



Voices from the Rwanda Tribunal

Official Transcript: Christine Graham (Part 11 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 11

- 00:00 **Donald J Horowitz: What, what as you use expert wi-, witnesses now, what, what are the areas of (___) testimony?**
- 00:07 I haven't used, yeah, in, in the trial that I'm doing now, I didn't use an expert but I could s-, I've certainly considered using an expert in relation to a speech that was given and so you could use the expert evidence for context.
- 00:22 You could use it for interpretation becau-, what the speech meant at that particular point, how was it understood by the people that was i-, in attendance. Kinyarwanda is a very subtle language. There's a lot of proverbs. I could see for those reasons.
- 00:45 **DJH: Okay. And what – was expert evidence used in the Military One trial other than for the proof of genocide? (___) . . .**
- 00:53 Yes, we had – what do you call?
- 00:56 **DJH: Handwriting experts**
- 00:57 Yes, we had a handwriting expert.
- 00:58 **DJH: So that to determine who wrote something.**
- 01:01 Yes. Yeah.
- 01:01 **DJH: Okay. Anything else? That's, that's pretty traditional . . .**
- 01:03 Did we have anything . . . ? We had many experts from the defense on all sorts of issues . . .
- 01:08 **DJH: Okay. (___).**
- 01:09 . . . but the prosecution . . . well, one was a linguist and that was what a specific saying meant. I can't, Arohanda – I can't remember it now, Arohanda something, and so he was called as a Rwandan ling-, linguist to say that there were no such word, and then on the cross examination we agreed, him and I, that it was actually a typo in the word that he had examined and it was actually meant, the real word was something else and they actually meant what the prosecution meant it said which means, "go and search for . . ."
- 01:46 **DJH: Okay. So, so you must have felt good about that.**
- 01:50 Yeah I did actually, but I, I felt very (___), because I had the assistance of Rwandese co-workers who knew this very well and without them you could not exist in this tribunal.
- 02:02 **DJH: That's interesting. What, what are your Rwandese co-, co-workers? Are they – other prosecutors or are they assistants or, or both?**

- 02:11 Both. We have had, well I had fantastic working relationship. One of our Military experts as we call him in, in, in Mil One was Shambatis Enzenzephora and he was the former seni-, he was a for-, well, in the gendarmerie which is the police in Rwanda, they have, the head of the gen-, gendarmerie and then they have four senior officers that are responsible for various areas and they're called G1, G2, G3 and G4. He was the G4 of the gendarmerie.
- 02:45 So, and he was fantastic. He knew everything and everyone and he still works within the office, but he was another of those issues that it took years to get him a proper contract and we worked so hard to, to get him on the payroll.
- 03:00 I had on this trial that I'm doing now, I had a former Rwandan prosecutor as a member of the trial team as a staff member here, Steven Agava, who's great. He's a young lawyer and fortunately, he did the prosecution case with us but he now moved on to greener pastures so he, he left the office.
- 03:20 **DJH: Where, where are the greener pastures?**
- 03:21 EAC, the East African Communities.
- 03:24 **DJH: Okay.**
- 03:25 So he's still around but he had – he got a long-term contract; five years as opposed to us, you know, shutting down.
- 03:31 **DJH: Do you work on, on sentenc-, of course you haven't had a, a re-, a result yet so you can't have worked on sentencing or perhaps you did.**
- 03:39 Well, you see there, there are no separate sentencing hearing . . .
- 03:42 **DJH: Yes.**
- 03:42 . . . so when we do the closing arguments in Military One, the idea is that if you want to address sentence, you do it there and then.
- 03:50 **DJH: Okay. And have you worked or been familiar with it when you were a clerk or whatever, on sentencing in your home country?**
- 04:00 Yes.
- 04:00 **DJH: Okay. Are there differences in how you approach sentencing ()?**
- 04:05 I think the difference is because in my home jurisdiction, it's much more regulated. It's much more tariffs. You carry, you know, two kilos cocaine, you're going to get X much of time. It's the mitigating circumstances, it's a provision in the penal, penal statute.
- 04:23 **DJH: Mm-hmm.**

- 04:25 Also of course you have a much broader array of crimes so I think the judges at home they feel that, you know, they, they can g-, sentence someone to six months one day and the next is six years.
- 04:35 Here, the judges are mu-, so much more confined because if they find someone guilty it is of a very serious crime and their discretion in the sentencing is confined in that way because at least in, you know, in my mind it seems kind of petty to say, "Well, you know, you committed genocide so you're going to have 21 years or you're going to have 35 or, you know, should you have life?"
- 05:00 I think that's a differences in terms of sentencing. And I think judges has an, they have an instinct to want to have discretion when it comes to sentencing.
- 05:10 **DJH: Mm-hmm.**
- 05:10 It's something that judges do and if you – we always make the argument that these are very serious crimes. They require or they deserve this, a very serious sentence.
- 05:23 And unless there are m-, very considerable mitigating circumstances, you should not move away from a life sentence but as y-, if you look at the sentencing practice that we have, it is a whole variety, and . . .