

IHRP Final Report

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This summer I had the pleasure of working as an IHRP Intern for the Department of Justice, Crimes Against Humanity and War Crimes Section in Ottawa, Ontario. This section is unique because it practices a mix of both civil and criminal law from both a domestic and international perspective.

I am thrilled to report that everyone within the section was extremely engaging, and I was frequently invited to attend meetings with other War Crimes Program Partners, including: the Royal Canadian Mounted Police, Canada Border Services Agency, and Citizenship and Immigration. The section's staff also works closely with members of the Judge Advocate General on matters relating to the Law of Armed Conflict.

Two major decisions that were released this summer dramatically shaped my summer experience. The first was *R v. Mungawarere* (2013 ONCS 4594), for which I was in attendance at the Superior Court of Ontario. Mungawarere was the first person since 2009, and only the second person ever to be tried in Canada for War Crimes and Crimes against Humanity. While the court found the accused was “probably guilty,” Justice Charbonneau ultimately held that he was not guilty beyond a reasonable doubt. ¹



¹ Photo Credit: Jacques Mungwarere and Justice Charbonneau are shown in a courtroom in Ottawa on Monday, May 28, 2012. CP/Sarah Wallace, <http://www.ipolitics.ca/2012/05/28/canadas-second-ever/>.

This decision highlighted the many challenges that encumber the prosecution of crimes committed abroad, yet despite the outcome, everyone in the section remained steadfast in their resolve to deny safe haven to those complicit in war crimes, crimes against humanity and genocide. I was lucky enough to sit on the after action review of the case, which was a fantastic learning opportunity, as both the lawyers and analysts spoke candidly about the challenges and successes they faced throughout the entire process.

The second major decision was *Ezokola v. Canada* (2013 SCC 40), which establish a new test for complicity in war crimes in the context of 1F(a) exclusions. The court enunciated 6 factors that must be considered to determine whether a refugee made a knowing, voluntary and significant contribution to war crimes. Significantly, the Court rejected the idea that membership in an organization that had perpetrated war crimes, genocide or crimes against humanity was sufficient to establish complicity. The results of this decision had to be quickly adapted by all of the Federal partners in Canada's War Crime's program, and lead to a review of all ongoing 1F(a) files and appeals. It made for a very exciting few weeks in the section, and it was great to see the substantive impact of the IHRP's intervention.

Over the course of the summer I personally worked on 5 major projects. The first revolved around a potential criminal indictment. While, I spent some long hours transcribing documents from French into English in order to verify the admissibility of witness testimony, the interviews were fascinating and provided a unique insight into another culture. I was also responsible for reviewing all evidence related to a specific alleged war crime to establish the time-line of events, and compiled all of the information related to the incident into one comprehensive document. Ultimately, this work focused on analyzing and evaluating the integrity, admissibility, and weight of evidence to determine if there was a reasonable prospect of conviction at trial.

Other major projects I was responsible for included the preparation of a file for the Immigration Review Board, and the drafting of a legal opinion on the defence of duress in the context of child soldiers. I also conducting legal research for Senior Counsel, Joseph Rikhof, on the subject of non-refoulement to torture, inhuman, cruel and degrading treatment or punishment. This research required a comprehensive review of the legal precedence established in the European Court of Human Rights, the United National Human Rights Committee, the United Nations Committee against Torture, and the Inter-American Court of Human Rights. Mr. Rikhoff credited my research in an article he is publishing on the topic that will be included in an upcoming textbook on Human Rights.

The last major file I worked on very closely with the student and IHRP intern, Charu Kumar. This case is an ongoing civil litigation matter which could be impacted by a recent change in the jurisprudence. Both Charu and I spent long hours coming up with arguments, and counter arguments, and counter-counter arguments until we were satisfied that we had developed the right strategy for the litigation team. It was very rewarding work that took us deep into both Canadian legal doctrine, and international precedence. I am really looking forward to seeing the matter argued latter this year.

This summer was an amazing opportunity to do truly rewarding work. I was very fortunate to work with the remarkably hospitable and helpful counsel and staff, and I was so lucky to share this opportunity with Charu. My University of Toronto International Human Rights Program internship was an incredibly educational experience for which I am deeply grateful.

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