



Voices from the Rwanda Tribunal

Official Transcript: Everard O'Donnell (Part 13 of 14)



Role:	Deputy Registrar
Country of Origin:	England
Interview Date:	15 October 2008
Location:	Arusha, Tanzania
Interviewer:	Donald J Horowitz
Videographers:	Max Andrews Nell Carden Grey
Interpreter:	None

Interview Summary

Everard O'Donnell discusses the unique characteristics of ad hoc tribunals and the challenges of coordinating multinational ad litem judges. He notes that the ICTR has been effective at tracking and capturing international fugitives such as Jean-Paul Akayesu. Although the ICTR has been criticized for providing 'victor's justice,' O'Donnell stresses its efforts to deliver justice impartially. He reflects on the case of Mika Muhimana who was convicted of genocide, but later had his conviction overturned by the Court of Appeal.

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Part 13

- 00:00** Donald J Horowitz: Let me step back for a minute. Before we go on to your definition of, of justice at this point, which I really would like to hear, you were describing a, a case or the facts of a case. What was the name of that case, (___), the allegation, the perpetrator, the, the person convicted?
- 00:21 Mika Muhimana.
- 00:23** DJH: Okay, and, and he was convicted in the trial, in the trial chambers. Is that correct?
- 00:32 Yes, he had received several life sentences . . .
- 00:35** DJH: Okay.
- 00:36 . . . for a number of grave crimes, including individual murders as well as participation in the general genocide.
- 00:50** DJH: Okay. Was there an appeal?
- 00:53 Yes, the appeal. There was always an appeal in these cases.
- 00:58** DJH: Okay. And what was the outcome of the appeal?
- 01:02 Well, he still had his life sentence affirmed but some of the individual counts were quashed.
- 01:15** DJH: By the appeals court.
- 01:16 By the appeals chamber.
- 01:18** DJH: And why was that?
- 01:19 Well, I was describing to you a case of Pascasie Mukaremera who was this Tutsi farmer who was pulled out and tortured and had her baby ripped out of her stomach and . . .
- 01:37** DJH: (___) . . .
- 01:39 . . . and we would never have known about that if it hadn't been for just one witness who was hiding in the bushes 20 meters away. Otherwise it would be an anonymous death, you know, like so many of the hundreds of thousands of deaths, just anonymous.
- 01:56 But just one person happened to be hiding in a bush unseen and was able to give evidence about what Mika did to her and to her baby. And he was convicted of that murder and . . .
- 02:13** DJH: Individual murder.

- 02:15 Individual murder. When it got to the appeals chamber, unfortunately, the prosecution had not amended the original indictment before trial. They had originally alleged that another named individual had committed the crime, I think in the presence of Mika.
- 02:40 And it was felt that even though there had been some notice where the time of the service of the statement of the witness that, of what the allegation was going to be, but nevertheless, the d-, indictment was sufficiently defective so that the indictment, the conviction had to be quashed.
- 03:01 DJH: Of that particular case?**
- 03:02 Of that particular case.
- 03:03 DJH: With that particular woman and those particular facts you described?**
- 03:06 Yeah, yeah.
- 03:08 DJH: And . . .**
- 03:09 And another where there was a rape charge also, quashed in which the e-, evidence was said by the appeals chamber to have been ambiguous. What happened was that some young girls, teenage girls were taken into a, a room by Mika Muhimana and another perpetrator and the witness gave evidence about what their, their screams and about them saying, "Why are you doing these things to us? Why, why are you doing this?"
- 03:43 And then it was obvious that they had been raped and then they were killed, th-, when they came out and it was felt that the – there was ambiguity because they could have been talking to the other person in that room, not Mika.
- 04:04 DJH: So that was quashed.**
- 04:05 Al-, albeit that presumably Mika was a willing participant in something. Nevertheless, I make no criticism but that was the, the finding of the appeals chamber and therefore that allegation was also quashed.
- 04:22 DJH: What was the reaction, if any, of the staff here at the UN when or some of the staff at the UN?**
- 04:30 Well, I well remember when Pascasie's – the facts of Pascasie's case were being read out in the, in the trial chamber. That was a very strange moment for me because Judge Khan, who is from Pakistan, was the presiding judge in the trial chamber and she was sentencing Mika Muhimana for his crimes. And he was standing in front of her, in front of the glassed-in public gallery and Mika has always had a smile playing around his face.
- 05:08 He, he never s-, never really – the smile never left him. And Judge Khan was reading out the facts about how he had taken a knife and cut open her belly and pulled out the baby and then

they had chopped her limbs off and stuck sticks in her stumps and stuff like that – and she was just reading it out.

- 05:29 And there's the smile still playing around Mika's face. And I saw behind Mika in the public gallery two staff members in fact were watching, two women, secretaries. One is the President's secretary actually, an Ethi-, they're both Ethiopians. And they were just totally overcome by what they were hearing and they were both holding on to each other like this and weeping.
- 05:59 And it was astonishing to watch Mika smiling and them crying behind him as the judge was reading out what he had done to Pascasie, the unspeakable things he had done. And it was like almost like a Pieta, you're watching this and I was actually sitting watching all of this in the judge's lounge upstairs on the camera, on, on the, the monitor.
- 06:26 And I could actually hear sniffles and the noise of weeping around me and there were the other judges in there watching, and staff members. And it was clear that everyone was overcome by what they were watching, including me.
- 06:43 And it somehow seemed to me – it was kind of one of those moments where you, you say maybe international justice is, is right and it is worth it. Because you – here we have this anonymous farming woman who nobody would have known about except by the sheer accident of somebody hiding in a bush.
- 07:02 And you then had all these people who come from all over the planet, don't know anything, you know. They're, they're, they're, as I said earlier, almost innocent in their ignorance, and they come and they hear these facts and they are moved and they, they mourn.
- 07:21 They mourn for her, this anonymous woman although we know her name, Pascasie Mukaremera. And high and low, whoever they are, they're all mourning her. And they, they – it does her homage. It does her death homage. It may be something of a conceit to say that this justifies the whole operation but to me, it somehow felt one of those moments where you say, "Yes, yes this, this, this international justice works."
- 07:50 Unfortunately, of course when we got to the appeals chamber and the appeals chamber in, in their wisdom and they rightly so, I mean, I say as a matter of law they were no doubt correct, quashed the finding, the count, not on the facts but on the law, on a technicality, against Mika. And presumably they wouldn't have been so ready to do that if he didn't face lots of other life sentences as well.
- 08:20 Then presumably, you know, they would have probably bent over backwards to find some alternative. But anyway, he was acquitted of that and of the rape and I guess there was a – I, I had a sense of outrage. For a moment, my loyalty carapace dissolved a bit and I felt angry and I know a lot of other people, other people did feel that.

- 08:47 But again when you look at it dispassionately after 30 minutes, you, you say, "Yes, yes that is international justice. That is fairness." You know, if you were (___), you had just allowed your emotions to run these trials and not law, then he would have been convicted of everything, for what, for what it's worth.
- 09:07 But there is a dispassionate component that says, "You have to fulfill this condition, this condition, this condition. Only if those conditions are fulfilled can you find this person guilty. No matter what the emotions, that is what the result is going to be."
- 09:23 So it told me both that we are doing right. We have recorded Pascasie Mukaremera's story for the rest of time. Wherever digital media survive, people will know that witness's, that witness will be able to speak – perhaps through your project.
- 09:40 You will have that witness's testimony about what happened to Pascasie. You will have the sentence and you will have the appeal. You will have the story of Pascasie Mukaremera forever. It will never die. When you and I have been forgotten, Pascasie Mukaremera's story presumably will remain.
- 09:57 And so even if it was quashed, the story, the history of that particular event, in that particular small event to a small farmer in a small part of an anonymous piece of land, will live on and nobody will be able to gainsay that particular event. The, the judges found, all the judges, even the appeals judges, they didn't doubt the facts for a moment. So that, that was the story of Pascasie Mukaremera.