



Voices from the Rwanda Tribunal

Official Transcript: Philippe Larochelle (Part 7 of 8)



Role:	Defense Counsel
Country of Origin:	Canada
Interview Date:	23 October 2008
Location:	Arusha, Tanzania
Interviewers:	Lisa P. Nathan John McKay
Videographer:	Nell Carden Grey
Interpreter:	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 7 begins on the following page.

Part 7

- 00:00 **John McKay: You have a lot of, of, of criticisms directed towards the ICTR and you've talked about them in some detail here today. You, you've written out in, out in the real world as it were that, that, that you, you view the ICTR as a, as a grotesque judicial exercise and a, and a waste of money.**
- 00:20 **JM: Do you think the international community should be exercising some different role here? And if so, have you given some thought about that? What, what should be the role of the international community in, in trying to address what occurred in, in 1994?**
- 00:35 That's the question I've been trying to answer because (__) – it's easy to criticize but, you know, "Do you have an alternative?" is the obvious question. And it's a very difficult one. But what I can say is I, I'm, you know, I think – how can you be the judge and be involved in that? That's, you know, I go back there.
- 00:57 The U-, the interna-, the United Nations recognized its re-, responsibility in what happened there – the failure to intervene. There's a report of the United Nations and Kofi Annan (__) apologized to the people of Rwanda, you know?
- 01:15 **JM: So you're suggesting that by setting up the ICTR, a, you know, a complicit organ is creating the judicial system . . .**
- 01:22 Not complicit, I, I, I don't think the people that created the ICTR had any ulterior motives. I think they were – I think it was – their intention was, was noble. I think you, your start – and it shows. It shows in the resolution that created the tribunal. I think the, the – it's not so much a problem of having bad intentions.
- 01:43 I think these people – there was no – some people go very far and say, "This is a conspiracy." I don't think this, it was a conspiracy of any sort – the, the creation of the tribunal, I mean. I think there were a genuine intent to prosecute responsible people and to, and to carry on that fight, you know, against impunity and all that.
- 02:02 I think these objectives were genuinely present when they created the tribunal. The problem is implementation and how you achieve that. And you know, France is – the role of France is always discussed. They're a part of the Security Council – already there you have to be careful and right from the beginning, I don't think a, a, a, an, an institution like this within the context of Rwanda can work.
- 02:31 **JM: Let me ask you about that then. If there was no ICTR, what would you hope for in terms of – you're obviously a man who's interested in justice – what would your hopes for justice from the genocide be with no ICTR?**

- 02:47 Convict these people where you find them, create special chambers in Canada like they're doing now – in the United States, in France, in Brussels where you have already, you have i-, in African countries where you, you have them, you know.
- 03:02 It's not trying to – out of nowhere, you know like *génération spontanée* or spontaneous generation thing that, in time, you can, like within a couple of years, sort out these events and, and, and figure out what happened there.
- 03:18 To me it's, it's – and the problem I think – one of the major problem here is that you're creating an institution which has no arms and no legs. It has no sovereignty, so you're completely dependent on states' goodwill to achieve fair trials.
- 03:35 Can you, and I think, I think if you're doing a bit of international law, I think sovereignty is the most perfect form of immunity, okay? There's no – but it's true. And you're dealing here with an institution that has no power, and I'm seeing that in Ntagerura. The Registrar addressed a note verbale to Canada, saying, "You take that man who has been acquitted."
- 03:55 Canada is a member of the United Nations and the tribunal was created under Chapter 7 of the Charter, okay, which specifically states that, you know, if states have to abide by request of cooperation because without states' cooperation, there's nothing. There's air.
- 04:11 Everything – they depend for everything – for carrying people here, for getting witnesses, for getting prosecutors, for getting money, for getting room. For getting everything, they depend on, on, on state's goodwill.
- 04:23 If you don't have that, well, you cannot achieve anything. And this is, this is the, the real issue here, you know, like do you – you just throw that thing in orbit, and then after that states shut their door and say, "Well, you know, fuck off. Get, you know, do your own things and don't, don't bother us with that."
- 04:40 But you have to be coherent, and, and, and the most problematic state in, in that, in that picture, I think, is Rwanda.
- 04:49 JM: Well, let me ask you about that because – let's assume there is no, there is no tribunal. RPF, Kagame who you (___), spoken about before is in power now. Are you satisfied that, that Rwanda conducting its own trials in dealing with certainly hundreds of thousands of people who were killed by hundreds of thousands of people. How, how does that work?**
- 05:14 I'm not, and the appeals chamber is not either because it refused (____) the tr-, to transfer the accused in Rwanda because they were concerned about, you know, whether they would receive fair trials or not there and whether witness protect-, there was a witness protection issue which is still valid.

- 05:28 This, there was a bitter war between these two – between Kagame and, and, and the people that are currently facing trials here at the ICTR so it is very, very – it would be very unsafe for them to be sent there, and there were very interesting questions that were raised there.
- 05:46 But I, you know, I'm, I'm struggling about finding an alternative to the ICTR since a couple of minutes and I, the more we think about it, I think, they've, they've spent a billion and a half dollars in that thing so far with, with the result that I've mentioned to you, you know. Actually, I think it's, it's completely failed in its dual objective.
- 06:07 And I think that money would have been better invested at, at helping the judicial system of, of these countries where these people eventually took refuge – many of them in Belgium, many of them in South Africa and surrounding countries.
- 06:19 And this, on the whole, I think this was not properly addressing the problem. The ICTR is not – and I don't have myself a, a – unfortunately I don't have anything other than, than that as the alternative.