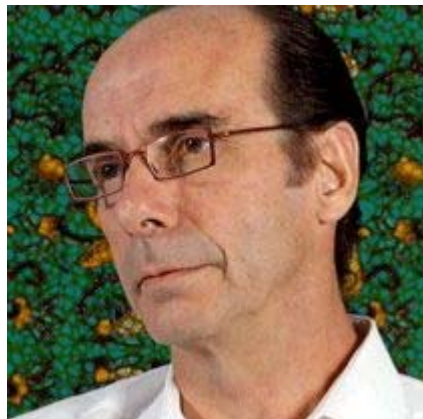




Voices from the Rwanda Tribunal

Official Transcript: Benoît Henry (Part 2 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.

The transcript of Part 2 begins on the following page.

Part 2

- 00:00** Donald J Horowitz: And so you were then at some point asked to represent a particular person?
- 00:05 Yes.
- 00:07** DJH: Can you tell us who that was and what the case was?
- 00:10 Yes. I was, I was approached by the lead counsel of André Ntagerura who at the time was representing him and he needed then a co-counsel. So this is how I, I was, was first approached to represent the accused.
- 00:30** DJH: Can you tell – okay, can you tell us the position of Mr. (_____) . . .
- 00:35 Ntagerura.
- 00:37** DJH: Ntagerura.
- 00:37 Mr. Ntagerura was, was the former Minister of Transport and Communication in the interim government, in the interim Rwandan government.
- 00:47** DJH: Prior, prior to and during the alleged acts of, of, of 1994?
- 00:52 Events. Yes. Exactly.
- 00:57** DJH: Okay. And did you accept that position as co-counsel or assistant co-counsel I guess?
- 01:01 Yes I, yes I did.
- 01:03** DJH: Okay. And came to Arusha then in you said 1998?
- 01:09 1998 yes.
- 01:11** DJH: And had Mr. – had the defendant, had he been in, in custody for some time?
- 01:17 Yes. At the time, he had been in custody since 1996 having been arrested in Cameroon by, by Cameroonian authorities after a mandate, after an international warrant, I'm sorry, after an in-, international warrant was issued by the Rwandan government.
- 01:39** DJH: Okay. And, and in '98 you became part of his trial team?
- 01:46 Yes.

- 01:47 DJH: And when was he brought to trial?**
- 01:49 He was brought in trial in 2000.
- 01:53 DJH: Okay. So you were two years from when you came, approximately, working on the pre-trial materi-, events.**
- 02:01 Yes. Yes.
- 02:04 DJH: Okay. Without going through each detail, are there, were there any important issues that you would like to relate relative to that case, prior to trial, before trial?**
- 02:15 Well, I remember complaining about the, the indictment itself because it was, it was an unclear indictment. We complained several times by making motions to, to, to the court, to the, the Chamber and that is principally what happened.
- 02:40 DJH: During that period?**
- 02:41 During that period.
- 02:42 DJH: And you prepared of course for his defense?**
- 02:43 Yes of course.
- 02:44 DJH: That would mean speaking with witnesses, preparing witnesses, (____) evidence, and so forth? Yeah. Okay.**
- 02:48 Yes. Exactly. Yes, travelling through Africa to meet witness, potential witnesses.
- 02:54 DJH: Are there any things that you'd like to share about that period? I'm not saying you must. I'm just giving you the opportunity.**
- 03:00 Well, I don't remember anything particular that is worth of saying now.
- 03:02 DJH: Okay, okay. And then you went to trial in, in . . . ?**
- 03:09 In 2000.
- 03:09 DJH: I-, in 2000. And that, the trial is before three judges without a jury? As – and coming from the French portion of Canada and practicing there, were you familiar with the jurisprudence or the jurisprudential foundation of this court?**

- 03:26 Well, at that time there was not much jurisprudence already, already made so – but I was of course familiar with the adversary system. We ha-, we also have in Canada adversary system, and . . .
- 03:40 DJH: Okay. And so in Canada it's based on the common law?**
- 03:44 Exactly.
- 03:45 DJH: Even, even in the French portion?**
- 03:46 Yes.
- 03:46 DJH: Okay. But I have learned and per-, I am sure you have as well, that there are some ingredients of the French civil law as well that are in the, in this tribunal; sort of a hybrid system I guess they call it. Can you tell us if there were, about that and if it created any, any difficulties for you as defense counsel?**
- 04:18 I don't believe there was much difficulty for those lawyers used to the common law system. I think that there were more problems for those who were practicing in the civil law before, because they were not used to the examination and cross-examination of witness, meeting with the witnesses.
- 04:36 For us, this is something very usual but for them it is unusual. Like for instance, they're not familiar with meeting with witnesses before. In their system they are not allowed to meet with witnesses before, so this is something that was, that was, that puts, that put more difficulties on them than on us.
- 04:59 For instance, the, the lead counsel in the, in the first case I had here was from a civil law system and we were discussing the, the rules of procedure and evidence. And we could not see it the same, the same way. We could not make the same interpretation. But of course it developed and then we all realized that the witnesses were going to be questions, and, questioned in the way we, we do it in, in common law.