



Voices from the Rwanda Tribunal

Official Transcript: Christine Graham (Part 6 of 13)



Role:	Senior Appeals Counsel
Country of Origin:	Sweden
Interview Date:	29 October 2008
Location:	Arusha, Tanzania
Interviewers:	Robert Utter Donald J Horowitz
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Christine Graham discusses the considerable length of ICTR cases, due in part to the unusual nature of the crimes and to an initial lack of infrastructure. She reflects that judicial systems usually are built over hundreds of years, yet the ICTR was tasked with building a justice system in roughly a decade. She observes that while the Tribunal contributes to reconciliation by providing a judicial response to the genocide, the mandate for reconciliation had little influence on the judicial procedures.

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Part 6

- 00:00 **Donald J Horowitz: Okay. I am Judge Donald Horowitz and I'm happy to be interviewing you the second part of this interview. You, you have, the current trial that you are working on now, I recognize that Military One is over in terms of the evidence but you're waiting for the decision.**
- 00:20 Yes.
- 00:21 **DJH: And are, have you made the arguments, by the way, in Military One?**
- 00:25 We have.
- 00:25 **DJH: All the final arguments have been made?**
- 00:26 They were made pretty soon after the close of the evidence.
- 00:29 **DJH: Okay.**
- 00:30 Yeah.
- 00:30 **DJH: So now it's in the hands of the tribu-, of the tribunal, the judges.**
- 00:33 Yes.
- 00:34 **DJH: And their assistants.**
- 00:36 Yes.
- 00:36 **DJH: Yeah. Okay. And what is the current trial you're working on?**
- 00:43 Mm-hmm. The current work, trial that I'm working on, the accused person there is, his name is Callixte Kalimanzira and his position in April 1994 was that of Directeur du Cabinet or Secretary General.
- 01:01 **DJH: Of the cabinet of the . . . ?**
- 01:02 Minister of Interior.
- 01:04 **DJH: Okay.**
- 01:04 So as far – the, the ministry, the Rwandan ministry, they have a minister and then under them there is a, a, a civil servant that is called Directeur du Cabinet and he's the head of the cabinet of that ministry. And . . .
- 01:18 **DJH: Is this is a single defendant trial?**

- 01:20 It's a single defendant trial and it's limited geographically to about five communes in Butare prefecture.
- 01:32 **DJH: Okay.**
- 01:33 So this person, he was, the accused was, hailed from Butare prefecture, from Muganza commune. And the indictment against him focuses on his acts and conducts in Butare prefecture. And it's, what we called a 6-1 case which means that 6-1 refers as Article 6-1 of the statute . . .
- 01:57 **DJH: Mm-hmm.**
- 01:58 . . . which means that it is his personal act and conduc-, conduct that he's being charged with. It is not a case of superior responsibility. So you could describe it as a fairly straightforward case.
- 02:10 **DJH: You could?**
- 02:11 You could, yeah.
- 02:12 **DJH: Would you?**
- 02:13 I would. I would.
- 02:14 **DJH: Okay.**
- 02:14 You know, it's been, I think it's been, probably this may (_____) it in five years but no, i-, it has always been therapeutic for me to do a much smaller case, not to minimize it in any way but it's a, an, you know, it's smaller in time, in geographic, geographic-wise, you know, just one accused. We had – the prosecution's case is done.
- 02:44 **DJH: How many witnesses?**
- 02:45 24 witnesses in 16 days, which I'm very proud of.
- 02:49 **DJH: (____), in 1-6 or 6-0 days?**
- 02:51 No, 1-6.
- 02:53 **DJH: Good, okay.**
- 02:54 So it, it was, I think, I, I f-, well, we felt that the ch-, the one ch-, this was a case that we could do-, do quickly. The ca-, the wi-, all witnesses we had except one came in and spoke, gave direct evidence on the acts and conducts of the accused, so it was pretty much swearing the witness in, putting them, asking them do you know this person? Who is he? How do you know him? Where did you see him? What did you see him do? And goodbye.

- 03:23 **DJH: 'Kay.**
- 03:24 So the evidence in chief of most of the prosecution witnesses were about an hour to two. The defense took a little, little longer in cross examination but we still managed to do 24 witnesses in 16 days.
- 03:37 **DJH: Okay. And when will the defense start their case?**
- 03:40 On 17th of November.
- 03:42 **DJH: Okay, so fairly soon.**
- 03:43 Fairly soon.
- 03:44 **DJH: Okay. Have there been any complaints about too short a time between prosecution and defense in this case?**
- 03:51 Well, the prosecution took the position that we should have started the case, the defense case, mid-October and finished it this year. The defense objected to that and the chamber ruled in their favor.
- 04:04 **DJH: Okay, so they start a month later than . . . you would have . . .**
- 04:07 Yes, and we will then spill over into 2009 with a couple of weeks. We don't know exactly when. We don't have a scheduling order for that.
- 04:14 **DJH: Okay. Do you know approximately how many witnesses they're expecting?**
- 04:17 They have listed 71 . . .
- 04:19 **DJH: Okay.**
- 04:19 . . . including the accused. They have also said that they don't intend to call 71 but haven't given us a definite number.
- 04:30 **DJH: Okay. With respect to the accused because I'm going to ask some what may seem to be dumb questions . . .**
- 04:37 Mm-hmm.
- 04:38 **DJH: . . . because there's a combination of common law and civil law. Does the accused, if you wanted to call the accused . . .**
- 04:45 Mm-hmm.
- 04:46 **DJH: . . . would you be able to force that to c-, to happen?**

- 04:48 No.
- 04:49 **DJH: Okay. So it's like the common law in that respect.**
- 04:50 It is. Whereas where I am from, the first person to be heard whether he or she wants or not is the accused.
- 04:56 **DJH: Okay. So if, if the accused is going to testify it's going to be his own people who call him, unless they allow you to call him.**
- 05:02 Yes, exactly.
- 05:05 **DJH: Okay. And can you, and if you're not comfortable doing this, say so.**
- 05:14 Mm-hmm.
- 05:15 **DJH: What's the nature of the crimes that he was alleged to have personally committed?**
- 05:20 Many of, most of them are what you would call encouragement, instigation. It's ge-, he's charged with genocide.
- 05:29 **DJH: Yes.**
- 05:30 And direct and public incitement to commit genocide. Obviously we have what we call different forms of commission . . .
- 05:36 **DJH: Sure.**
- 05:36 . . . as you have in, in most common law jurisdictions and o-, other jurisdictions as well.
- 05:40 DJH: Okay.**
- 05:41 And he is charged with a whole spectrum of the, the various forms of commission that we have but most of the crimes or most of his acts and conducts can be qualified as ordering, instigating. You could argue committing in the context of using other per-, pe-, persons as his instruments . . .
- 06:09 **DJH: Okay.**
- 06:10 . . . to commit the crime, but there are not – he doesn't go around shooting people or he doesn't go around, you know . . .
- 06:17 **DJH: Macheteing?**
- 06:18 No, none of that. () . . .
- 06:20 **DJH: () . . .**

- 06:20 Our accused . . . No. Our accused don't do that. They, they, the, the accused we're dealing with are the ki-, mo-, for the most part are the kind of people that will have someone else carrying the briefcase . . .
- 06:32 **DJH: Understood.**
- 06:32 . . . so by no way will they carry machete themselves.
- 06:35 **DJH: Mm-hmm. Okay. Ho-, how many – so, h-, how long has he, has the defendant in this case which is a single case . . .**
- 06:50 Mm-hmm.
- 06:51 **DJH: . . . been in custody?**
- 06:56 And you, now you have to forgive me if I don't get things right here, becau-, yeah.
- 06:59 **DJH: It doesn't need to be exact. (____) generally.**
- 07:01 Because, you know, I came into the case when he was getting ready for trial and as a trial lawyer you often don't deal with it before that. The indictment is from July, 2005. He was apprehended soon thereafter so he spent a couple of years in pre-trial detention.
- 07:17 **DJH: Okay. Which is less than a lot of them did, I gather.**
- 07:23 He was a late arrest, yeah.
- 07:24 **DJH: Yeah, okay. And how many total trials have you been in? You mentioned Military One and this one.**
- 07:31 Mm-hmm.
- 07:31 **DJH: Have you been in any others?**
- 07:33 Not on the floor. Not arguing. I've dealt with pre-trial work and motion work in relation to (____), the Samantha Trial, Military Two Trial initially.
- 07:42 **DJH: Okay.**
- 07:43 So, but I haven't been on my feet in any other trials than, than those two.
- 07:47 **DJH: Okay.**
- 07:49 Or I'm, I'm trying to think, think now but no, I don't. I haven't.
- 07:54 **DJH: Okay. Pardon me.**