



Voices from the Rwanda Tribunal

Official Transcript: Erik Møse (Part 11 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.

The transcript of Part 11 begins on the following page.

Part 11

- 00:00** Donald J Horowitz: You talked about excellent health as a criterion and I'd like to ask you to comment on why you think that should be a criteria.
- 00:11 Again in this there is absolutely no criticism against anyone . . .
- 00:14** DJH: (____) understood.
- 00:14 It's only the fact that just like any high office also within the political field, I think it's important that candidates in so demanding positions where there is so much work to do, really will not suffer from the job or be forced to resign because the pressure is too high.
- 00:42 And we have had examples of this here. We have unfortunately had colleagues who passed away and that created a problem and we are back to the rule change which was mentioned previously. What do you do if suddenly a colleague passed away and you are in the middle of a trial after 200 days in court?
- 01:02 The answer is you have to continue the case with a new judge who has to acquaint himself or herself with that trial. Now that is totally unusual in many national jurisdictions, but here it's vital to make sure that an enormous trial does not collapse.
- 01:23 We didn't have that rule originally. That is another example of learning lessons in addition to what I mentioned previously.
- 01:32 Now these kind of problems sh-, well, no one can guarantee anything in life, but, but if you have as a relevant consideration the need to be able to support huge stress and workload, that will reduce the problem for the tribunal later if unfortunately something would happen.
- 02:09 Let me say that the persons we lost were excellent people and no one could really have foreseen it maybe, but it's still a relevant consideration of principle which I think one should take into account, and after all, we do that at the national level.
- 02:28 And here in the UN, as a staff member, you are s-, requested when you apply for a position as a legal officer or as a witness protection person to, as an international staff, to present your medical attestation and examination to the UN before you are employed. For the judges, there is no such thing.
- 02:52** DJH: You talked about the stresses of the job and one of them of course is the workload and, and, and the complexity of many of the cases. What other stresses would you – and you've been sitting here a long time not, and not just in the traditional judicial role in a case but also as a major administrator of this court.

- 03:18 DJH: We can talk about your stresses or the stresses of judges who have not been the President. What, what other stresses are there on the judges that would lead you to this concern?**
- 03:28 Talking generally, I think that it is an unusual situation for a human being if you are assigned to a multi-accused case to sit in a case for between 250 or 400 days. That's not something you will usually do at the n-, national level. There are almost no such cases. We do not sit so many days in the courtroom because we are inefficient or not productive.
- 03:59 We sit so many days in the courtroom because it's necessary in order to achieve a good and fair result in a situation where the complexity of the case is immense as you just indicated. That is a stress factor. In addition to that, I, I think without exaggerating the point, that hearing genocide cases is in itself not a very easy thing to do day out and day in.
- 04:33 Of course as a judge you are not going to be emotional. You have to be professional. The point is that you are not there to listen to your own emotions but to focus on the evidence and apply the evidence and the law in a fruitful combination. That's our task. So you will be detached but, but it's not always easy.
- 04:59 DJH: Yeah, we've heard that, I must say, and I'm glad to hear you, you be forthright about that because we have heard that from other staff members at various levels. When you hear a certain amount of, if I may call poison, and I'm not talking about guilt or innocence, I'm talking about the facts of a case, the evidence in a case, that poison sometimes subtly over time can affect you.**
- 05:28 DJH: And we, we've talked, we had an interview with the psychologist here on the staff; very interesting. Et cetera, et cetera. E-, even the interpreters who hear so many – and, and you know, we think of interpreters as au-, you know, automatons which they're not. But so, again, judges are people and not just judges, and.**
- 05:50 And judges are there all the time. The others circulate.
- 05:55 DJH: Yes, yes, yes. Ha-, is there – given the stresses that you've described and perhaps some effects which we try to overcome and be obje-, i-, if not objective certainly impartial. You know, one is not objective about genocide, one must be impartial about "Did the person do the act or, or not," or et cetera, it seems to me.**
- 06:20 Mm.
- 06:21 DJH: But have there been times when any of the judges have availed themselves of some professional help or, or ma-, maybe a doctor, or. I mean, and I'm talking about the stress part of it, not, or, or, or discussed among themselves some of the issues. And I'm not asking for any private conversations but just the fact of, of discussing this among themselves. What . . .**

- 06:50 I can't recall any judge having raised such problems with me when I was an administrator of the tribunal.
- 07:01 DJH: Mm-hmm.**
- 07:02 And I'm not aware of it from other sources either.
- 07:04 DJH: Okay. Have you as a group discussed some of these stresses on, on you and what ca-, and by, that's a plural "you" and what as a, as a group of ju-, of judges you can do to minimize that or to deal with it?**
- 07:24 I can't recall any general discussions about it, but, I think that when the (___), stress is there, the mere fact of collegiality, the cohesion at the bench, the fact that you are in the same boat so to speak, instead of a general discussion with persons from various chambers which may be in different situations.
- 08:02 The fact that you may share a day's frustration with your colleagues with whom you've been sitting for 200 days, I think that's the way you can assist one another in the most efficient way.
- 08:18 DJH: And has that happened from time to time?**
- 08:20 Yes.