



## Official Transcript: Philippe Larochelle (Part 2 of 8)



<b>Role:</b>	Defense Counsel
<b>Country of Origin:</b>	Canada
<b>Interview Date:</b>	23 October 2008
<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Lisa P. Nathan John McKay
<b>Videographer:</b>	Nell Carden Grey
<b>Interpreter:</b>	None

## Interview Summary

Philippe Larochelle reflects on his experience as Defense Counsel, speaking to the many areas where he perceives the ICTR to have failed. He draws attention to allegations that the Tribunal has been politicized by its reluctance to prosecute members of the RPF. He observes that international pressure to secure timely convictions has been prioritized over the genuine pursuit of justice. He addresses the inequities between defense and prosecution teams, as well as the difficulties of securing political asylum for the acquitted.

*The transcript of Part 2 begins on the following page.*

## **Part 2**

- 00:00     **Lisa P. Nathan: So, you were saying that right now, the challenge for you is all of this mess . . .**
- 00:05     Is, is to see through very contradicting, confusing pieces of evidence and testimonies. And we'll get to that but lies and deceits and deliberate intents to implicate these guys so, it's very difficult.
- 00:23     **LPN: So, I think you're just getting there but, can you speak more specifically to the challenge that you were just . . .**
- 00:30     Well, basically, we have, we have to deal with over 40,000 pages of testimony, many, many thousand pages of exhibits from radio broadcast to UN cables to prior statements to Rwandan constitution through various political parties' manifesto. These are the exhibits we have to use. We have to . . .
- 01:01     And, what makes the task more difficult, I can say, is the fact that the Prosecutor has not yet figured out himself how to use this massive amount of evidence to prove its case against (\_\_\_\_), against the various defendants.
- 01:17     So, we have, there's a, there's a – we received the Prosecutor's brief at the beginning of the month of October, which is riddled with misleading information, that quotes five exhibits out of the 420 that the Prosecutor hasn't used in that trial. So there's a bit of a – we're not so much answering a case as to trying to figure it out.
- 01:43     There was, if I can talk about my own case, there was an indictment that was served to the diff-, different accused. My client was arrested in 1999. He was served at that time with an indictment that would use in pretty much every – against pretty much every accused, especially ministers in this tribunal.
- 02:04     And just to give you an example, my client never held any political position before the 9th of April, 1994 where, wh-, when he was appointed as Minister of Foreign Affairs. Yet in that indictment, he's named as a minister who received information about a conspiracy in 1991, which is like such a blatant mistake. He's, he is named there as being a, a member, a founding member of the (\_\_\_\_) RTLM which is completely untrue and about which there was no evidence (\_\_\_\_).
- 02:35     So, what I want to ta-, wha-, what I want to say about this is that this 80 pages indictment that we received in 1999 did not allow us to prepare in any manner whatsoever about this trial. So they, what they did is b-, just on the eve of the trial – two weeks before the trial started, they filed what they call a pre-trial brief in which we got a better notification of what the charges were there against the, against the accused.

- 03:02 There are no mention of any murders, for example, in the, in the, in this very generic indictment. This came only when we got the, the pre-trial brief two weeks before the trial. And this confusion continued during the trial to the point where now when they serve us with that – their final brief, there, there i-, there is this great confusion between – it's impossible for us to relate the evidence to the different counts of the indictment; it is not done by the Prosecutor in their final brief.
- 03:32 So now we are, we – on, on top of having to answer all the difference, different allegations that are made against the client, we also have to clear out and sort out what, how the Prosecutor is building up its case. Because the problem is that they're – on, on the whole, they're charging these people because they were members of the government which, in fact, is something easy to say but when you're trying to translate into a legal theory, is way more difficult.
- 03:59 These guys are basically living under the assumption that there was a genocide, there was a government; then you are responsible. Ministers have been acquitted. Some have not been even prosecuted. You have to formulate a coherent, coherent legal theory to explain why, by virtue of the fact that you are a minister in that government, you are responsible for these horrible crimes. And that, that, they have not yet managed to formulate, so . . .
- 04:28 And there is evidence. There is an expert witness here – Alison Des Forges – who is quite well-known, who sort of take the same view but again, I mean, an expert witness is, is no evidence. She has to rely on established facts and give you her own interpretation of these facts.
- 04:45 Here, unfortunately, we, we have her opinion but it's, it's, it's not substantiated by any reliable evidence. The, the, her main, the main, the main witness upon which sh-, she relies has been recalled because he's been found to be lying during his testimony, so that, that gives you worries about how they're going to deal with that. But I don-, I, I'm, I'm wandering . . .
- 05:09 LPN: No, n- . . .**
- 05:10 . . . away here. And what I'm saying to you is that the, the biggest challenge we have to figure out now is that there is this huge amount of evidence that we need to analyze and, and, and to respond to, to a certain extent. Not all of it because there are four co-accused so – and not all of it concerns us but yet, there still remain a massive amount of evidence.
- 05:30 We have, we have, we are dealing with a Prosecutor which have not been able to formulate a, a, an understandable or coherent legal theory based on these facts and this is going to be put in the hands of judges which going to have to formulate their judgment about that.

05:46 So, that puts us in a very awkward and difficult situation which means that we have at the same time to answer some evidence and to, trying to do something which a (\_\_\_\_\_) Prosecutor has not done and, and see what path or what legal theory they can use to eventually convict or acquit our clients.