



# Voices from the Rwanda Tribunal

## Official Transcript: Christine Graham (Part 3 of 13)



<b>Role:</b>	Senior Appeals Counsel
<b>Country of Origin:</b>	Sweden
<b>Interview Date:</b>	29 October 2008
<b>Location:</b>	Arusha, Tanzania
<b>Interviewers:</b>	Robert Utter Donald J Horowitz
<b>Videographer:</b>	Max Andrews
<b>Interpreter:</b>	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.

*The transcript of Part 3 begins on the following page.*

## Part 3

- 00:00 **Robert Utter: From a legal standpoint, do you deal with a mixture of civil and common law concepts?**
- 00:06 We, we do. I'm myself is of course is from a civil law system. However, the Swedish system is very much like a hybrid system. It has similarities to what we do here in the sense that you have two independent parties litigating an issue-, two parties litigating an issue before an independent panel of judges.
- 00:32 And here, just like in Sweden, we are not too hung up on admissibility and so forth because we don't have to deal with a jury. So the transition from a Swedish Criminal System to the systems of the tribunal wasn't too difficult for me. However, I felt I have – I feel I have learned a lot in relation to – particularly common law, in terms of examination of witnesses.
- 01:01 We do it slightly different. The, I find the common law examination is much more structured, structured and more – we tend to focus our witnesses more, whereas, on specific questions and transition them from one area to another, whereas many times in Sweden, an examination would be much more of a narrative and it's supposed to be more of a narrative in the sense that the witness just tells the story freely.
- 01:28 Whereas if we do that here, we would probably hear one witness every three weeks and, you know, it can't be done like that . . .
- 01:34 **RU: Yes.**
- 01:34 . . . so we tend to structure the witness much more.
- 01:38 **RU: We had an interview about this time yesterday . . .**
- 01:40 Mm-hmm.
- 01:41 **RU: . . . with a defender who'd been on his case for eight years. Is this common in the cases with the ICTR?**
- 01:49 It is common. I would say it's common for the I-, the, the multi-accused cases because they got started early on. M-, many, well some of the indictment against several accused like Military One, Military Two, the Butare Case.
- 02:07 **RU: And that was his case.**
- 02:09 Yeah, Government One and Two; those indictments are fairly old so obviously then defense counsel was appointed, although it took various y-, several years before they went to trial. So that means that counsel for the de-, defendant has many times been on the case for a

long time if, you know, providing their – the cooperation between them and ( ) the work worked out, but certainly it's not uncommon. I know several of the defense counsel in Mil One has been on the brief or on, acted for that defendant for many years.

02:42 **RU: How many cases approximately have been tried to completion in this panel?**

02:48 I think we are somewhere reaching 40 now. Is it around 37 accused that has been, reached completion. They – we're waiting for a bulk. I mean obviously once the Mil One comes out it's four more and we have a number of single accused cases that are expected within the next couple of months. So it's in that region. I don't know. I don't have the statistics.

03:15 **RU: Of the approximately 37, do you, can you give a guess on how many have been reversed or overturned on conviction?**

03:24 Well you mean on appeal or on first instance?

03:26 **RU: First instance, to start with and then on appeal.**

03:29 I think we have four acquittals . . .

**03:31 RU: Mm-hmm.**

03:32 . . . Yeah. Yeah, it's n-, yeah – we have a few acqu-, acquittals. More than two, I think ( ), there's four.

03:40 **RU: And then on appeal?**

03:42 Well, we haven't had – we had a recent judgment just the other month which wasn't a complete acquittal but it's, it was, a re-trial has been ordered. So that's a – we haven't had a reversal from a conviction to an acquittal on appeal. I have to think as I speak now. There was one – we had that situation in The Hague with the Kupreskic brothers, but don't think we have it here.

04:12 We have had acquittals confirmed on appeals as acquittals but we don't have – we haven't had a reverse, reversal from conviction to acquittal.

04:20 **RU: Do you have the ability as a prosecutor on appeal to appeal the acquittal at the lower level?**

04:26 Yes, we do and, and ( ) for some common law judges that, that must sound quite strange but we do.

04:34 **RU: The world is made up of different customs. We can understand that.**

04:37 Yeah, yeah.