



Voices from the Rwanda Tribunal

Official Transcript: Suzanne Chenault (Part 8 of 9)



Role:	Legal Officer and Juris-Linguist
Country of Origin:	United States
Interview Date:	4 November 2008
Location:	Arusha, Tanzania
Interviewers:	Lisa P. Nathan Donald J Horowitz
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Suzanne Chenault discusses the importance of establishing jurisprudence that will pave the way for future international tribunals, and offers some reflections on the Akayesu case which was the first case to address rape as genocide. Chenault stresses the need for investigators to have deep contextual and linguistic knowledge of the communities they are working with, especially when collecting evidence around sensitive topics such as rape. She stresses the lack of communication among different trial chambers within ICTR as a core challenge.

The transcript of Part 8 begins on the following page.

Part 8

- 00:00** Donald J Horowitz: Okay. You know and you've talked about the, the different kinds of justice and, and, and how we, our, our own views as you put Insha'Allah, it's, it's what, what, what will ultimately, what God may det- determine.
- 00:22** DJH: But, but we, but we're, we're a little limited sometimes particularly on, on, on confusing and, and difficult facts in defining what ultimately justice will be.
- 00:33** DJH: Would you agree however that justice in one culture may be different from justice in another culture simply because of the way the cultures themselves define justice? Let me give you an example and you know this yourself better than I.
- 00:49** DJH: In Rwanda, the whole idea of compensating people who have had offenses committed against them I am told is as important part of, of, of justice. It's not the only part by any means but it's part of it. And it might not be that much in another culture where perhaps revenge or punishment has a higher, has a higher place. What's your . . .
- 01:19** I don't think it's that different.
- 01:21** DJH: Okay.
- 01:21** I think compensation plays a role because for the most part those who suffered were, and are, extremely poor.
- 01:29** DJH: Okay.
- 01:30** And what they lost represented their entire livelihood.
- 01:34** DJH: Okay.
- 01:37** I, I think that until recently – and the penal code in Rwanda was altered – there was a death penalty.
- 01:49** DJH: Yes.
- 01:50** And there was a sense of retribution.
- 01:52** DJH: Mm-hmm
- 01:52** You've killed me, I'm going after you.
- 01:55** DJH: Right.
- 01:55** And if you look at the transcripts, (___), much of the testimony there is a great sense of get back, getting back at people for past wrongs.
- 02:05** DJH: Mm-hmm.

- 02:06 The sense of justice is, in, in terms of compensation I don't think is so different than what we have, in tort law in the United States, attempt to render when we give significant monetary rewards for the loss . . .
- 02:27 DJH: Okay.**
- 02:27 . . . that we think has been caused by somebody else.
- 02:29 DJH: Okay. I'm going to talk (___), with you just a little bit about the institution you've been working for for many years, the ICTR. And ask you, other than what you've already said, what would you say some of the important changes have been as it has matured and developed – both for the good and perhaps not for, for the ill? It's a big question, and I don't mean . . .**
- 03:02 Of course it is.
- 03:02 DJH: No, just, just summarize if you can.**
- 03:07 Well . . .
- 03:08 DJH: Clearly it's developed the jurisprudence and that's important.**
- 03:11 Oh, yes. It's, it's most important.
- 03:12 DJH: Yes.**
- 03:13 And I think the jurisprudence is, is, is being, is being refined with quite a bit of, of sensitivity. I think that that body of law will influence any, any international tribunal.
- 03:38 DJH: Mm-hmm.**
- 03:38 I know that the tribunal in Sierra Leone, the Special Court for Sierra Leone has depended very significantly on our jurisprudence.
- 03:50 In addition to the jurisprudence I think that we have a sense of court management that is quite, quite well-developed. There are, there needs to be greater monitoring but I think that it's been quite an accomplishment to be able to schedule the cases, to manage the translations from Kinyarwanda to French to English, and then to manage the preservation of the evidence in the transcript form. It's not perfect but at least there is, there is an archive . . .
- 04:27 DJH: Mm-hmm.**
- 04:28 . . . and that, that's quite, quite an accomplishment. We have a, a significant library that has been established as well, a witness protection system imperfect particularly in a country where there's so many, so many people who know so many people. There is at least a, a system in place.

- 04:57 Selection of defense attorneys – again, we’ve learned from mistakes. I think that we are finding better defense attorneys and that they are, but that’s only an impression. I, I know that as we have to expedite our proceedings we-, my impression is where, where our attorneys are cl-, are again more attuned to our jurisprudence and to the rules which was not so much the case initially.
- 05:31 What would, what is something that’s not as wonderful? Sense of community is not as wonderful. When the tribunal was smaller I think that there was more direct communication. Now that might be a direct result of the use of emails. The people aren’t talking to each other in the same way that they did before to communicate about cases, to communicate about scheduling, to communicate about meetings. To c-, that may be something to, to work on.
- 06:09 **DJH: You’ve used a word I didn’t understand, it was a result of the . . . and then you went into the examples. (_____)?**
- 06:16 I s-, it’s a consequence perhaps of our just growing so very fast.
- 06:20 **DJH: Oh, okay. Okay.**
- 06:21 Because when I arrived here there were I believe 400 in the tribunal . . .
- 06:25 **DJH: Ah. Okay.**
- 06:27 . . . and then, and now there are a good – oh, my, how many are there? 800?
- 06:32 **DJH: Okay.**
- 06:32 And we, and we also have a great turnover . . .
- 06:37 **DJH: Mm-hmm.**
- 06:37 . . . which then creates many new faces and we don’t have any way of introducing one to the other. The sense of commitment now may be different as well because there are very few who want to be here when the tribunal closes. So, large size, a, a difference in commitment, the use of technology which then is sometimes substituted for interpersonal relations can be, can be a problem.
- 07:11 I think the learning curve has been, has been high but not high enough. For the last two or three years, general attitude has been we’re going to close down anyway. It’s too late to take things in hand. Let’s just keep going on as we’ve been going on. And I have eschewed, I have been disappointed with that attitude.
- 07:37 Because I think we would be far more efficient if we had much greater management of cases which would mean that defense, prosecution and, and chambers – the judges as well as the legal staff – had a, an opportunity to study our, our jurisprudence, that is our case law, as it has been developed to date to understand courtroom procedures.

- 08:08 So that somebody who has newly arrived, a defense attorney from one jurisdiction where it's quite easy to stand up and object, would understand that here that might not be, there might be moments when one can do it and when one should not do it.
- 08:23 All of this then slows the trial proceedings down. As a consequence then we don't get to the point. The transcripts are, are, are not clear. The analysis of evidence is not clear. All of this needs to be better managed and I really think, I think, that if we had something like what we have in the United States whenever one is appointed as a federal judge you go back to school. You have to go to baby judges school and that's four weeks.
- 08:54 And I think if every legal officer coming in here whether it be a legal officer for the defense, whether it be for chambers, whether it be as a judge, whether it be for the prosecution. That would make us into a much more efficient and not just – I don't want to use just the word efficient but efficient and, and sensitive. And . . .
- 09:24 DJH: Effect-, effective?**
- 09:25 Well, effective is different. It's, it's too broad as well.
- 09:28 DJH: Mm-hmm.**
- 09:29 I just think that we would underst-, our understanding would be greater and our, we wou- (___), we would promote our communication and we would all not sometimes fake that we know the legal principle. We, we would have to, it's not so we'd have to have a test.
- 09:43 But we would know it because we would have the opportunity to have it articulated. We would apply it and we would talk it. We, we don't talk enough right now. That's one of the things that, that, that has, I think, been a shortcoming. We just don't talk the law enough.