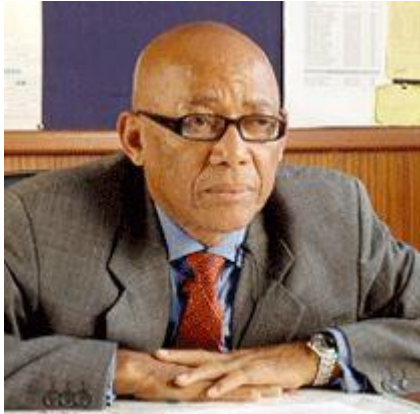




Voices from the Rwanda Tribunal

Official Transcript: Emile Short (Part 5 of 12)



Role:	Judge
Country of Origin:	Ghana
Interview Date:	21 October 2008
Location:	Arusha, Tanzania
Interviewer:	Robert Utter Donald J Horowitz
Videographer:	Max Andrews Nell Carden Grey
Interpreter:	None

Interview Summary

Emile Short discusses the importance of creating an accurate historical record of events in Rwanda. He reflects on the ICTR's contributions to generating a rich body of jurisprudence that future tribunals can draw upon. Short remarks that the ad hoc tribunals have not provided as many direct avenues to reconciliation as might have been provided by other mechanisms. That said he recognizes that reconciliation is a long and complex process of which justice is an important part, particularly for victims.

The transcript of Part 5 begins on the following page.

Part 5

- 00:00** **Robert Utter: As we define justice, there is an old adage that, “Justice delayed is justice denied.” Has that been a problem for the hearings here?**
- 00:14 Well I, I’m very reluctant to comment on that because . . .
- 00:23** **RU: If, if you feel uncomfortable with that, we can go to another subject.**
- 00:28 Yeah, well I, I, I could comment partly on it. Whether justice has been delayed here is difficult to say. It’s a relative, delay of justi-, it's a relative term because one has to take into account the difficulties that this tribunal encountered in the initial stages. The, the, the whole process or the whole judicial process here is very complicated.
- 01:03 You have, we have to slow down the proceedings because of the contemporaneous tr-, translation and interpretation. You know into the three languages, Kinyarwanda, English and French, you know. And we don’t have enough court space and not enough judges. We have to deal with voluminous number of exhibits, documents, so many witnesses and so on.
- 01:41 So that adds to the delay that has occurred. Ideally we prob-, we would probably have wanted to finish these cases much earlier, but there are many, many inherent problems in the system, which contributes to the delay. So I wouldn’t say, I’m not in a position to say there has been unjustified delay. I, I emphasize the word "unjustified" delay.
- 02:14 Because we have had applications for, from accused persons to be discharged on the grounds of undue delay and in my recollection, those applications have been refused for good reason, you know. But I believe that another difficulty is the, is the mixture of the common law and civil law system which we have here. That also it’s something that can be looked, looked at.
- 02:51 There might be something to be said for greater use of the, of the civil law system of using an investigation, investigating judge to collect the evidence, you know, and that might expedite the process because you must realize that here, we’re dealing with mass atrocities.
- 03:26 We’re dealing with the, we're dealing with numerous events that took place over a long period of time. Investigation and collection of this evidence is a massive undertaking.
- 03:42 And in my view, it is possible to approach this task in a p-, in a , in a – I think the civil law system of collecting and this type of evidence might probably expedite the process better.
- 04:07** **RU: You’ve had additional problems with extradition of the accused that have raised difficulties that were not part of the fault of the ICTR certainly.**
- 04:18 Well, that’s not the fault of the ICTR.

- 04:21** **RU: No, I said they were not the fault of the ICTR at all . . .**
- 04:23 Yeah, yeah. No.
- 04:24** **RU: . . . and unique to this particular series of hearings here.**
- 04:29 Sorry?
- 04:31** **RU: They, they appear to be unique to this particular type of issue that was before the ICTR.**
- 04:37 You know the, the need to extradite.
- 04:38** **RU: Yes, yes.**
- 04:39 Yes, of course. That is, that is a, a problem that is peculiar to the nature of this particular process. Majority of the, of the alleged, ac-, accused persons were living outside and in different parts of the world and getting them here is a big, big, big, big, big difficulty.
- 05:10 Of course under our statute, member states of the United Nations under Article 28 are expected to cooperate with the tribunal, you know, to give assistance to the tribunal in any, any form, in any way that the tribunal needs assistance.
- 05:28 So that, that also does help us in, in, does facilitate our work to, to quite a, a great extent, you know, and we have succeeded in, you know, getting transfer of accused persons to this location substantially. It hasn't posed, hasn't posed a difficulty.