

## **Final Internship Report**

My thirteen week internship at the Office for Legal Aid and Detention Matters (OLAD), a section of the Registry at the International Criminal Tribunal for the Former Yugoslavia, was an incredible opportunity for which I am very grateful. It was a privilege to have been at the Tribunal at such an exciting and dynamic time: not only are some of the most legally complex trials, involving some of the most powerful and recognizable figures of the Yugoslav conflicts currently underway, but two significant arrests were made during my time there (Stojan Župljanin and Radovan Karadžić). While my personal experience at the Tribunal was entirely positive, I was exposed to the political, human and budgetary dimensions of the enforcement of humanitarian law, and feel I have gained a more nuanced understanding of the field.

Without question, some of my most memorable days at the Tribunal were the day of and the days following Radovan Karadžić's arrest. His capture was widely viewed as an affirmation of the authority, legitimacy, and importance of the Tribunal, and as a historically important day for the ICTY. The mood throughout the Tribunal was celebratory, particularly in OLAD where the majority of the staff is from ex-Yugoslav countries. It was incredibly powerful to see the importance his capture and prosecution to people who had been in areas affected by conflict in the 1990s, and how imperative justice remained to them more than ten years later.

I went to The Hague hoping to achieve a better understanding of the field of humanitarian law, and while instances like the above reaffirmed my sense that efforts to increase accountability for its violation are essential, the current reality of the legal aid aspects of enforcement are less than perfect. Somewhat naively, I had supposed that the ICTY/R and the ICC would be the epitome of humanitarian law: that these were forums where the best international lawyers would be making the most sophisticated and thorough legal arguments. Certainly, there is an abundance of extremely talented counsel in The Hague, working both for the prosecution and for the defence. However, it was quickly evident that the cronyism and corruption that unfortunately (in some areas at least) continues to characterize the political systems of former Yugoslav countries has infiltrated the Tribunal's proceedings: accused will often request the assignment of a particular counsel for reasons which seemingly have little to do with their competence or ethical character. For some, assignment to defend an accused before the Tribunal represents a veritable windfall, as the legal aid funds made available to a defence team are calculated on the basis of the salary a lawyer with the requisite amount of experience would receive in a western European jurisdiction. Solicitation is very real, and there is a significant financial incentive to be and remain assigned. While there have been substantial efforts made to address issues relating to the quality and (un)ethical behaviour of counsel (for example, the introduction of additional qualification requirements and regulations prohibiting fee splitting arrangements), instituting wholly effective qualifying criteria remains exceedingly difficult in a forum where counsel come from a myriad of divergent legal systems, educational backgrounds and bar associations. While the great majority of lawyers practicing at the Tribunal are excellent, the calibre and quality of some was beneath what I expected.

I was also left with greater sense of ambivalence towards to the procedural rights afforded to the accused under the Statute of the Tribunal. Clearly, the unfettered respect for the rights of the accused is of paramount importance for the integrity of the Tribunals proceedings, the body of

jurisprudence it produces, and for its continued political support (which would cease should it take on the form of victors justice, unconcerned with the right of the accused to make a full answer and defence). While no one advocates that these rights should be limited or compromised, I observed a great deal of frustration with their manipulation and abuse at the hands of the accused (and occasionally defence teams). For example, the threat to exercise one's right to self-representation (which is perceived by the Office of the Prosecutor, the Chamber and the Registry as generally highly undesirable in terms of maintaining the integrity and timeliness of proceedings) is often used as leverage against an unsubstantiated request to have existing counsel removed and a particular new counsel assigned (which may equally be a tactic to delay proceedings). The Tribunal has importantly tied its own hands in many respects, but it is disappointing to see these protective measures exploited.

Despite these relatively minor shortcomings, the legal aid system at the ICTY is very effective overall, and instrumental to the veracity of the Tribunal's proceedings and ultimate ends of accountability. Looking forward, I believe I have benefited greatly from observing how OLAD administers, interprets and applies subordinate legislation (the *Directive on the Assignment of Defence* counsel, which governs OLAD's activities). I gained invaluable insight into the factors that inform the process by which an initial interpretation is arrived at, and the ramifications of judicial review of these decisions. The people at OLAD made a constant effort to ensure my experience was rewarding, that I had enough interesting work and that I was well taken care of in The Hague. Working at OLAD was an extraordinary experience for me largely due to their efforts.