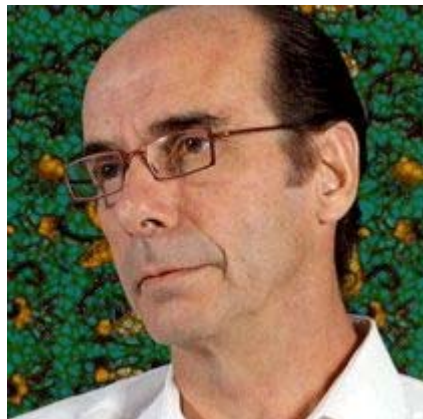




Voices from the Rwanda Tribunal

Official Transcript: Benoît Henry (Part 6 of 11)



Role:	Defense Counsel
Country of Origin:	Canada
Interview Date:	31 October 2008
Location:	Arusha, Tanzania
Interviewer:	Donald J Horowitz
Videographer:	Nell Carden Grey
Interpreter:	None

Interview Summary

Benoît Henry speaks about his first ICTR appointment defending Andre Ntagerura, who was accused and acquitted of genocide. Henry reflects on a major shortcoming of the Tribunal surfaced by Mr. Ntagerura's acquittal: the question of what happens to accused genocidaires after they are acquitted? Mr. Ntagerura remained in UN custody because no country, including Tanzania, was willing to accept him. Henry further suggests that to perform their role effectively, defense counsel must distance themselves from the events of the genocide.

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Part 6

- 00:00 Donald J Horowitz: Let – if, if I may, is this, may we move on to another (_____) . . .**
- 00:04 Sure, sure, ano-, to another issue.
- 00:07 DJH: Now you've handled t-, two other cases to conclusion.**
- 00:10 Mm-hmm. Well, one to conclusion and one is still going on.
- 00:13 DJH: Okay. Okay. Would you tell us about the second case?**
- 00:16 Yes.
- 00:19 DJH: And anything of importance or that you think is significant.**
- 00:22 Okay. Well, the second case was the case of a person called Nchamihigo Siméon who was a Deputy Prosecutor in the prefecture of Cyangugu who was charged with genocide, crime against humanity, extermination, murder and who was very recently found guilty of all those crimes and sentenced to life imprisonment.
- 00:52 DJH: Okay. And do you have any observations to make on that case?**
- 00:57 Well, what can I say about that? We made our best, of course.
- 01:02 DJH: Of course. Any, any, any lessons learned for the future, not just by you but by the (____)?**
- 01:09 Yes. Well, I don't know exactly what lesson we could, we could learn from that case. I'd say that possibly, in general, we have to hope that the experience will serve. Well, I mean when I say experience, I mean the whole experience of the tribunal.
- 01:45 Not the experience necessarily in this particular case but in this case too, will serve for the future. For e-, for example, one thing that, that, that struck me and that, that concern me in this case, well in the other case also, is the way the investigations are conducted.
- 02:15 DJH: Okay. Tell me what you mean by that.**
- 02:18 Yes, I will. My, my experience in that matter brought me to think that the investigators who investigated tho-, those crimes were, did not have enough experience to investigate serious crimes like that. And . . .

- 02:51 DJH: Lack of training, lack of experience.**
- 02:53 Lack of training, lack of experience
- 02:56 DJH: And these are the pros-, the investigators who work for the Office of the Prosecutor? Okay, go ahead.**
- 03:00 Exactly, exactly. So just for instance what we realized is that well, they, they took some declarations. They, they took some written declarations from some witnesses, brought that to the Prosecution Office. They did not to our understanding take the, the time to verify the credibility of those witnesses. They did not take the time to test those, those witnesses and we realized that they were just taking their word.
- 03:49 And also, there's also, well, we have to deal with, with the people we have so Rwandans are, are, are particular persons. They have, they have a culture that has to be taken into account and their way of saying things, of, of, of explaining what happened is, is sometimes, has, is sometimes questionable.
- 04:20 And they have, they, well, they need to be experienced investigators to investigate those persons, which we found was, was, was not the case.
- 04:34 DJH: Sometimes we talk about understanding words but understanding idioms is different.**
- 04:39 Yes.
- 04:42 DJH: And likewise with conduct; to understand somebody's conduct, you must understand the idiomatic, the cultural context of the, of the, of, and I think that's at least a, a, a part of what you're saying here.**
- 04:57 Exactly, exactly. And also their way of, of, of telling what happened and just telling one part of the, of the matter, one telling one part of the story without telling the, the rest of the story like they say, well that person was there and he did this and he did that. But they are not telling that other people were there too. They're just refraining from, from saying the whole story.
- 05:22 They say the truth sometimes but they don't, they don't always say the truth, but I can see, I'm sorry.
- 05:27 DJH: It's alright.**

- 05:27 But I can see that they certainly do tell the truth sometimes, but partially, you see. And the way they are asked questions after, because if they are further investigated and asked question about, about another person, they're just going to tell you the same story about the same fact . . .
- 05:46 . . . now putting this other person in the same story without having said in the first occasion that the person was there too. So it, it makes, it makes the story very difficult to understand because of their manner, of their way to tell the story.
- 06:05 **DJH: Mm-hmm. Okay, and I understand that and it also probably adds a bit to the time that it takes to get out a fuller story because you're having to go one by one by one. Yeah.**
- 06:17 Exactly, exactly.
- 06:20 **DJH: Okay.**