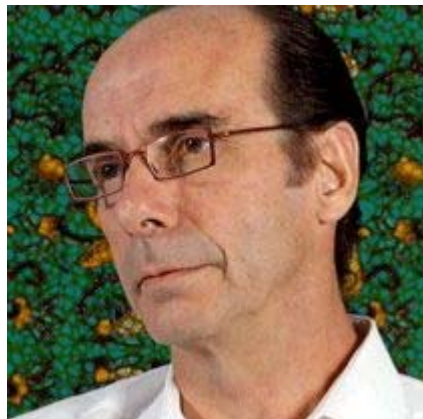




Voices from the Rwanda Tribunal

Official Transcript: Benoît Henry (Part 4 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 4

- 00:00** Donald J Horowitz: All right, let's go back then to the, the first case you were representing. Why don't you tell us what you would like to tell us about that case, in terms of impor-, important aspects of the case, and what the outcome was and, and, and what other issues it raised, some of which I'm sl-, slightly familiar with?
- 00:20 Well, Ntagerura's situation is a very particular situation. As you probably know, Ntagerura was acquitted of the crimes he was charged with.
- 00:29** DJH: And, and tell us what crime specifically, what crimes he was accused of.
- 00:34 He was, he was accused, he was charged with genocide, being an accomplice to genocide. He was cr-, he was also accused of crime against humanity.
- 00:43** DJH: Okay. And, and, and evidently he, he went through a full trial.
- 00:47 He went through a full trial, yes.
- 00:48** DJH: And evidence was presented on both sides of the case.
- 00:51 Yes, exactly.
- 00:54** DJH: And after-, afterwards the, the judges, the three judges found that he was acquitted of all the crimes.
- 00:58 Exactly.
- 00:59** DJH: And was there any dissent or was it unanimous?
- 01:02 No, it was unanimous decision.
- 01:05** DJH: Okay. And do you remember who the judges were on, on the case?
- 01:08 I certainly do.
- 01:09** DJH: Okay, who were they?
- 01:10 It was Judge Williams from Saint Kitts and Nevis. It was also Judge Ostrovsky from the, from the, from Russia. And also there was Judge Pavel Dolenc who was from Slovenia.
- 01:28** DJH: Okay so, okay so there was this tr-, long trial. Or how long did the trial take?

01:34 Well, the trial took three years.

01:36 DJH: My goodness.

01:37 Yes.

01:38 DJH: From, from beginning to the end of the actual trial, not the pre trial?

01:41 Yes, yes, yes exactly.

01:42 DJH: And why'd it take so long?

01:44 Well, the reason why is at that the time the, the, the Chamber was conducting two, two different trials. So they were doing a certain time with, with our trial and then they adjourn to go with the other trial. And they kept that going for, for three years so –but you know altogether three years we had a 150-or-60 days of trial altogether. It's not, it's not that much.

02:11 DJH: Approximately how many witnesses on each side of the case?

02:14 Okay, so well I have to say that it was a case where there were three different accused. My client was one of the three accused.

02:22 DJH: Ah, okay.

02:24 It was a case of Cyangugu where the, the prefect of the prefecture of Cyangugu was also charged jointly with our, our client and also the camp commander of the, of the prefecture. So . . .

02:40 DJH: And where is that prefecture?

02:41 It's in the southwest of the country.

02:44 DJH: Okay, near what place that (____) be familiar with?

02:48 Well, it's close to the border of well, Cyangugu, Cyangugu is the name of the prefecture and it is close to the, the Congo Zaire, the, the . . .

02:55 DJH: Okay, what was Zaire (____) . . .

02:58 . . . former Zaire border.

02:58 DJH: Okay, and, and wha-, and the other defendants were represented by other counsel, you-, independent of you and independent of each other? Is that correct?

- 03:09 Yes, exactly. Yes.
- 03:12 DJH: Okay and was the verdict, relative, what was the verdict relative to the other two?**
- 03:17 The prefect of the prefecture was also acquitted but there was one, one dissent and the camp commander was found guilty.
- 03:30 DJH: Of all the changes?**
- 03:32 No, not of all the charges. He was found guilty for some of the charges and he was, he was sentenced to 27 years. But in appeal, he was acquitted on one charge for one particular material fact. And the conviction, the sentence he had for that particular material fact was 15 years. So this, this part of the sentence was also reversed. And that left him with 12 years of sentence.
- 04:07 DJH: And, and, and conviction of how many crimes? One or two or . . .**
- 04:11 Well, I don't remember exactly. I don't remember exactly.
- 04:14 DJH: Okay, but he was convicted of . . .**
- 04:16 He was convicted of several, of s- . . .
- 04:17 DJH: . . . of several major crimes?**
- 04:18 Yes, of s- . . .
- 04:18 DJH: And, and ultimately.**
- 04:20 . . . but not of genocide.
- 04:21 DJH: But not of genocide? Okay.**
- 04:23 Yeah, yeah, yeah.
- 04:24 DJH: And is there a difference between genocide and crimes against humanity?**
- 04:28 Well, of course there is a difference. Genocide is, is, as you know, an offense that involves a specific intent to . . .
- 04:39 DJH: Do away with a group of, of . . .**
- 04:41 Yes, yes. To eliminate or to – yes, to eliminate a, a particular group . . .

- 04:44** DJH: Okay . . . okay.
- 04:45 . . . which intent is not necessary in a crime against humanity, yes.
- 04:49** DJH: Yeah, yeah, in a crime against humanity, there are certain acts you do and that . . .
- 04:53 Exactly.
- 04:54** DJH: . . . the intent, the intent to d-, eliminate the . . .
- 04:56 The group itself.
- 04:57** DJH: . . . group is, is not a part (___), yes.
- 04:58 As a group, yes, it's not part of the crime.
- 05:00** DJH: Okay, so he was and, then his conviction at least for the one has stood, and his, he, I assume he's serving his sentence.
- 05:07 Yes.
- 05:08** DJH: Okay.