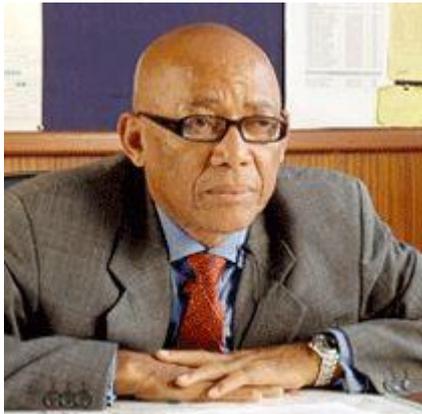




Voices from the Rwanda Tribunal

Official Transcript: Emile Short (Part 10 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 10 begins on the following page.

Part 10

- 00:05** Donald J Horowitz: You, you've said a number of things about the court being a platform for victims and providing justice to victims and when I ask this, I'm not arguing the point. I'm just . . .
- 00:17** DJH: I wa-, would like to perhaps ask you to provide some – I don't know whether I'd call them examples or explanation of your thinking – on how, on how the court, the c-, this court process does that or, or is that? Those were the words I think you, you stated and I'm, I'm interested in that.
- 00:39 Well, I think that to the extent that victims and witnesses, but particularly victims, have an opportunity to come and express their feelings about what they went through during the, the, the genocide, it has a therapeutic effect. It, it, it has a restorative and healing effect for them.
- 01:13** DJH: Personally.
- 01:14 Yeah, personally. And the fact that they're able to do this in public, on the international stage, you know, I think gives them a lot of satisfaction and it's part of the healing process, so far as those victims are concerned.
- 01:32 At least they know that, that their stories are being heard on a platform such as this, that, that people do care about what happened to them, you know, and that something is being done about, about, about it, and that there, there are institutions that are interested in doing something about the events that took place.
- 02:06** DJH: Have you yourself or as a court member been to Rwanda? Do you have those opportunities or create those opportunities?
- 02:14 Actually, we just came back about two weeks ago on a site visit. We went to look at some of the sites with, with . . .
- 02:24** DJH: Where, where, where the crimes were alleged to have been committed? Okay.
- 02:26 Yes, yes, yes.
- 02:29** DJH: Go ahead, would you describe – can you describe that for us?
- 02:32 (____), well, we, we yeah, we . . .
- 02:32** DJH: I don't mean, I don't, I don't mean describe in terms of the specific case but what, what you generally did and why you did it.
- 02:37 Yeah, we, we went to, to, to look at the sites where the crimes were alleged to have taken place, to give us a better understanding of the evidence and to see whether that would help us understand the cases, the evidence better. That is the primary purpose, of course, of going. And the, both, both parties were present, the prosecution and the defense. You know.

- 03:05 DJH: Were you allowed to ask questions, to clarify what you were seeing?**
- 03:10 No, the parties will have an opportunity to make submissions on the visit sometime in December.
- 03:20 DJH: Okay. You don't have to answer this but do you think it helped you, to be able to see the pl-, the, the sites?**
- 03:28 (____), that I can't answer . . .
- 03:30 DJH: Okay. Alright, very good.**
- 03:32 . . . because that's something that we'll have to make a finding on, yeah.
- 03:35 DJH: Okay. Ha-, had you been to Rwanda before?**
- 03:38 I had, I had. In 2003, I went for a conference in Rwanda. At that time, I had not been appointed to the tribunal.
- 03:53 DJH: Do you remember where you were in 1994 and what you were doing when, when this began?**
- 03:59 In 1994 I was in private practice in Ghana.
- 04:03 DJH: And do you remember w-, what, what you first heard about it?**
- 04:07 Well, I must say I don't recall hearing about it in 1994. I may have heard about it sometime later. You know, I have no recollection of those events at the time.
- 04:22 DJH: Okay. I don't want to get into any pre-, pre-knowledge in a way but I – one of the jobs of a judge is sentencing and in, in this case, when somebody has been found guilty, it's a major, major crime.**
- 04:47 DJH: And my question to you is, not again to be specific to an individual case, but can you tell us about some of the – how shall I say – principles of sentencing that you and or the court take into account?**
- 05:05 DJH: And it's a different sort of thing than – I've sentenced murderers and, and, and so forth but not on the scale to, of which these people have been sentenced – and I wonder how different or how much the same it is for judges in your position, after the conviction?**
- 05:25 I think the principles are very similar worldwide. I can just mention to namely the gravity of the offense and whether there're mitigating circumstances, you know, which will then affect the, the punishment. Those are the two important factors, which I could mention right now – you know, the gravity of the charges against, for which the accused has been con-, convicted.

- 06:08 Whether there are mitigating circumstances and that would vary from case to case, and whether there is expression of remorse and factors such as, such as those.
- 06:27 **DJH: You mentioned the stresses of the job and you mentioned a number of specific stresses, stresses such as delays and, and, you know, and various things like that. To the extent you can or are willing, can you tell us about some of the other stresses?**
- 06:48 **DJH: And particularly, you know, you hear a lot of difficult stuff and, and, and difficult facts, and how it, it may affect you over a period of years personally, without again treading, treading on some areas that, that you shouldn't be treading on.**
- 07:09 I think the main stress is physical, you know, sitting long hours in court over a period of time; that takes a toll on your health. You sitting in fixed, a fixed position for hours and you do so consistently in the morning and in the afternoon four or five days a week. So it's both physical and emotional.
- 07:44 You, you, your powers of concentration have, have to be at a very high level. You have to be attentive throughout this period because as testimony goes on there might be objections and you have to be prepared there and then to give rulings on these objections, so you have to be alert and attentive and that imposes, of course, a stress on the mind. So it's both physical and it's both emotional.
- 08:20 And, you know, I think that it can have a negative effect on your physical and mental health. Actually I had to withdraw from this case I mentioned, Karemera, because it was having a negative impact on my health. Because I was involved in that case which is a, it's a big case, a multi-accused case and another big case, another multi-accused case and the sittings were back to back, you know.
- 09:08 F-, f-, as soon as I completed one case, I moved on to the others. So there wasn't much interval between the two cases, and it was affecting my health so I had to withdraw from that case. So yeah, it does definitely – the work is definitely stressful. I mean in national courts, we don't sit this long.
- 09:35 **DJH: I'm aware of that. Did, did you withdraw from the other case, case as well at that time and take, take a break for yourself or, or, or delay that case somewhat so that you could sort of restore yourself?**
- 09:50 No, I didn't, I didn't withdraw from the other case. I withdrew from that one particular case which had not advanced as much as the other case, you see. So I continued with the other case which had, which had reached a more advanced stage and (), so I didn't really have to take any period of rest but it was the combination of the two that was stressful. Yeah. Yeah.
- 10:15 **DJH: Understood. Yes.**