



Voices from the Rwanda Tribunal

Official Transcript: Philippe Larochelle (Part 3 of 8)



Role:	Defense Counsel
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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.

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Part 3

- 00:00 **Lisa P. Nathan: So, before I ask any more questions, I would like to give you the opportunity if there is something that you would like to say that perhaps I won't get to in a question or something that you would like to share with the future, with the world about your experience here before we go any further.**
- 00:20 **LPN: We will return and ask a similar question at the end if something comes up during the talk, but if you have something right now that is on your mind . . .**
- 00:28 Well, me myself after seven years here, I am, I am very disappointed and, and still wondering about what this tribunal, what, what kind of, what kind – it comes down to this: What, what kind of legacy will that tribunal leave to the world? The, if you go – I mean, if you, if you want to find out about that, I think the best way is to go and find the initial resolutions that were adopted at the Security Council.
- 00:53 And there are two main objectives, main, the, the, “Here is why we’re giving this gift to the world, to the international community. We want to fight the culture of impunity,” okay? “We want these crimes no longer to go unpunished.” This is – this was, “Now look, we’re going to prosecute the responsible ones now.” That was the first task.
- 01:12 The other task was to, “We want to know what happened, why this happened, and why it was not prevented, and who eventually bears some criminal responsibility.” So basically, these were the two main reasons why this whole thing was created.
- 01:27 And my, my feeling is that on both issues, it’s a complete waste. On impunity, the RPF has never been prosecuted. There is massive amount of evidence showing that Kagame and his gang is also responsible for some of the stuff that happened. How come they’ve never been prosecuted?
- 01:45 So the message is really take power, hold on to it as much as you can and as strongly as you can, and you will not be worried. And that’s the message it’s sending. These people, these other dictators are not crazy. They see what’s going on here. They saw how the, the war unfolded.
- 01:59 Kagame was controlling a part of the territory right from the beginning. All the north of the country was under RPF control and there massive, there were massive casualties there. There are m-, massacres committed there.
- 02:11 And now it’s slowly dripping out now. We’re nearing the end of this thing and we’re getting statements and we’re getting this, this – Louise Arbour stopped the investigation on, on, on these things which I, I – it’s, you know, to us in the defense it was very un-, difficult to understand.

- 02:28 But anyway, I think – so, fighting the culture (___), o-, of impunity – missed opportunity. Missed opportunity, like no objectivity, no balance. You’re just like – one side of the story, “You guys are guilty, we’re going to prosecute these guys.” Some of them, maybe.
- 02:42 I’m not disputing the fact here that, that, that people that are responsible i-, in what happened should be prosecuted and should, should, should be well prosecuted. So, but all of them should be prosecuted. So that’s, I think, the first missed opportunity.
- 02:56 The other one is to find out what happened in Rwanda in 1994. And I’m sorry to say that after reading for seven years the material that was generated by the Prosecutor in terms of, you know, investigations and witness statement, and in our c-, our case was started with that – this man called Maxwell Nkole who headed the, the investigation services of the Prosecutor for a long time.
- 03:23 And basically like, he was pressed during days and days to explain to the court what, what, what their investigation yielded and, and what results they got and everything because there was – in our case there is this, this report that was produced by a man named Rousseau who was some Belgian volunteer who went in Rwanda in 1996 . . .
- 03:47 . . . and felt some, felt he needed to do something so he started investigation in all the, started investigations in all the – it’s a public document in, in our case – so started investigations in all the communes, interviewed people, tried to know how many victims were there and, and did all, all of that.
- 04:03 And after – at that point when Nkole took the stand this report from 1996, that’s in November 2003, so that’s seven years later, and after being pressed for a couple of days – “Yeah, we, we managed to find a couple victims more, you know, like in this banana plantation.”
- 04:21 It was (___)– we, we, we fell off our chairs, like that after seven years of investigation that that was the result, you know, they, they, they managed to have found a couple of more victims.
- 04:32 But – this, this is, this is just an anecdote but the problem is that the Prosecutor is still, for example in our final brief, is still alleging these, like, vast conspiracies and they’re still working under the assumption that some people are guilty by virtue of the positions they held in that country.
- 04:55 So the point I want to make with that is that after so many years and resources devoted to investigations and trials, we still – we yet have to arrive at a comprehensive narrative of who’s responsible for what and when, and who, who, who conspired to do that, who planned that.

- 05:18 There are received ideas which, you know, like, you just – people read, for example, that they were using the radio to incite genocide. So the Prosecutor produced one broadcast in our case where, according to Alison Des Forges an expert on the topic, if you read the thing in a certain manner, you could understand it.
- 05:42 The famous word that would mean “work,” that “work” would equate “kill,” you know, so if you read it in a certain manner with a certain understanding of the Rwandese context and all that, that it could be understood as constituting incitation to genocide.
- 05:59 Yet, if you take all the tapes, if you go from day – from the 6th, the 7th, the 8th, the 9th, the 10th – if you read all these tapes, what you see there are government ministers calling on the population to stop hunting people for the reason that they are Tutsis and doing exactly the opposite of what is alleged by the Prosecutor they did.
- 06:20 And we’ve produced all of these tapes in our ta-, in, in our, in our trial. I don’t know what the end result will be but we were so surprised by – when we read that material and we found that, that the, the official radio in Rwanda – I’m not, I’m not talking about RTLM. The prosecution was that these people, these ministers were actually positively incitating to genocide on the radio, on Radio Rwanda.
- 06:44 And when you read their messages, it’s exactly the opposite, and this is not the only sort of – we, we have started calling it the “accepted version of event” in our trial. There’s an accepted version of event, which people don’t go behind, people don’t have the opportunity to go behind. People don’t examine and people don’t have the will to really assess whether it’s true or false.
- 07:07 And when, when you’re surprised – it was very surprising to realize that when you dig into these things and you actually try to get a, a comprehensive and objective, an objective understanding of, of what is going – what went on or – anyway, what is alleged by the Prosecutor went on i-, is, is sometimes very removed from reality.
- 07:29 And that is disappointing. You’re expecting, you know, neutrality and objectivity from the prosecutor. These people are not – you get the feeling sometimes that these people are rather duck hunting than trying to present objective, and (___), and doing their job in a neutral way where they – “Here is the evidence,” you know.
- 07:54 We’re not here to win or to lose. The-, there is no – being a prosecutor i-, is not a – there shouldn’t be a concept of winning a case or losing a case. You’re there, you’re there as a, as a, as a justice officer to objectively present what you think is, you know, relevant and, and, and probative evidence about what happened. And we, we get the feeling this is not what they do.
- 08:15 LPN: What do you mean by duck hunting?**

08:18 Just like, “We’ll get him. We’ll get him. We’ll get him.” This, this is the feeling you get when you speak with them. I just, you know, don’t want to point out to anyone or anything . . .

08:26 LPN: (____) . . .

08:26 . . . but I’ve been here for seven years. I think there are many reasons for that. But, yeah, this is the – this is my own feeling of, of, of what you get here.