

IHRP Final Internship Report 2011

Ryan Liss – UN International Criminal Tribunal for Rwanda

My experience working with the UN International Criminal Tribunal for Rwanda (ICTR) as an IHRP intern surpassed all the expectations I held coming into the summer. I have wanted to work in international criminal law (ICL) for some time, and was eager to find an opportunity to work the ICTR, specifically, before it closes down in the coming years. I believed, in many ways, working within the one of the two *ad hoc* Tribunals that jump-started the contemporary ICL movement would provide insight into the discipline as a whole. And it did. Moreover, I was eager to work with a Tribunal that had—over its 15 year history—already established its own comprehensive jurisprudence. As it turned out, it was actually the limitations of the established jurisprudence that would prove to be the most interesting element of my work.

While with the ICTR, I worked with the Appeals division of the Office of the Prosecutor (OTP-ALAD). OTP-ALAD is, among other things, charged with preparing cases for appeal upon the completion of the respective trials. While the Appeals Chamber of the Tribunal is officially based in the Hague, OTP-ALAD is—like the majority of the Tribunal—based in Arusha, Tanzania. In many ways, this situation provided for exposure to the best of both worlds: working with ALAD one is able to work on appeal cases (which often involve some of the most interesting legal issues), yet one is able to experience and participate in the broader work of the Tribunal in Arusha rather than working in isolation miles away in Europe. Working in Arusha helped provide context for the appeals work, as well as a great opportunity to interact with those working on other aspects of the Tribunal's work. In addition, the chance to live in Arusha and travel around East Africa (including Rwanda) was also a definite *perk* of the work.

Within ALAD I was placed on the *Military II* appeals team. The case concerned the trial of four accused, former Chiefs of Staff of the Rwandan Army and National Police. Over the course of my time with the Tribunal, I had the opportunity to work on some incredible projects. In many ways the work I received was a consequence of the timing of my arrival at the Court: the trial judgement in the case had just been delivered the week previous. The week I arrived, it was starting to become clear what grounds of appeal flowed from the judgement, generally, and what interesting legal issues would be at issue, specifically. At the end of my first week, there was a scheduled to be an ALAD-wide meeting to discuss likely the most live of these legal issues—whether the doctrine superior responsibility covered criminal incidents which occurred prior to beginning of a superior's term of command. The issue has never before been addressed by the ICTR. While it has been considered by the ICTY, the jurisprudence is conflicted and confused and has subsequently been subjected to criticism. On my third day, I was asked to prepare a memo in preparation for this meeting that would provide the basis for some of my most interesting work throughout the summer.

In the weeks that followed, the *Military II* appeal team was tasked with completing a legal opinion regarding what—if any—issues raised in the judgement should be appealed. I had the opportunity to work closely with my supervisor and one other legal intern drafting the section of the legal opinion concerning the accused whose conviction (and acquittal on various points) triggered the majority of the

appealable issues. As the legal opinion was revised and finalized by the team, the other two interns on the case and I were given the opportunity to participate fully in all team meetings and provide our views on the legal opinion and the appeal moving forward. Concurrent with the completion of the legal opinion, we had to complete a Notice of Appeal to be filed with the Tribunal and served on the Defense teams. The Notice consists of a short statement of all the grounds of appeal that would be raised by the Prosecution. Once again, myself, and the other intern working on the same accused, had the chance to be closely involved in the process, putting together the initial draft of the notice for all the grounds of appeal relevant to our accused. Among the grounds I was responsible for, was that addressing the legal issue regarding which I had been asked to draft a memo in my first week with the Tribunal. Finally, as we moved into drafting the actual Appeal Brief that will be submitted to the Appeals Chamber as the substance of our argument on appeal, I had the opportunity again to be closely involved in the work. Again, I had the chance to put together the initial draft of various grounds of appeal and again these included the legal issue that my first memo had addressed. I also had the opportunity to work on various projects for ALAD beyond my case, completing assignments for the Chief of Appeals on an *ad hoc* basis.

Throughout the entire experience, I found that my team specifically, and those in ALAD as a whole demonstrated a great deal of willingness to involve the interns wherever possible. While I lucked out with the substance of my work due to the timing of my arrival—it was a bit unusual to have a chance to be involved in the drafting process—it really seemed that regardless of the status of an intern's case and the nature of his or her participation, his or her opinions and contributions were respected and valued.

In retrospect, while all of the drafting I had a chance to do was really interesting and engaging work, likely the most interesting aspect was working on the ground of appeal concerning superior responsibility. The opportunity to be so deeply involved with defining the contours of a significant element of ICL (and international humanitarian law), surpassed all the expectations I held prior to the internship. While, I had been eager to work with ICTR, specifically because of the breadth of its existing jurisprudence (compared to the ICC, and to other Tribunals), in the end it was working with the gaps remaining in the case law that proved to be among the most exciting aspects of the work.

Beyond my work with the Tribunal, the experience living and working in Arusha was unforgettable, in itself. Having the chance to watch trial proceedings before ICTR during any free time, even though unrelated to my case, would alone have made the trip worthwhile. In addition, it was great to meet and hang out with a group of likeminded people—interested in working in ICL and human rights. Finally, fitting in once in a lifetime opportunities to do things like travel to Rwanda (putting all the work in context in many ways), spend time in Zanzibar, go on a bike safari and climb Mount Kilimanjaro, really ensured that my experience as an IHRP intern this summer was an incredible one.