

ICC Moot Court Competition 2017: The Experience of the St. Gallen Team

The preparation: writing the memorials

Back in September 2016 we began our journey towards The Hague. We were all curious about this journey, what we would learn and what experiences we would make. As the case was only published in the beginning of November, we had some time to familiarize ourselves with the basics of international criminal law, the ICC and the competition. Reading through the previous cases, we became aware of the challenging task lying ahead of us. When the case finally came out, we were very excited and eager to start.

The case was an interlocutory appeal after the confirmation of charges. The submissions to be made concerned three challenging issues: (1) whether a military interim government could accept the Court's jurisdiction; (2) whether third gender people were protected from genocide under the Rome Statute; and (3) whether a defendant could be excluded from criminal responsibility due to his status as a former involuntary child soldier. We divided the issues among each other and started the research. As the research process went on, we dug deeper and deeper into international criminal law and our arguments started to develop. Research and writing kept us busy during the whole semester and even during and after exam preparation. During the semester we had our weekly meetings to discuss our results and got very constructive feedback from our coach Isabelle Maurer and Professor Bardo Fassbender. We also benefitted from valuable lectures delivered by Dr. Eleni Chaitidou, Legal Officer at the ICC, here in St. Gallen. As a team, we worked together very closely, supporting each other when questions arose or when we felt as if we reached a dead end.

Writing the memorials gave us a deep knowledge of the three issues raised by the case, the ICC and international criminal law more generally. We have learnt that there are often no binary answers in international criminal law, no right or wrong, but rather more or less persuasive arguments. While the Prosecution had a stronger position on one issue, the Defence's arguments were more convincing on another. Writing the memorials, it was very important to really adopt the role we were assigned, thinking as the defence counsel, the prosecution, or the counsel for the victims rather than as students sitting through a law exam. While extremely challenging, the writing of the memorials was thus a very rewarding process, during which we benefitted much of the experience of our coach and Professor Fassbender.



The team preparing for the next round

The competition

The speaker's role, by Helen



Helen in the semi-finals

Standing up and introducing myself for the first time was a very nerve-racking experience. So much work had built up to this moment, I was half scared I would get my own name wrong! But as soon as I got into the pleading I realised this was the fun part: bringing the arguments to life, wrestling with tricky questions, and rebutting our opponents. There were a couple of hiccups along the way, such as the time I cited 'the way religion is' when pushed for a source. But we learned from each experience, improving our presentation style and researching gaps in our knowledge as we went. By the end of the first round the hard work paid off and we ranked 16th out of a total of 63 teams, qualifying us for the quarter finals. Thanks to a stellar performance by Katja, we made it through to the semi-finals. There I had the chance to speak one last time, bringing in everything I had learned so far. While we did not make it through to the final, I was honoured to have the chance to debate alongside the winning team and the competition's best orator.



Katja in the quarter finals

The researcher's role, by Nathalie

As a researcher the job was not just to do research. During the pleadings we were co-counsel and helped our speaker to prepare the rebuttal. We wrote down our opponents' arguments and what could be used to rebut them, or we looked issues up raised by our opponents. While we were not speaking, it was still exciting to sit there with our speaker, and with every round we improved our way to note the arguments and the ones to rebut them. In addition, it was interesting to see others pleading and see what was convincing and agreeable to listen to. After the announcement of the quarter finalists, there was no time to celebrate and the preparation started as soon as we got the memorials. We all got busy, reading the other memorials, doing additional research and preparing the rebuttal for the arguments in their memorial so Katja would be ready. I would not have thought of getting even further but after a great performance we suddenly were in the semi-finals. While we had the evening and all night to prepare for the quarterfinals, we had less time to prepare this time. By then we already had answers to most arguments. But still we were busy reading and researching.



The pleading teams and judges together

As a team



The Guatemalan and the Swiss teams

But it was not just our team's work that was exciting: seeing different styles of presentation and argument from all around the world was fascinating as we pitted ourselves against teams from the Philippines, Palestine and Costa Rica, to name but a few. After a fiercely fought contest early in the competition, we bonded with the team from Guatemala, and more friends followed from there. In particular, we were able to meet and socialise with the other teams towards the end of the contest, discovering that we actually had a lot in common.

Finally all the teams came together to watch the final at the ICC. Entering the court was a reminder that, while our case was definitely fake, the underlying issues we were tackling are very real: child soldiers, third-gender rights, military coups, all of these have or might one day be debated in the ICC. It was the perfect finish to a fantastic week, and was followed by one last BBQ to say goodbye.

What we gained from our experience

What makes the ICC moot court so special is that we learned twice over. Firstly, we learnt the content: we are now all experts (or so we like to think) on the specific issues involved: genocide, criminal defences and legitimacy of governments in international law. But it is not just facts that we learned: those of us who are not law students discovered a new way of thinking: one that prioritises rigorous logic and reliable authorities. Both speakers and non-speakers learnt a lot about how to plead, which will help us if we happen to plead in our future job. From writing the memorials (but also during the pleadings) we learnt to adopt and argue for a position. For all of us, our achievements as a team have given us new confidence to stand up, speak out, and put ourselves forward for new challenges.

Members of the 2017 ICC Moot Court Team:

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