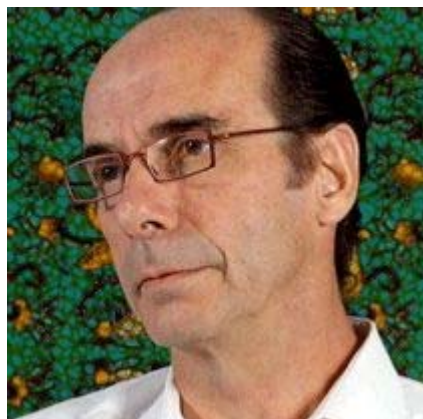




Voices from the Rwanda Tribunal

Official Transcript: Benoît Henry (Part 3 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 3 begins on the following page.

Part 3

- 00:00** Donald J Horowitz: You have, in the course of your experience here at ICTR, represented defendants in three different cases. I'm going to ask you a question that is often asked particularly by people who are not part of the legal system.
- 00:15** DJH: The people who you represented were charged with very significant crimes – crimes of genocide, crimes against humanity, et cetera. Major, major, major crimes. How, people often ask, how do you bring yourself to represent people who are charged with such horrific acts if I may? Charged I'm saying. I'm not talking about convicted.
- 00:44** Mm-hmm. Mm-hmm.
- 00:45** DJH: And you're talking now, if you don't mind, not to a, a lawyer but to people who are not lawyers.
- 00:51** Yes. Well, when you are practicing criminal and penal law, this is a question that is very often asked to lawyers representing persons accused of crimes. It is I, I think difficult for a layperson to understand how a lawyer can come to represent a person accused of such heinous crime or such serious offenses. So the question in relation with in-, international law like genocide or, or, or any crimes against humanity is, is, is the same thing to understand.
- 01:43** The reason why we are there is not because we are in favor of crime. We're not defending crimes. We are defending people accused of crime and these people have to be defended according to the law because the law provides that – well, this is all to avoid arbitrary convictions. This is all to avoid dictatorship, in fact. And the reason for that is that we have systems that put in place certain principles to avoid that a person be convicted with the possibility of being innocent.
- 02:37** And this is exactly what we are doing when we are defending a person accused of such a crimes. We are just trying to remind the judges and the prosecution to observe and respect those principle put in place. In fact, we are watch dogs; watch dogs of the respect of the law and that's about it I think.
- 03:08** DJH: And when there is a competent defense of a person, then if there is a conviction, that conviction I would assume would carry great, greater credibility in, in the society, one would hope. Isn't that one of the ideas?

03:27 I, I, certainly is one of the idea, because of course a pe-, a person accused without being defended has a, has very, I would say very – a weight that is very questionable I'd say.