



# Voices from the Rwanda Tribunal

## Official Transcript: Roland Adjovi (Part 6 of 10)



<b>Role:</b>	Senior Legal Advisor
<b>Country of Origin:</b>	Benin
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<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Donald J Horowitz Lisa P. Nathan
<b>Videographer:</b>	Max Andrews
<b>Interpreter:</b>	None

## Interview Summary

Roland Adjovi compares the structure of the ICTR to other international tribunals and describes the ICTR's broad mandate for establishing peace and reconciliation. Adjovi discusses his early aspirations to improve the ICTR. He reflects on a proud moment in the case of Michel Bagaragaza, a case expected to be transferred to Norway but held back because Norway had failed to implement the Genocide Convention into domestic law. This decision prompted Norway to enact new laws, thus improving its legal system.

*The transcript of Part 6 begins on the following page.*

## Part 6

- 00:00 **Donald J Horowitz: You've been working, and you continue to work at this tribunal. Do you see the possibility in the tribunal as it is currently structured to accomplish some degree of both justice and – well, let's talk about justice first and then reconciliation, or you can talk about both as you wish.**
- 00:30 Again, this is more my personal . . .
- 00:33 **DJH: Understood.**
- 00:35 . . . understanding. If you do justice, for sure you will reach easily the reconciliation because you have done what is good.
- 00:50 **DJH: Mm-hmm.**
- 00:50 Because I look at justice as something correct, something right. If that's what the tribunal succeed in doing, I think re-, reconciliation is at the bottom end.
- 01:05 How can the tribunal do justice? In my view it's very simple. We have to admit first that a tribunal cannot reach the exact truth – what happened exactly in all the cases. But the tribunal has an obligation to manage to be as close as that, as possible to that reality.
- 01:29 **DJH: Mm-hmm.**
- 01:30 If everyone at the tribunal is doing his work professionally, ethically, I'm sure we will reach result which has not been biased by anyone, and that result in itself is already a kind of justice. And it's already good for our society.
- 01:50 It's only if we work in a way that we achieve other interest than that justice that we will be running far from justice and therefore from reconciliation. But this is – I'm going in abstraction and I don't know if it's clear.
- 02:11 **DJH: Well, do you think – ( ) we've heard obviously we've read and you've read and we've heard criticism of the tribunal particularly, you know, about what the, the involvement of the Rwandans and the effects upon the Rwandans themselves. Do you think that the tribunal has been at all successful in giving a sense of justice to the Rwandans? That's a generalization, ( ).**
- 02:47 I don't know for Rwandan.

- 02:49**      **DJH: Okay.**
- 02:51      But as I said, what happened in Rwanda is not only about Rwanda.
- 02:56**      **DJH: Okay.**
- 02:56      So I can talk for myself . . .
- 02:58**      **DJH: Okay.**
- 02:58      . . . how do I feel? There are still things we can criticize in the achievement of the tribunal. Both legally and human being aspect, socially, looking at the achievement but for sure there are good things about the fact that the tribunal has been established.
- 03:25      The genocide convention has now an international interpretation . . .
- 03:32**      **DJH: Mm-hmm.**
- 03:33      . . . which gave a lot of sense to a document signed in '98 and you could see, for instance you have in the Bagaragaza case, a referral to Norway. I love this case and I always mention it. The prosecution negotiate with Norway and they agreed to receive a case for trial.
- 03:58      The trial chamber deny the application because Norway, even though they ratified the convention in 19-, in '49 I think, they never adopt a domestic instrument to implement it so the Genev-, the genocide convention didn't have any legal consequence in the domestic criminal system.
- 04:27      The chamber denies it. The prosecution challenge it. The appeal chamber confirm it. And last year, there was a bill before the Norwegian parliament to implement the gen-, the genocide convention. Isn't that great? It's, it's marvelous. And I like that case because one could think spontaneously that they tribunal will only have an influence on third world countries, on country where human right are not respected.
- 04:58      While you have a European country well fixed in its legal system respecting human right to some extent and still, the judge of the tribunal disagree, criticize something in that sy-, system and the politician took action . . .
- 05:17**      **DJH: Mm-hmm.**

- 05:18 . . . to adopt a law implementing the genocide convention.
- 05:23 You have other aspect of the achievement of the tribunal which could be criticized. I'll give one case. Take for instance a plea bargaining. You have, I will not refer to any specific case for obvious reasons, but you have the accused and the prosecution negotiating to agreed on certain facts.
- 05:47 It's obvious for, it's a matter of common sense that the accused will always minimize its role, his role. Will the results of such bargaining do justice to the victims, to our society? Let's say if the agreement is that we remove one killing, what's happened to the victim of that killing? How will the victim feel about the outcome?
- 06:22 So the question is to what extent the judge has control over such bargaining? The jurisprudence has not been clear up to now but there is one precedent, which I like, but it's not from this tribunal; the International Criminal Tribunal for the former Yugoslavia where the party pled "aiding and abetting in a joint criminal enterprise."
- 06:48 And the judge said, "Look, the fact you have correspond to a participation in a joint criminal enterprise, not to aiding and abetting so we dismiss your application, the guilty plea agreement." The party went. They redrafted and they came back and say, "Okay, we agree to a participation in a joint criminal enterprise."
- 07:12 So, to some extent, the judge could control the procedure but does it happen in all cases where we have a guilty plea? I have a personal doubt but it's something one could check and see to what extent the judge has control over what the party had agreed on.
- 07:33 DJH: Okay.**