priest. So I am very sensitive to the issue of human rights, and to the dignity of people, the respect for families and so on. But at the same time, I am a lawyer, and so I would like to see victims redressed. So, of course, I was arriving in a country, discussing with the minister, and the person was arrested and put in prison. I used to go to the prison to see the accused or the suspect and tell him that the situation has changed, there's no more impunity, and that the person should be prepared to go to Arusha. As I was dealing with governmental officials, generals, and so on, it was very easy to convince them. No discussion, they understood a massacre had taken place, there was a genocide. So they said, "Okay, okay." But it was difficult— because they were very often with their families, it was more difficult to explain to the family. I was always [ little laugh] ready to talk to families to explain that nothing bad would happen to the father, because we are a UN Tribunal, we are going to apply international standards, so they had nothing to fear.

Q2: So they were worried that their family member might be assassinated?
**Mindua:** Yes, assassinated, or executed. Yes. Sometimes it was very difficult to travel, and at that time — one day I went from, I think from Benin, and Central Africa was probably at war, so it was very difficult to cross the country. I think we went from Benin, and we took the route to Gabon, Brazzaville (Republic of the Congo) and to Angola. And then we [laughs] spent the night in Angola, and then proceeded to Arusha through Zambia. Sometimes it was very, very long and very difficult, trying to escape where people were fighting, and also for security purposes.

I remember one time we arrived, because the weather was very tough, and the engines consumed more fuel than expected, so we had to make a stopover in Uganda. It was at night, around 8 p.m. You asked me the question, was I alone? No, no, no, I was always with the security personnel from the UN, I was the leader of the personnel on the plane, with the pilot and the captain and the co-pilot. So, according to the UN clearance, we were not allowed to go out because there was a rumor that the president of the country was very angry against our procedures because there was no death penalty. So if he was aware that we had some accused, some people accused for genocide, there was a possibility of having our people arrested and just executed. So yes, we decided not to go out, and to keep just quiet in the aircraft, just leaving the captain to go negotiate for our fuel and then to go back. There was this kind of problem during our trips. But we were also — we were always with our security guys.
**Q2:** So were the accused handcuffed? Were they restrained during the trip? I'm thinking about these eminent generals and ministers, that they might have objected to a certain kind of treatment.

**Mindua:** During the transfer on the ground, yes. But during the trip, we couldn't continue because the route was very long, and since we had weapons in the aircraft — so no.

**Q1:** Now you were at the ICTR until 2001?

**Mindua:** Yes.

**Q1:** And in the four years that you were there, how did you see the Tribunal evolve and change?

**Mindua:** In my view, the Tribunal evolved very well, as well as I could expect. Because, as I told you, in the beginning and during the first mandate of the judges, from 1995 up to 1999, it was very difficult to establish the physical tribunal. No computers, not power enough, no telephones, we had to hire people and so on. And after doing that, during the second mandate, we tried to improve the judicial proceedings, to put in place some best practices, for example shortening the list of witnesses, allowing disclosures of evidence well in advance, establishing the procedure of a pretrial judge, allowing a single judge to decide a [motion. Because in the beginning, it was always a bench of three judges, and it was very time consuming. So we put in place many procedures like that, and it was easy to do that because, according to the Statute of
the Tribunal, the judges have the power to amend the Rules of Procedure and Evidence. So being on the ground, confronting some difficulties, it was very easy for us to draft something, and to say to the judges, "Look, during the next plenary we have to change this." And they were always cooperative and accepted.

So we improved many things, and I think when — during the first term, the first mandate, we had just four judgments. And the following term, fourteen judgments were issued, so it was a big improvement. In the beginning we had to have just one accused at a time appearing before the court. When we had trials of two accused, we went faster. And then the Prosecutor attempted to go too fast — we brought in an indictment of 29 accused, to be tried at the same time. We said "no, it's impossible to do that, we don't have a courtroom to accommodate 29 accused, with their defense lawyers, and the co-counsel, and the Prosecutor, and the — no, no, no." So we asked the Prosecutor to reduce, and then we had a multi-accused case, but reduced. Instead of 29, we had trial cases with six accused, or five, and so on. So when I left, I think the Tribunal was on good terms, yeah.

**Q1:** So, moving towards the ICTY, can you take us through how you became a judge, and then how your earlier experience at the ICTR informs your experience, your adaptation to the ICTY.

**Mindua:** Very good question. I think it is like in the military. A good military officer, a good general or commanding officer, is the one who went to the military school because he knows what strategy is, what tactics are, and so on. He learned about the very famous battles in the past.
But he has the knowledge, he should have also maybe the physical ability, to do the job on the ground. I had the opportunity to be a legal officer. I worked within the Chambers. So I participated in the drafting of a judgment, of many decisions and a judgment. I had the privilege of participating in the Akayesu case. As you know, Akayesu is the first judgment in the history of international criminal law to say that rape may be an element of the crime of genocide. So I participated in the hearings, and in drafting decisions. I know how to organize proceedings in the courtroom. I know criminal procedure.

It is very difficult for a judge, because according to the statute of the former Yugoslav Tribunal, judges could be specialists of international humanitarian law, or human rights law, but they don't necessarily know about criminal procedure, they don't know about the management of a courtroom. I think it is one of the reasons that, in the international tribunals, in the beginning there was this problem of lengthy proceedings and a lack of judgments. Because some of the judges were just not able to work. So you have to think, they have theory but they don't know how to manage a trial. So, for me, as I was already on the ground, and when I got the opportunity to apply to be a judge, I applied. I think I can contribute better than somebody who hasn't been in the courtroom before. Does that answer your question?

Q1: Yes, very much so. And what were your impressions of the ICTY compared to the ICTR when you became a judge, and how did you adapt to that new environment?
Mindua: Yes, the environment is both different and not different, yes and no. Why? Because the two Tribunals, as you know, were created by the Security Council, and the Statutes of both Tribunals are almost the same. When we say Article 100 in the Tribunal for Rwanda, it will be 101 for the ICTY. [Laughs]. So, always the same. And also, likewise for the Rules of Procedure and Evidence, of course later on there were many amendments brought by the judges. But even with the amendments there was a lot of resemblance, because the Tribunal for Rwanda and the Tribunal for the former Yugoslavia have the same Appeals Chamber, the same Appeals judges. So when you go to participate in the plenary in Arusha, very often there is the same idea circulating between the two Tribunals. And also, in the beginning, we used to have a common Prosecutor, so the proceedings and the law are basically the same.

Now, having said that, here of course we are in Europe, and we have a lot of opportunity, great facility for action. It is easy; many things are easy to solve, to get books and things like that. And also the manpower, because we have a lot of specialists here. It's not easy always to have the people you need in Africa. Personally, I could say, maybe the task for judges is difficult. There's a lot of competent people, technically if we think as intellectuals. But I should say that they get assistance from the legal officers. When I was a legal officer, nobody was helping me. [Laughs.] But when you are a judge you have legal officers at your disposal, they can help you to draft; this is one of my impressions as well.

And another impression is that when I left Arusha we — our tribunal was under criticism that it was one-sided, a tribunal for victors, in the sense that we did not succeed in bringing to justice
officers from the Rwandan Patriotic Front (RPF), from the group in power. Because according to the statute of the Tribunal, we were in charge of crimes against humanity, genocide, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and so on. But it was taken for granted that the genocide was committed by the Hutu, on top of war crimes and crimes against humanity, and so in violation of the UN Genocide Convention. It could be also said that the other side, the RPF, committed some war crimes or some other crimes. So we were under criticism as to why our tribunal was not able to bring to justice some individuals from the Tutsi ethnic group. It was one of the problems that we had at that time. I think up to now the problem has not been solved. But I don't know, it is the policy of the Prosecutor, so I am not involved in that. Because you're asking me to make a comparison, here we are more comfortable, because we have indicted, tried, and convicted people from all sides: Muslims, Croats, Serbs. So I could say we are happier.

Q2: Unlike a lot of judges you have had an experience in the Registry. I wondered what your impressions were of how the Registry worked here when you came to the ICTY.

Mindua: Okay, when I came here in 2006, the Tribunal was already running smoothly. So I didn't have much to complain about from the Registry, except maybe about the translation. Because the French will say, "I would like to attach such and such document, it's not ready yet, so the Prosecutor will complain," and so on. Otherwise we have the courtrooms, we have everything in place. But in Arusha, it was not the case; we had a lot of problems. For example, for translation and interpretation. In the beginning it was — our proceedings were very lengthy.
Why? Because we did not have simultaneous interpretation; it was consecutive interpretation. Our accused were speaking Kinyarwanda, some of them French; but the witness, the majority of the witnesses, they spoke Kinyarwanda. And the victims. So the question was put to the witness in French or in English, and then interpreted into Kinyarwanda, while we were waiting. The witness used to answer in Kinyarwanda, and as we were unable to understand, then it was interpreted into English or French. I think that starting in 2003, the interpreters were trained properly and the Tribunal got simultaneous interpretation. It was a big improvement. [Laughter.]

Q2: That would help speed things up.

Mindua: Yes. I remember, at Nuremberg it was the first time also that there was simultaneous interpretation, and so people were very happy in 1945.

Q1: Yes.

Q2: Yeah, that's kind of amazing.

Q1: We're getting close to the end of our time here, but I wonder if we could jump back a little bit in time, because I wanted to ask you about your work on the Akayesu decision. Such a landmark decision in the history of international criminal law — can you talk about your memories of working on that?
Mindua: Well, as legal officers, we worked together. So somebody was instructed to write about the history, the background of the document; another one about the collection of evidence. It is done piecemeal: you are going to collect about Witnesses A and B, another one Witnesses C and D, and so on. And then we draft, we give it to the judges, they will read and decide, cut this or put that in, and so on. But, yes, I cannot go through the sequence of deliberation, but there was a lot of discussions, as you could imagine: the definition of genocide, the definition and elements of the crimes, and so on. I participated only in some minor decisions in this case, when I was working within the Chambers. But when the judgment was issued, I was already working with the Registry, so I did not draft the Akayesu judgment as such. But it was very interesting to discuss at that time. We had many good colleagues to discuss all this with, yeah.

Q2: Did you find your training in international humanitarian law really important in the work you were doing?

Mindua: Yes, of course. As you know, I had studied international law and humanitarian law in Geneva, but it was not the case for many judges and legal officers. So we received an additional training from the ICRC, the International Committee for the Red Cross, which sent to Arusha some specialists to train us again on these issues. It was very important for the theoretical part of the work. Because it's one thing to conduct the proceedings in the courtroom, but another to reflect about the theory: What is the definition of genocide? What is a violation of the Geneva Conventions? So it is very important to know the theory. Yes.
Q1: Can you talk us through the first case that you sat on when you came to the ICTY?

Mindua: My first case, yes? My first case unfortunately is still going on.

Q1: Oh, it's still ongoing.

Mindua: [Laughs] It is the Prlić case. We made the decision in the trial phase. Now the case is before the Appeals Chamber; it will be decided upon in 2017, I think. It was my first case. In that trial I was a reserve judge, so the fourth judge, because we have a bench of three judges, and then I was the fourth judge. In case one judge were not available, the reserve judge would continue. But I had an obligation to be in the courtroom every day, to do everything with the other judges; otherwise there's no point to being a reserve judge. The philosophy is, once a judge is on a case he cannot be removed; if he is removed the trial should start fresh. So it's better to have a judge sit in on the case, and if there is one who is not able to continue, then the reserve one will do the job. But we thank God, we conducted the proceedings until the end. Unfortunately, one of our judges died, in Hungary, after the decision, Judge Prandler. When we finished the trial he died. So this was the idea for that big case — there were six accused, and the judgment was rendered in 2,500 pages, because there were many crimes committed in several municipalities, and so on. So I think it was wise to have a reserve judge. That was my first case.

The second one was the case of General Dragomir Milošević. General Milosević was the one who besieged Sarajevo. Sarajevo was under siege for a long period, and he was the one
conducting the siege. So I was a full judge on the bench, and we worked very hard, and we
conducted the proceedings very quickly. In two years we rendered the judgment. Yeah, we
sentenced General Dragomir Milošević to 33 years of imprisonment, and he went on to the
appeal. He appealed the case, and the sentence was reduced to 29 years. So it was good.

My third case was the case of General Zdravko Tolimir, who was the assistant to General
Mladić; Mladić was the Commander in Chief of the Army of the Srpska. General Tolimir was
the assistant to the commander and responsible for intelligence and security. He's the one who
was appointed to — I can say to conduct the operations, military operations in Srebrenica and
Zepa. According to our findings, he is the one responsible for the massacre of more than 500 —
5,000, sorry — boys and men, after the war. So we sentenced him for genocide, to life
imprisonment. He appealed his case and the sentence was confirmed. My last case is that of
Hadžić. He was the President of the Republic — Serbian Krajina Republic, in Croatia, and we
are still on the case.

Q1: [Asks Q2] Do you have any final questions?

Q2: I do. I'm thinking about you joining the ICTR in 1997, and you have had all these years at
the ICTY, and you have very recently been elected as a judge at the ICC, which means that you
have another nine years to work in international criminal justice. [Mindua: Yes] I'm wondering
what you see as the trajectory of this whole field of law. Do you feel that there have been
enormous advances? Do you feel that it's all been positive? Have there been obstacles that have
not been overcome? What's your feeling about the future of international criminal justice, about the quest to end impunity, about the ability of international criminal justice to contribute to reconciliation in post-conflict societies, and so on?

**Mindua:** Hmm, I think there is a considerable advance in the domain of international criminal law, international law itself, because we all know that after Nuremberg, nothing was done against the perpetrators of international crimes. The Genocide Convention was not put into practice — no, no, it was not — there was no punishment for people violating the Genocide Convention, for example. The same for the violation of the Geneva Conventions and war crimes. So with the creation of the Ad Hoc Tribunals, and the other tribunals that have been set up for Sierra Leone and so on, we can see there is a big improvement. It is really an advantage for mankind, for humanity, to know that today, nobody is above the law. If you do something, if not today, then one day, you will be brought to court. I think this is very important for humanity, and especially for us in Africa.

For example, I could tell you, and it is my feeling that in Burkina Faso, for example, President Compaoré wanted to change the constitution so that he could run again for the third time. One year, before the end of his term, the second term, he called the parliament to change the constitution for him. People, young people today are not in agreement with that. In the past maybe, but today it is very difficult to do that. And the young people went into the streets to protest, to demonstrate. He sent the army, and the police, but the army did not systematically shoot live bullets into the crowd. Why? Nobody told me, but I think, I'm just offering, that it's
because the current Prime Minister, he is a Colonel — Yacouba Isaac Zida. He was among the UN Troops for three years with the United Nations in the Congo, [Kinshasa]. So he finished his term in Kinshasa, went back to his country, and he was the Number Two in the presidential guard, the presidential security. And he is the one who was ordered to shoot into the people. So maybe the fact that he is an educated person, he was in the military in the UN, led him to think, "If I shoot into the crowd, maybe one day I will go to the ICC or somewhere to stand trial. It's better for me not to do that." And he didn't do it. The president was ousted, and today that gentleman is the prime minister. So there is a deterring effect to just have the Ad Hoc Tribunals. And today there is the ICC, so that we can be sure that there is an end to impunity, that victims can have redress, and I think it is a good advantage.

Another thing I wanted to say is that international law, international criminal law particularly, is evolving. In Arusha, for example, I was shocked when I was there — even here, because it is the same Statute, the same Rules of Procedure and Evidence, in general — to find there's no provision for reparation, or for remedy in favor of the victims. Very often in Arusha — because I was in the Registry, responsible for overseeing many matters, so I knew our detainees in the detention facility had good nutrition, the best medical care, a very good environment, watching TV in the detention facility, and so on. When somebody was sick we were always keen to bring to him the best doctors or to take him out of the detention unit to Nairobi or to South Africa to get the best medical treatments.
But at the same time, when we had a trial, there were witnesses from Rwanda, from Kigali, young ladies, young girls raped, assaulted, infected with HIV, by the alleged perpetrators. They were before us in very difficult condition; as you know, it is very difficult for African women to give such testimony in front of male judges or male legal officers. And after the testimony, the witnesses used to say, "Okay, now it is all over, I am sick. My husband was killed, and myself I am sick, I cannot go to the fields anymore to have my maize and my vegetables. I should go to the hospital, but I don't have money. What can I do?" And we used to say, "We are sorry. We don't have the power to decide on reparations; we don't have the power to grant you a remedy. And we don't have a fund for this, for that." Well, at the same time the responsibility was in the hands of the United Nations.

I was very shocked. So we discussed the issue with the Registrar in Arusha very often. Finally, we said we are going to request a mandate; it is not in the Statute but maybe you can help. We can try to constitute a trust fund, not for reparations because we don't have the power to do that, but at least to assist. This is why in Kigali there is a — there was, I don't know if it is the case now — there was a clinic of the Tribunal for Rwanda where women were able to go to receive treatment against HIV, to receive psychological counseling, to try to help. But nothing from the court, from the judges. Now, because you talked about my arrival at the ICC, I am happy with the ICC, because there is a provision for reparations, for a remedy, in the ICC Statute. So I can see how international law is improving step by step through the years. Yeah, there has been an improvement.
Q1: Well thank you very much for your time today.

Q2: Thank you, Judge Mindua.

[END]
A
Adede, Andronico

Akayesu Case

C
Compaoré, Blaise

D
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K
Kama, Laity

M
Milošević, Dragomir
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