

INTERNATIONAL HUMANITARIAN LAW (IHL) MOOT COURT NATIONAL ROUND 2019 IN JAPAN

OFFICIAL RULES (2019)

GENERAL

1. The Moot Court Competition shall be conducted under the auspices of the International Committee of the Red Cross (ICRC), which shall have the power to:
 - (i) co-opt members;
 - (ii) appoint a Secretary and an Administrator;
 - (iii) appoint judges; and
 - (iv) amend the rules as it thinks fit

PARTICIPATING INSTITUTIONS AND REGISTRATION

Eligibility

2. The Moot Court Competition shall be open to not more than one team from a participating institution. A participating institution must be established in Japan.
3. With the approval of the ICRC teams can comprise students from more than one institutions, provided those students meet the requirements laid out below. Such students must send an email to the ICRC contact person requesting approval to form a team and outlining the different institutions which the students attend at time of registration.
4. Each team shall have four students. It shall be comprised of two students for the Prosecutor's role and two students for the Defendant's role. The roles of Prosecutor and Defendant will be allocated to the students by the participating institution.
5. Regardless of Rules 2 and 4, however, if teams could not be composed with four students due to various reasons, teams shall request the ICRC to get an approval to form a team with only less than four students, provided that the teams comprise students from the same institutions, who meet the requirements laid out below. The ICRC shall respond to the request after a sole review and decision. Such teams must allocate students to the roles of the Prosecutor and the Defendant within the same team.
6. Participating students shall be registered either for a first degree in law, including Junior Doctor (JD), or any undergraduate and postgraduate qualification in social science and

related subjects below the level of a doctorate. A person is ineligible to participate in the Competition if he or she:

- i. is registered for a doctoral degree in law, excluding a JD, at a participating institution or at any other institution;
- ii. holds any doctoral degree in law (other than a JD), regardless of the institution that conferred such doctorate;
- iii. holds or has held a full time or part time teaching post in law at any tertiary institution; or
- iv. has been admitted or licensed to practice law in any jurisdiction.

- 7. Participating students need not be nationals of, or normally resident, in Japan.
- 8. In order to avoid any inequality between teams that may arise from the participation of extremely qualified or experienced participants, the Organizing Committee may, at its discretion, decide not to accept the participation of students with significant experience in the field of International Humanitarian Law or humanitarian action. Significant experience includes but is not limited to, three months or more working for an international organization, or participation in Red Cross International Humanitarian Law Moot (An Inter-University Competition for Asia-Pacific Region) twice in previous years, regardless of acting as a mooter or a researcher.

Registration: Registration procedure and fees

- 9. The registration for the competition will be opened on **1 July 2019** and closed **on 27 September 2019**. No fee shall be charged. Upon registration, the name, address, e-mail address, telephone number and fax number (if any) of a contact person of the participating institution shall be notified to the ICRC.
- 10. Each participating institution shall also notify the ICRC by **15 November 2019** with the following information:
 - (i) The names of all students in the team;
 - (ii) Which students will respectively fill the roles of Prosecutor and Defendant.

Contact Person

- 11. Each contact person representing a participating institution will receive:
 - (i) The individual moot number assigned to each participating team;
 - (ii) Any other relevant materials.

The contact person for each participating institution is responsible for distributing the foregoing information and materials to his/her team.

SUBSTITUTION OF TEAM MEMBERS

12. A participating institution may substitute a student previously registered as a member of its participating team with another student only with the express consent of the SECRETARY of the competition.

THE MOOT PROBLEM

Selection of the Moot Problem

13. The SECRETARY shall have the sole power to determine the moot problem to be used in the Moot Court Competition.

Distribution of the Moot Problem

14. The moot problem will be distributed by the ICRC.

Facts and Clarifications of the Moot Problem

15. The facts that constitute the subject matter of the moot are provided in the moot problem. No additional facts may be introduced unless they are a logical and necessary extension of the given facts in the moot problem.
16. Any request(s) for clarification(s) of the moot problem must be brought to the attention of the SECRETARY by **18 October 2019**. All clarifications request shall be replied to at the latest on **25 October 2019** by the ICRC. Requests and clarifications shall be distributed at all participating teams.

The Organizing Committee shall have absolute discretion to determine whether it is necessary to respond to any request for clarification and to resolve such request in a manner in which it thinks fit.

GUIDELINES FOR SUBMISSION OF SUMMARY OF ARGUMENTS (MEMORIALS)

Form and Length of Memorials

17. Each team shall submit memorials for both the Prosecutor and the Defendant, as designated by their participating institution. All claims listed in the memorials should be offered by the Prosecutor in the oral hearings. Defendant may change or omit parts of the claims they have made in order to respond to the oral pleadings by the Prosecutor.

18. Each memorial shall be typed with 1½ line-spacing, using **TIMES NEW ROMAN**, font size 12. The **pleading section** of each memorial submitted **shall not exceed 4,000 words (excluding footnotes)**.

If a memorial **exceeds 4,000 words**, the SECRETARY shall deduct marks from that memorial score according to the following scale:

- i. 1-50 words in excess – deduction of 5 marks;
- ii. 51-100 words in excess – deduction of 10 marks;
- iii. 101-200 words in excess – deduction of 20 marks; and
- iv. Over 200 words in excess – deduction of 30 marks.

In the event that any team violates any of the format requirements (pursuant to **Rules 17-18**), 5 marks from the teams' memorial score out of 100 (calculated pursuant to **Rule 43**) shall be deducted.

19. All citations must either be in the body of the text or in footnotes and should be in an intelligible form.
20. Each memorial must have **TWO** cover sheets:
- (i) The **first cover sheet** must clearly indicate the name of the participating institution, the names of the two students, and whether the memorial is for the Prosecutor or the Defendant.
 - (ii) The **second cover sheet** must clearly indicate the team's **individual moot number only** which will be given to the relevant contact person of the team's participating institution upon registration (see **Rule 9** above). The purpose of this requirement is **to protect the anonymity of the teams** and **to ensure no prejudice or bias** is shown in the assessment of the memorials.

Submission of Memorials

21. Each team shall submit the memorials for both the Prosecutor and Defendant either via **E-MAIL** to the SECRETARY latest by **15 November 2019**, at the following address: tok_event_services@icrc.org.
22. In the event that any team fails to submit its memorial on time (pursuant to **Rule 21**), 5 marks for each calendar day from the team's memorial score out of 100 (calculated pursuant to **Rule 43**) shall be deducted.

Revision of Memorials

23. A memorial **may not** be revised for any purpose whatsoever once it has been submitted.

Pairing of teams and exchange of memorials

24. The SECRETARY will pair each Prosecutor from a participating institution with a Defendant from another participating institution.

The pairing will be conducted by a **random drawing of lots, decided by the Secretary.**

The SECRETARY shall distribute a copy of the memorials of paired Prosecutor/Defendant to the respective Prosecutor/Defendant by email.

25. Pursuant to **Rule 44**, the Organizing Committee will determine which Prosecutor and Defendant teams will advance to the final round of the Competition respectively after results of the preceding rounds have been available.

GUIDELINES ON ASSISTANCE AND PRACTICE SESSIONS

Memorials

26. All research, writing and editing relating to the memorial must be the work of the two students submitting that memorial, provided, however, that they may receive research assistance from the two other students from the same participating institution.

Assistance from Staff and Other Advisors

27. Staff of the participating institutions including coaches, assistants or advisors should restrict their advice to general matters, such as to a discussion of the issues in the moot problem, suggestions as to research sources, and a general commentary in relation to the organization, structure, the flow of arguments, format, presentation and style.

Practice Sessions

28. Each participating institution may arrange its own practice sessions prior to the Moot Court Competition.

ADMINISTRATOR AND COMPLAINTS BOARD

29. As a neutral Administrator, a representative from the ICRC will be appointed to oversee the organization and judging of the Moot Court Competition.
30. A complaints board shall be made available to address any complaints. All decisions of the board are **FINAL**.

DATE AND VENUE OF THE MOOT COURT COMPETITION

31. The Moot Court Competition will be held on **30 November 2019 and/or 1 December 2019** (depending on the number of teams registered).
32. The Moot Court Competition will be held at **Waseda University**.

COMPOSITION OF TEAMS AND ORDER OF THE ORAL HEARING

33. Each Prosecutor/Defendant will consist of **TWO** oralists comprising of a **First Counsel** and the **Second Counsel**.
34. In the event that a team fails to appear for a scheduled oral hearing, the round of the Competition in concern will proceed as an *ex parte* hearing in the following order:
 - (i) A court clerk will confirm the presence of both teams.
 - (ii) If one team is absent, the court clerk will inform the judges and notify the Secretary/Assistant Secretary).
 - (iii) Once the Secretary/Assistant Secretary has been notified, the court clerk will then call the moot number pertaining to the absent team two times inside and two times outside the court room with an interval of 30 seconds each.
 - (iv) If the team whose number is called fails to appear, the court clerk will announce to the court that there is no appearance by the team called.
 - (v) The oral hearing will then proceed as an *ex parte* hearing.
 - (vi) The opposing team that presents in the court will receive scores pursuant to **Rules 42 through 46**.

The Prosecutor and Defendant shall each speak for **no more than 40 minutes** respectively. Each counsel shall each speak individually for a minimum of 15 minutes.

35. The order of the oral hearing are as follows:
 - (a) Prosecutor's first counsel;
 - (b) Prosecutor's second counsel;
 - (c) Defendant's first counsel;
 - (d) Defendant's second counsel;
 - (e) Rebuttal (if any by either the Prosecutor's first counsel or second counsel);
 - (f) Surrebuttal (if any by Defendant's first counsel or second counsel)
36. The Prosecutor and the Defendant may reserve up to 10 minutes for rebuttal or surrebuttal. The scope of the Prosecutor's rebuttal is limited to responding to the Defendant's oral hearings, and the scope of the Defendant's surrebuttal is limited to responding to the Prosecutor's rebuttal.
37. The First Counsels of the Prosecutor and of the Defendant shall indicate at the beginning of the oral hearing, how long each counsel will speak and how much time it intends to

reserve for rebuttal or surrebuttal. Either the First or Second Counsel may address the court for the rebuttal or surrebuttal. To avoid any doubts, the time reserved for rebuttal or surrebuttal is not included in the minimum time for each counsel to speak as specified in **Rule 34**.

38. The court may, at its discretion, extend the time allocated to each counsel, provided that the maximum extension for any counsel **shall not exceed FIVE** minutes.
39. Time shall be kept by a court clerk or timekeeper who will remind each counsel by appropriate means when they have:
- (i) 15 minutes left;
 - (ii) 10 minutes left;
 - (iii) 5 minutes left;
 - (iv) 1 minute left;
 - (v) to conclude their address forthwith.
40. Every courtesy shall be shown to the oralists during the oral hearing. Communication between counsels at the counsel table shall be in writing to prevent any disruptions.

Participating teams and spectators shall avoid all unnecessary noise or any form of inappropriate behaviour which will distract the oral hearing in progress. Counsels seated at the counsel table shall not be permitted to communicate with the spectators, or with any other external person except the judges.

FORMAT OF THE MOOT COURT COMPETITION

41. The format of the Moot Court Competition shall consist of the submission of memorials and the oral rounds. (See **Rules 17-25** above on guidelines for memorials)

All participating teams must submit their memorials at a specific dateline prior to the oral rounds of the Moot Court Competition as stated in **Rule 21**.

There shall be two general oral rounds of the Competition. Each team shall argue once in each general round as the Prosecutor and as the Defendant respectively.

If eight or more teams are participating in the Moot Court Competition, the Organizing Committee may decide to hold Semi-final Rounds. Even when the number of teams are less than eight, the Organizing Committee may in its discretion decide to arrange Semi-final Rounds when deemed appropriate.

SCORING

42. Scoring shall consist of the scoring of **the memorials and oral rounds**.

43. The **scoring of the memorials** shall be assessed by a panel of **TWO** memorial judges. The maximum score for each memorial shall be 100. The memorial judges will be given copies of the memorials with the cover sheet indicating only the **participating teams' individual moot number**.

The memorial score for each team is determined by first adding together the **TWO** Memorial judges' scores and the final score for each memorial will then be decided based on the **average score** of the **TWO** memorial judges' scores.

44. The **scoring of the oral rounds** shall be assessed based on the following:

- **General Rounds**

(a) Without Semi-final Rounds

The oral hearing scores shall be assessed by a panel of **THREE** judges. The maximum score given by each judge for each oralist shall be **100 points** and the maximum score for the Prosecutor and Defendant shall be **300 points**.

The oral hearing scores for Prosecutor/Defendant will be determined by adding together the **THREE** judges raw scores respectively (600 points maximum).

Each score of The Prosecutor and Defendant would be assessed respectively and the **best overall score** from the combination of the oral hearing scores in the General Rounds and the memorial scores of each Prosecutor and Defendant will advance to the Final Round. In the event that, after the completion of the general rounds, both the Prosecutor and Defendant were from the same teams, the team decides which role it would play in the Final Round by drawing lots. Then the Prosecutor or Defendant to proceed to the final round shall be the counsels from the second highest scores which is the combination of the oral hearing scores in the General Rounds and the memorial scores.

Two or more of Prosecutor counsels or Defendant counsels have tied for eligibility for the final round, then the Prosecutor or Defendant counsels to proceed to the final round shall be the team from those which have the highest average score out of 600 for its oral hearings in the general rounds. In the further event that such teams are also tied in their average score out of 600 for oral hearings in the general rounds, the team which will proceed to the final round shall be the team whose first counsel has the highest average score out of 200 for his or her oral hearings in the general rounds. Where more than two teams have tied, the Organizing Committee Chairman or his/her representative shall discuss with the respective judges and the decision after discussion shall be final.

(b) With Semi-final Rounds

The oral hearing scores shall be assessed by a panel of **THREE** judges. The maximum score given by each judge for each oralist shall be **100 points**, and the maximum score for the Prosecutor and Defendant shall be **300 points**.

The oral hearing scores for the Prosecutor/Defendant will be determined by adding together the **THREE** judges raw scores respectively (600 points maximum) and the oral hearing scores for the team will be determined by adding together the scores for both the Prosecutor and the Defendant (1,200 points maximum).

The four highest-ranking teams of **overall score** from the combination of the oral hearing scores in the General Rounds and the memorial scores of both the Prosecutor and the Defendant will advance to the Semi-final Rounds.

In the event that, after the completion of the general rounds, two or more of the teams have tied for eligibility for the Semi-final round, then the teams to proceed to the semi-final round shall be the team from those which have the higher average score of both the Prosecutor and the Defendant out of 1,200 for its oral hearings in the general rounds. In the further event that such teams are also tied in their average score out for oral hearings in the general rounds, the team which will proceed to the final round shall be the team whose first counsels of both the Prosecutor and the Defendant have the higher average score out of 600 for his or her oral hearings in the general rounds. Where more than two teams have tied, the Organizing Committee Chairman or his/her representative shall discuss with the respective judges and the decision after discussion shall be final.

• **Semi-final Round**

In Semi-final Rounds, the pairings shall be determined on the basis of the basis of power seeding as follows: the fourth-ranked team versus the first ranked team; and the second-ranked team versus the third-ranked team.

The Secretary will determine the role to be played by each of the four teams (Prosecutor or Defendant) by means of a random draw after completion of the General Rounds. The Secretary will then announce the random draw and the pairing results, and make available a copy of each team's memorial to its opposing team.

The oral hearing scores shall be assessed by a panel of **THREE** judges. The maximum score given by each judge for each oralist shall be **100 points** and the maximum score for the Prosecutor and Defendant shall be **300 points**.

The oral hearing scores for Prosecutor/Defendant will be determined by adding together the **THREE** judges raw scores respectively (600 points maximum).

The two winning teams of each pair of opposing teams of the Semi-final Round shall enter the Final Round.

• **Final Round**

(a) Without Semi-final Rounds

The oral hearing scores shall be assessed by a panel of **THREE** judges. The maximum score given by each judge for each oralist shall be **100 points** and the maximum score for the Prosecutor and Respondent in the oral rounds shall be **300 points respectively**.

(b) With Semi-final Rounds

The Secretary will determine the role to be played by each of the teams (Prosecutor or Defendant) in the Final Round by means of a random draw after completion of the Semi-final Rounds. The Secretary will then announce the random draw, and make available a copy of each team's memorial to its opposing team.

The oral hearing scores shall be assessed by a panel of **THREE** judges. The maximum score given by each judge for each oralist shall be **100 points** and the maximum score for the Prosecutor and Defendant in the oral rounds shall be **300 points respectively**.

45. The decision of the judges shall be **FINAL**.
46. For the arrangement of final round, the team coach or first counsel (if in the absence of team coach) of the two participating teams will be asked to verify if there is any arithmetic error in the calculation of final round scoring for their respective team before the announcement of the result.

AWARDS

Best Counsels

47. The Prosecutor or the Defendant with the best total average oral scores in the **FINAL ROUND** will be declared as the winning team.

Best Mooter

48. The counsel with the highest individual total oral scores in the oral hearings of the general round of the Moot Court Competition shall be adjudged the **Best Mooter** and shall be awarded with a certificate.
49. The Organizing Committee may in its discretion decide to award alternative prizes in lieu of the prizes described above.

INTERPRETATION OF THE OFFICIAL RULES

50. The SECRETARY shall have absolute discretion to resolve any questions or issues regarding the interpretation of the official rules.