



Voices from the Rwanda Tribunal

Official Transcript: Suzanne Chenault (Part 6 of 9)



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| Role: | Legal Officer and Juris-Linguist |
| Country of Origin: | United States |
| Interview Date: | 4 November 2008 |
| Location: | Arusha, Tanzania |
| Interviewers: | Lisa P. Nathan Donald J Horowitz |
| Videographer: | Max Andrews |
| Interpreter: | None |

Interview Summary

Suzanne Chenault discusses the importance of establishing jurisprudence that will pave the way for future international tribunals, and offers some reflections on the Akayesu case which was the first case to address rape as genocide. Chenault stresses the need for investigators to have deep contextual and linguistic knowledge of the communities they are working with, especially when collecting evidence around sensitive topics such as rape. She stresses the lack of communication among different trial chambers within ICTR as a core challenge.

The transcript of Part 6 begins on the following page.

Part 6

- 00:00 **Lisa P. Nathan: For the last question before we take a break, I would like you to take a, a bit of time or as much as you need to think about your understanding of the term justice and has that changed in your time here?**
- 00:34 My first word is Insha'Allah and I should not have thought of that before coming here but my interpretation of Insha'Allah is not 'if it's God's will' but ultimately 'God's will will prevail.' What I'm thinking is that we have only a slice of the picture and a slice of the evidence and only a very few of the alleged perpetrators.
- 01:23 Consequently it's extremely limited justice if we think that justice is that those who have perpetrated crimes are going to be brought to retribu-, pay for in a retribution type fashion or going to set an example for society at large or for the particular community where the crimes were committed.
- 02:02 I think that unfortunately, the jurisprudence and what the jurisprudence can help us do in the future will be more important than whether or not there was justice, because there are so many who may have committed even more heinous crimes than those who are being tried before the tribunal.
- 02:43 I'm thinking of, of the response of the Rwandan community in respect of the first acquitted person, who was Bagilishema. He was the mayor of a commune and after he was acquitted there was a, an, an outreach group that was sponsored actually by someone, or whole group from Arcadia, California and this outreach group which is called Justice in Rwanda exists now but on a much, much more limited budget.
- 03:45 In those days, this must have been 2001, 2002. Maybe I'm o-, I might be off date-wise; it might be 2003. Took the, the film of the closing arguments and the acquittal and went out to the commune and then also taped the response of the community to the acquittal. There was outrage.
- 04:29 There was no – from what I recollect and for what was recorded by this NGO – no perceived justice. Which then leads us to another question, which is always raised here. It's justice and the perception of justice and that is not an easy issue. There is that tension.
- 05:01 And I would say in that one particular ins-, instance, in that one particular community at that one particular time when the, the an-, the acquittal of Bagilishema was announced there was little perception of justice. I, I think we have to look at all of the dimensions of what we think justice is to have, to have a, an intelligent sensitive direction for the future.
- 05:45 I must qualify my stumbling because I have stumbled in my answer. I think that a tribunal serves an important, an important function but I do believe that we need to be, be a little clearer as to what kind of justice and how we can issue or render justice if we are not able to bring into the court a larger group of people.

- 06:28 And we have been very, very hampered simply because, () for so many reasons – I, I realize I’m going off on a tangent but maybe eventually we can take all of these elements and pull them together.
- 06:46 There has been the perception of victor’s justice because no member of the RPF or of the present government in Rwanda has been brought before the tribunal or been charged, indicted.
- 07:03 And one of the reasons, of course, is that our evidence for the most part is testimonial evidence and we must bring our witnesses for the prosecution in from Rwanda and we’re not going to have access to those witnesses if we’re going to be accusing the same gus-, the same government that allows us to bring the witnesses from Rwanda.
- 07:31 The tribunal has nearly been shut down on a number of occasions. Most notably as I recall in the case of the laughing judges in Butare when it was perceived that, again, in regard to a testimony about rape, the judges were perceived to have laughed. And the judges later or one of them said, “Of course, we weren’t laughing at the witness and her testimony about being ga-, gang raped on eight different occasions.”
- 08:06 “We were laughing at the way that the defense attorney representing Shalom Nta-, Ntahobali who was one of the, the accused or who is one of the accused in the six accused Butare case, how his attorney was phrasing the questions as he was cross-examining this witness TA.
- 08:37 But as a consequence of this coverage of the rippling laughter or the laughing judges there were no witnesses coming from, from, from Rwanda for six weeks. When there was, prior to this, when the appeals chamber had determined that Barayagwiza had been held in detention far too long and his rights were violated and he was freed but he w-, remained in custody until the appeals chamber again reviewed its own appeal.
- 09:26 During this period, again, there were no, there were no witnesses forthcoming from Rwanda. Now what do you do in a situation like this? How can you possibly, possibly have a situation where you think there is justice because you are, your, your, your jurisdiction is limited to be certain that you’re not going to indict those same people who are going to allow you to conduct the trials.
- 10:03 And this is a situation presently in Cambodia as well and maybe a situation in other tribunals that are set up. So I think it’s, it’s a situation where in some ways we are, we are symbolic. We are rendering partial justice and is partial justice justice? Because who in allowing a tribunals to go forward are then being, being sheltered and are they every bit as guilty as those who are brought before the tribunal?
- 10:38 These are questions I raise so I, I can’t, I can’t ask that you, I can’t answer that I think there is justice in a, in a fair manner because justice in a fair manner would mean that everybody who has any guilt at all would be held accountable. And ultimately maybe

that is only some higher deity and at some later (__) later time will be able to make that reckoning. I don't know.

11:16 **LPN: Thank you. Thank you so much.**