

## 2018 IHRP Summer Fellowship

### *Final Report*

United Nations Mechanism for International Criminal Tribunals  
Emily Tsui, JD/MGA 2021

This summer, I worked as a legal intern at the Mechanism for International Criminal Tribunals (UNMICT) at the Office of the Prosecutor (OTP) in the appeals division. I worked primarily on the *Prosecutor v. Ratko Mladić* case in preparing the prosecution's appeal and response briefs. Additionally, I drafted a memo on early release procedure. These assignments were phenomenal opportunities to learn more about the Yugoslav conflict, international criminal justice and to develop my legal skills.



*United Nations International Criminal Tribunals at The Hague, Netherlands*

UNMICT is the residual body that works on the three remaining cases of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and for the fugitive cases of the International Criminal Tribunal for Rwanda. Currently there are two cases on appeal: the *Mladić* case and *Prosecutor v. Radovan Karadžić*. The oral arguments for the *Karadžić* appeal concluded shortly prior to my arrival, but there is still considerable work to be done by both the OTP and the defence prior to the judgment being rendered. However, my work focused on the *Mladić* case.

Interns arriving at UNMICT are given the first few days to read about the Yugoslav conflict and the specific case they are working on. I read through background material on the parties to the conflict and parts of the 2500 page Trial Judgement. Since I was assigned to the team appealing Mladić's acquittal of genocide in numerous municipalities (Count 1 of the Indictment), I became familiarized with those parts of the Judgement, the evidence relied on by the Trial Chamber, and a map to have a geographic sense of where the crimes occurred in Bosnia and Herzegovina. This reading was supplemented by lectures given by the staff lawyers on international criminal law. In a classroom-like setting, I learned about cases and statutes that govern this field, which was greatly helpful to my work and my understanding of joint criminal enterprise.

I applied this knowledge to my daily tasks in research and writing memos. Since the case was in pre-appeal, my work focused on anticipating the arguments the defence might raise in their appeal brief. This was necessary since the time between the submission of the appeal briefs and the response briefs was a short one (approximately 3 months). My team analysed the defence's notice of appeal and conducted our own independent analysis of the Trial Judgement. This also required going through a lot of the initial evidence (almost 10,000 exhibits were admitted at trial), which was comprised of witness statements, transcripts from former cases, intercepted conversations, diaries, and more. The process of reviewing a Trial

Judgement, identifying flaws, and anticipating argument was helpful in understanding what litigation strategy is like in practice.

The most interesting assignment of the summer, however, did not involve the *Mladić* case. Instead, it was for the legal research team in the OTP on an assignment related to early release. Along with another intern, we drafted a research memo and crafted new arguments, which became the basis for a confidential filing. I compared and contrasted the early release procedures of different jurisdictions and international criminal tribunals. In doing so, I read many decisions from different tribunals, including the decisions in the former ICTY, ICTR, Special Court for Sierra Leone, and the International Criminal Court. I learned a lot about doing comparative legal research across different languages, and honed my writing skills.

My knowledge of international criminal law and my skills in legal research and writing were significantly developed in this internship through these assignments. However, being at the Tribunal offered many other benefits as well.

Upon the advice of previous interns, I participated in the Association of Defence Counsels' Mock Trial, located conveniently within the Tribunal. After work for one week in June, I attended lectures about oral advocacy skills and drafted motions for the protection of witnesses and the admission of evidence for the mock trial. The mock trial was based off the Yugoslav conflict, and another participant and I represented one of the defendants. We presented our opening and closing statements and examined witnesses before actual judges of UNMICT, who took their roles seriously and posed difficult questions. I was awarded the Best Defence Oralist. It was a fantastic experience to practice oral advocacy at the trial level.

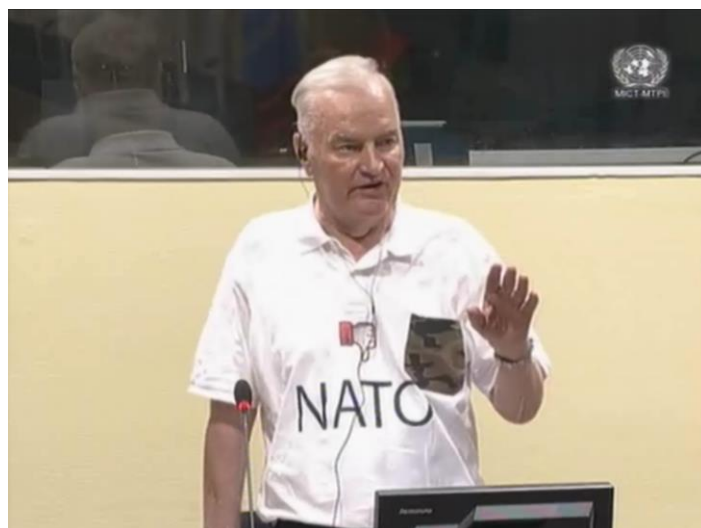


*Left: Speaking in Courtroom 1; Right: Co-counsel from the UK, Accused from Colombia*

During one of the first weeks at the Tribunal, the interns received a tour with the OTP Evidence Unit. The archivists and librarians explained to us the process of preserving evidence and disclosure to the defence. We saw original photographs, videotapes, bullet cases, and even the accused persons' guns that the OTP uses in their briefs and during oral argument. One of the archivists recounted a story of a mother who requested the unit to send a photo of her child who had perished during the war, since all the images she had of her child had disappeared when her home was destroyed. The OTP had a photo of the child because it was evidence used for a case. For me, this story illustrated the obligations that the tribunals have in the region, not only to bring criminals to justice, but also to assist the witnesses and victims of the conflict.

Another interesting moment was the public Status Conference hearing on the *Mladić* case, where we had an opportunity to watch the courtroom proceedings live. The purpose of the Status Conference was for the accused to inform the court of any changes to the accused's health or conditions of imprisonment. Mladić was there to testify in person, and wore a

“Down with NATO” shirt. Given that we had just spent months staring at the Judgement and thinking of Mladić’s case in legal terms, this was a welcome change of pace.



*Status Conference hearing with Mladić appearing in person*

Finally, a significant highlight of this summer was the mentorship I received from the lawyers. The Chief Prosecutor Serge Brammertz invited all new interns for a meeting. He shared his experiences working in criminal law and offered advice on how to get a job in this field. Additionally, every day, the lawyers I worked for gave feedback on my work and assignments, which helped to hone my skills. I especially appreciated, however, that they were willing and available to provide guidance on how to leverage this experience at the Tribunal and advise me on my career plans.



*Left: At the mock trial; Right: Other interns and I with Chief Prosecutor Serge Brammertz*

Thank you to the generous support from the IHRP Summer Fellowship Program for allowing me to partake in this wonderful experience!

Emily Tsui  
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