



# Voices from the Rwanda Tribunal

## Official Transcript: Erik Møse (Part 6 of 14)



<b>Role:</b>	Judge
<b>Country of Origin:</b>	Norway
<b>Interview Date:</b>	22 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

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 6 begins on the following page.*

## Part 6

- 00:00** Robert Utter: Let's talk about cases if we may for a while. What do you feel have been the most significant cases the tribunal has decided and if I may ask, what your role has been in those?
- 00:12 You're now talking about cases I've been involved in?
- 00:15** RU: Yes.
- 00:15 Yes.
- 00:17** RU: And then I'll go to others you have not been involved in.
- 00:19 Yes. I have been involved in I think around nine or ten trials involving almost 20 accused and I've been presiding judge in all except three, I think, two or three. If you were to distinguish between them, I would say that I have been in two multi-accused cases; the Media case where Judge Pillay was presiding, the former President, and the Military One case, Bagosora et al, where I was presiding.
- 01:08 These were my two multi-accused cases. Of course, I also presided a case which is interested in the United States perspective, namely father and son Ntakirutimana. The father was as you know surrendered by the U.S. authorities to, to the tribunal. The pastor, Ramsey Clark was his defense counsel. We had an excellent Canadian defense counsel for the son.
- 01:41 So these were the more than one accused cases I've been in, these three. Then, very many single-accused cases, and there is clearly a huge difference between the multi-accused cases and the single-accused cases, both in way of their – the way you conduct them and the way, and the time that is needed to complete them.
- 02:14** RU: Is there a particular rule of law that has come from these cases that you feel has been significant? If so, tell me about them if you will.
- 02:24 Well, the most well known of the cases I have been in has, of course, been the Media judgment . . .
- 02:33** RU: Yes.
- 02:34 . . . which I think speaks for itself. It was about drawing a borderline between on the one hand freedom of expression and on the other hand prohibition about racial or, or ethnic discrimination or incitement to genocide.
- 02:53** RU: Incitement, that's the word.

- 02:56 Not an easy borderline and there is no – it's clear that – and it hasn't been – there hadn't been any such case since Julio Streisel in, in Nuremberg. So it comes as no surprise that there was a need to, to, to think carefully both at the trial level and at the appeal level in order to hammer out the right balance there between the two both legitimate ideas.
- 03:25 RU: I feel back home and talking about things that I've experienced myself. What about cases the court has decided that you have not been involved in? Do you feel that has established significant issues of law?**
- 03:40 Everyone agrees that Akayesu was . . .
- 03:42 RU: Yes.**
- 03:43 . . . the, the groundbreaking decision here. I was not on that one because I wasn't here the first four years. I came in '99. Because of its impact on the first genocide . . .
- 03:56 RU: Yes.**
- 04:00 . . . definition, the rape issue – it's all well known, its historical importance. I think that quite a few cases about sexual violations have been very important in this tribunal. It is the policy of the Prosecutor to try to bring this to the fore to, to make sure that this important part of the Rwandan genocide ends up in court.
- 04:40 It's not always easy and in the beginning, the Prosecutor had some problems in bringing many cases here, but if you sum them up now you will see that there are quite a few. Muhimana is one where I was not sitting which I thought was quite significant in that field, just to mention one.
- 05:06 RU: For the benefit of those who are watching that haven't had the background that we have had, tell me about that case and what was involved, the Muhimana case.**
- 05:16 Which case do you want?
- 05:18 RU: That one that you last referred to.**
- 05:19 Oh yes, but in that one I was not sitting myself. That was just, that was not, some kind of a leader at the provincial level who, who, who was convicted for, for, for rapes and the way – and, and his case was special in the sense that there were so many alleged rapes.
- 05:43 And the trial chamber spent quite some time in the judgment on, on these issues and it had been sometime since we last had had that kind of a case so that's why I'm mentioning that single accused case which I'm not part of. But of course Akayesu was the main one.
- 06:02 RU: Yes.**

06:02 There can be no question about this. I'm just trying to illustrate the continuity of our work.

**06:10 RU: Have there been any subsequent charges and trials involving rape as a part of genocide since the Akayesu?**

06:17 Yes, many.

**06:19 RU: And that (\_\_\_\_\_).**

06:19 Many. And that is the good news. Those who say that this tribunal has not sufficiently taken into account rape in its activity are simply wrong. There have been very many such cases and when this tribunal closes in a year or two, it will be seen how many of our cases that actually at the end of the day included this horrible aspect of the Rwandan genocide.