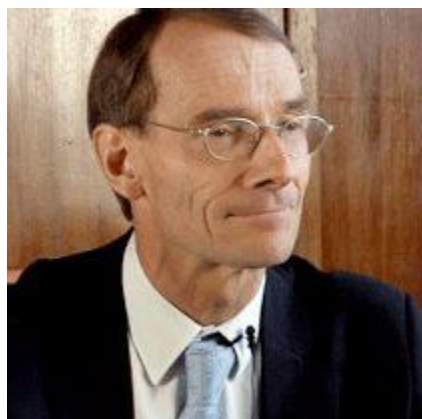




Voices from the Rwanda Tribunal

Official Transcript: Erik Møse (Part 7 of 14)



Role:	Judge
Country of Origin:	Norway
Interview Date:	22 October 2008
Location:	Arusha, Tanzania
Interviewers:	Robert Utter Donald J Horowitz
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Erik Møse addresses the mission of the ICTR, his role and contributions as both judge and Vice President of the court. He speaks about the various lessons learned by the institution; the need to increase efficiency by adding trial judges and establishing a separate prosecutor dedicated to the ICTR and not shared with the ICTY, and amending the court rules of procedure and evidence. He discusses the relationship between common and civil law, and between judges and court interpreters. He speaks about the cases he has been involved in, and about the role of victims in the justice process.

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Part 7

- 00:00** Robert Utter: Our visions of what law should be, what we should be sensitive to, seem to change as time passes by. We see more facts, we see more areas where law has not considered other interests.
- 00:14** RU: One of these is in the area of victims. Another aspect that at least has helped me in looking at the role of law, is that victims should be the clients of the system rather than the d-, criminal defendant.
- 00:29** RU: If you were to change the focus of some of the laws on in-, international tribunals, is there a way we could change them and give the victims more opportunities to express their views, more participation in the process?
- 00:50** Let's first agree on the situation here.
- 00:52** RU: Yes.
- 00:53** They have no procedural standing as such. This does not mean that the victims are unimportant. The trials are for them just as the trials are for the accused. And very many of our witnesses are indeed victims and through our processes, ou-, the victims are given their say. They participate in the process. They contribute to the process so they are not invisible.
- 01:28** They are visible even if they testify under pseudonym and perhaps are not seen because they are behind a curtain. Now, and, and we do take – we do give priority to making sure that victims are dealt with with respect and with empathy when they tell their stories.
- 01:54** Turning to the more procedural aspect of your question, we, we see how the ICC now has broadened the status of victims . . .
- 02:04** RU: Yes.
- 02:04** . . . and it will be very interesting now to see how that important development, which I think is a welcome one, how that can be best adapted to an efficient judicial system at the ICC, because it's clear that it will complicate the proceedings.
- 02:19** RU: Yes.
- 02:20** On the other hand, it is probably a price to pay . . .
- 02:24** RU: Yes.
- 02:24** . . . but you have to find the right balance.
- 02:26** RU: Exactly.

- 02:26 And, and that is a fascinating challenge for the ICC now. And I think we should give that initiative our support and give them the very best of luck when they are developing their approach there.
- 02:46 **RU: I hear my colleague clearing his throat. Does that mean my friend that it's time for recess?**
- 02:51 **Donald J Horowitz: Well, I was thinking that you've gone about an hour and you perhaps would like to take a little break and we can talk about (____) . . .**
- 02:59 You do as you like. If you, if you want to break it's fine, yes, yes.
- 03:04 **DJH: I think it would be helpful. Just a few minutes. And . . .**
- 03:05 Yes, okay, yes.
- 03:08 **DJH: . . . because I, I don't know what your time constraints are, and . . .**
- 03:13 No, no. But I, I've set aside this morning for you. Yeah.
- 03:15 **DJH: Okay, okay, all right. That's good to know. Very good, so why don't we just take a few minutes.**
- 03:21 **RU: This has been . . .**
- 03:22 **DJH: I think it's, th-, some of the recess is also for . . .**
- 03:25 **Max Andrews: Yeah. It's . . .**
- 03:25 Yes, yes.
- 03:26 **DJH: He, he needs to do some things.**
- 03:28 **MA: We can, we can go, I mean if we stop right now it'll be like a 15 minute break.**
- 03:32 **DJH: 15 minutes . . .**
- 03:32 **MA: So if you want to go, we can go for five more minutes and that'll cut the break down to ten because I can, I have ten more minutes on here, so . . .**
- 03:38 **DJH: Alright . . .**
- 03:38 **MA: . . . if you want to ask one more question . . .**
- 03:39 **DJH: Yeah. Or (____)**
- 03:41 **MA: . . . or we can take longer (____).**

- 03:42 **DJH: (____) Why don't we, why don't we go another five minutes if, if that . . .**
- 03:45 Okay.
- 03:45 **DJH: . . . will help the mechanical . . .**
- 03:46 **MA: Yeah.**
- 03:46 **DJH: . . . part of things.**
- 03:48 **RU: May I say before we start again that this has been delightful for me. It's like going back with old friends and talking about what we do, so thank you so much.**
- 03:58 It's been delightful to be subjected to such intelligent and well-planned cross-examination.
- 04:08 **RU: Thank you. What can I say? Let's talk . . . Now my throat held on until just then. Let's talk about reconciliation.**
- 04:22 Yes.
- 04:23 **RU: And whether this is a part of your charge and if so, how you have handled that in your cases?**
- 04:29 Yes. Reconciliation is mentioned in a preamble paragraph in our statute. It is clearly the aim of the whole process to ensure that by establishing justice we will establish the truth. We will make a determination as to guilt and innocence, and by doing this in a fair and transparent way we will contribute to reconciliation in an area which needs it. That is the thinking.
- 05:12 Of course I'm in favor like all, everyone, of this. I think it's very important. This said, I think we all have to realize that reconciliation must come from inside the country. Reconciliation cannot be imposed from outside.
- 05:29 And it goes without saying that an international tribunal sitting in a different country, with international judges, about one hour or one and a half hours' flight from the Rwandan territory, will not so easily be seen inside Rwanda where still some are illiterate and many live in the countryside without television, and maybe where there is so, not so much coverage of what the tribunal is doing.
- 06:01 So this is the perspective here. We are doing our best to contribute to reconciliation in Rwanda. We have our outreach program, which has worked for years. The Registry will be able to talk for hours about what has been done in that area.

- 06:23 We have our Umusanzu Center in Kigali – the word in Kinyarwanda means reconciliation – where a, a d-, a building with a library with material about our work is accessible to the Rwandan public.
- 06:40 The statistic shows that there are hundreds of people coming every months, every month, that there are school children coming every day. We are accessible in Kigali and we are trying to make our voice known and contribute to reconciliation.
- 07:03 So we do as best as we can within our resources, knowing that we are outside the country – but we had to be outside the country. There hasn't been – because when the Secretary General in February 1995 sent out the three members mission to decide where the tribunal should be located, there were three possible scenarios: Kigali, Nairobi or Arusha.
- 07:31 And the unanimous opinion of the Secretary General's Commission was that Kigali was not a possible option because of lack of infrastructure, lack of distance to the conflict and security concerns. So it couldn't be in Kigali in '94, '95 unfortunately.
- 07:50 And since then, we have been here. Nairobi later was not a viable option, so it was Arusha which has been as close as possible to Rwanda which, where we had to build up everything from scratch as – but at least the infrastructure here was better than in Kigali and the security situation of course much, much, much better.
- 08:16 So the fact that we are outside Rwanda is a function of the situation in '94, '95, '96 – it, and it couldn't later be changed. It would have disrupted the work of the tribunal and would have decreased our efficiency completely. And as many know, many witnesses testifying before the ICTR might also have been afraid to go to Rwanda if we had been there.
- 08:46 So it's not obvious that such a solution would have been viable even many years afterwards. This is the situation we find ourselves in. But it is my view that through objective information about what we are doing, we are contributing and we will continue to contribute to reconciliation.
- 09:14 And I think that it is very important, once the tribunal's activities cease, that the information about what the ICTR did continues. There should be a continuation of the outreach about explaining what the ICTR did, also when we are winding down later – because there will always be a battle of mind. There will always be a need for constant drips of information.