



Voices from the Rwanda Tribunal

Official Transcript: Dennis Byron (Part 3 of 10)



Role:	President and Judge
Country of Origin:	St. Kitts & Nevis
Interview Date:	28 October 2008, 5 November 2008
Location:	Arusha, Tanzania
Interviewer:	Robert Utter
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Dennis Byron expresses satisfaction at the approach to reconciliation taken by the UN in Rwanda. He highlights the responsibility of Tribunal judges to ensure that justice is conducted fairly and impartially, and appears as such in both process and result. He notes that, in addition to delivering justice, the Tribunal also creates a factual record of events that occurred. He expresses frustration with the Tribunal for the unsatisfactory length of trials, inefficiencies in administration and infrastructure, and the extradition process of suspects.

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Part 3

- 00:00 **Robert Utter: Going to another area. Your previous Chief Judge wrote a law review, review article where he mused on lessons learned from what he had observed during his time on the court and things that he might, might change. In reflecting back on the time you have spent here, the successes you've had, the frustrations you've had, are there things you might change?**
- 00:30 Well, you have the better of me because I, I, I must confess I have not had the opportunity to, to read that book myself, so I'm not certain exactly what are the issues but I have not actually refined my thinking of that as yet. I, I'm in the process now of being in the Chair and I, I'm in fact considering ways of improving, improving the process to the extent that I can.
- 01:02 I do have, I d-, I have set up a, a Rules Committee and they are considering some, some changes but these changes at, at the moment are to a large extent aimed at facilitat-, facilitating our ability to comply with the, the phrase, "Completion Strategy," . . .
- 01:28 **RU: Of course, of course.**
- 01:29 . . . which is dominating our thinking at the moment as we are actually in the final stages of the work of the tribunal. I'm also very much interested in the extent to which, in the short time we have left to us, that we can address the issue of expedition in our trial, trial, not only trial process but, but the trial management processes.
- 02:02 **RU: Yes.**
- 02:05 And so we are making issues of this nature, dealing with issues of this nature. In terms of the overall is-, the, the, the issue of the length of trials has been an issue which has bothered me. I consider that, the, initially, the, it was inevitable that things would take time because the, there was no prototype really to follow.
- 02:43 **RU: Of course.**
- 02:44 And so the persons who came here were creating something new. The investigation, I thought, must have been extremely difficult because the ICTR is not a state and the investigators don't have, do not have police powers. So the, the, the process of getting information had to use techniques that, because it is voluntary on the part of the witnesses, could be compelled to testify.
- 03:22 And then you also were faced with the, with the reality that the persons to whom they wish to or from whom they wish to gain information were scattered around the world and many of them were in hiding for security and other reasons. So initially, the, the, the actual investigative challenges must have been quite enormous.
- 03:49 Then there was also the problems of, at the time the tribunal started, the conceptualizing issues like the definitions for genocide.

04:04 **RU: Yes.**

04:04 How do you prove that the people in one nation had different ethnicities, was a theoretical challenge, which had to be addressed.

04:17 And then you had issues, I think, which also resulted from the, the mandate of the Security Council, which required the tribunal to foster reconciliation among the former p-, combatants and assist in the restoration of peace.

04:43 And I have looked at some of the early discussions and even I have participated in some discussions since I've been here and there's a general view that the fostering of reconciliation requires the establishment of a, of an actual, a factual historical record of what transpired.

05:10 So if you look at the, the, the evidence and the judgments of the, many of our cases, you will notice that the, the trial examined and addressed factors which went beyond the, the elements of the crime.

05:33 So they addressed matters that were far more, far wider and broader than were necessary to establish guilt or innocence in particular cases. They, they, they undertook the task of developing a, a pretty comprehensive factual record of what transpired during th-, during that, that period and the period building up to it.

05:57 So it may very well be that when one is thinking in terms of the future of international justice, it may be that the issue of distinguishing the role of the court may be significant and, 'cause if we, if people had seen this just as a court, the, I think the, the, the speed of the process would have been different but we had adopted two roles – the, the, the role of fact finder and the role of historical chronicler, in addition to the role of the court.

06:34 For me, it was, I, I, it was one of the issues which I found inspirational, I, I must say. Even if the, the issue of time was an, was an issue for me because, when, when you're living in, in today's world and you're thinking in terms of the, the challenges to the rule of law, it is fascinating to me that the politicians who so often get criticized, the politicians, the politicians at the United Nations, globally, unanimously, seem to feel that in order to achieve the political objectives of peace, reconciliation, that a judicial process was appropriate.

07:19 **RU: Yes.**

07:20 And so, to some extent, that fascinated me and, and, but in terms of, of, of time and the relationship of investment to outcome, people would have to decide whether the court just functions simply as a court to establish innocence or guilt, and you have a separate entity to adopt the fact-finding commissions of inquiry type of function, which was also implied in our operation, or whether it is better to have both combined into one unit.

07:59 And i-, if the, the tribunals like this are (____) do both, then one would have to allow time. So that, that's an issue that I'm interested in, in, in exploring and discussing. I, I don't at the moment have a – you know, I, I can see both sides to the, of that coin so I haven't come down on one side or the other as yet.

08:22 RU: It's a good . . .

08:23 And there, there are other issues (____).

08:24 RU: It's a good preliminary state of mind for a judge to be in, isn't it, when we still haven't tipped the balance of justice.

08:32 Yeah, mm-hmm.