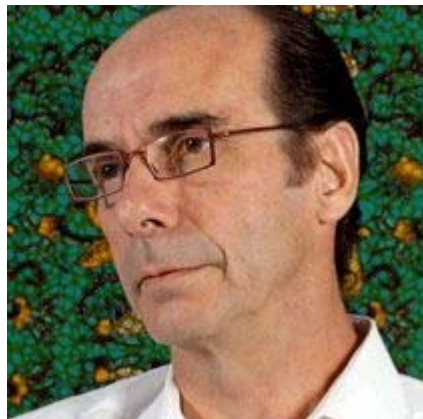




Voices from the Rwanda Tribunal

Official Transcript: Benoît Henry (Part 10 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.

The transcript of Part 10 begins on the following page.

Part 10

- 00:00** Donald J Horowitz: Rwanda itself is, and I don't mean the country but perhaps the country but certainly many of the people of Rwanda, are in some ways a party in interest, if you will, to what goes on here. Do you have any thoughts about the relevance of what's happening and how, whether there has been s-, sufficient relevance, connection if you will, to the victims or to the Rwandan people in, in this process?
- 00:31** DJH: And, I mean I understand the defense side is not looked upon with great glee by many of the people there. I'm thinking of you now as an officer of justice which is what ultimately, hopefully all of us are.
- 00:55 I don't know if that will answer your question but what I think is, of course, the tribunal here is important to Rwandan people and I'm thinking of the people themselves. I'm not talking of the authorities which is . . .
- 01:19** DJH: Yes.
- 01:19 . . . which is a different matter.
- 01:20** DJH: Sure. And I'm talking about the people as well.
- 01:23 Okay. Okay. I think it is important for them to have the crime against them recognized by an international authority, an international justice, an international court. It is important for them because they suffered great pain. It is important that a, a tribunal like the ICTR comes to decision concerning the crimes committed at the time and it is also important that these decision be known to the, to the public, be known to, to the person in Rwandan, in Rwanda.
- 02:18 But sometimes explain, because people in Rwanda can very hardly understand why a person accused here who was at the time an authority, how a person can be acquitted. That they do not understand. So it has to be explained to them. It has to be explained how it happened, what they did exactly because everybody is presumed in, in, in . . .
- 02:49** DJH: Innocent. (_____) . . .
- 02:50 In the mind of, of the ordinary person, everybody, everybody here is a guilty, is a guilty person. They don't understand the role of the tribunal, the role of deciding of the guilt or the innocence of, of the accused here. And this is, I think, part of a certain educational, is that a word? Educational, educational . . .

03:16 DJH: Yes. It's a word.

03:20 . . . role of the tribunal. The, these decision have to be explained so that the people understand, that a person here is accused of a particular crime with a particular material fact. And there has to be clear evidence that the person is guilty. Otherwise, the person has to be acquitted. This has to be explained. Well, it, it, it's very similar to what happened in our national system.

03:54 In fact, we all know for being in the system that once a person is, is arrested by the police and charged before a tribunal, well most of the people think that person is guilty. But even though the person is guilty, it's, the person sometimes have to be acquitted because the evidence against him or her is not sufficient, is not beyond reasonable doubt.

04:24 And there is still the possibility of being innocent – that has to be understood by the people. And, and, as far as the tribunal has an ed-, educational role, I believe this has to be, to be done.

04:41 DJH: Okay. You've partially answered another question I'm going to ask you in a couple of minutes.

04:45 Nell Carden Grey: (_____).

04:46 DJH: Okay.

04:47 NCG: There's four minutes left on this.

04:48 DJH: Okay, we'll do the best we can. And I, I'm not sure this will work but, because the next question is, you've been here a long time. I think you've probably gone back and forth to Canada sometimes but you've heard a lot of very agonizing facts, difficult facts, some of them very horrible facts. How has this affected you? How has this changed you as person?

05:19 Well, you see we, we are, we're doing a, we're doing a job. Of course when we are listening to, to all those, those facts, of course it is disturbing. But it is like – it is like, it's the same thing for the judges. It's same, same thing for, for, for everybody here but we are dealing, of course, we are dealing after the fact. We are not – I, I, I wouldn't, I would not even think of being present when such an, an, an horrible crime happened like that.

06:04 But you see after the facts, it's, it's something different. We, time has passed. Things are, are, are explained to the court, are told to the court and of course we

have to keep a certain distance between what happened and the role we have to do otherwise we wouldn't be able to, to act as, as defense counsel.