

INTERNATIONAL HUMANITARIAN LAW (IHL) MOOT COURT NATIONAL ROUND 2020 IN JAPAN

OFFICIAL RULES (2020)

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 of the Organizing Committee;
 - (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. Each institution may enter only one team to participate in the Moot Court Competition. 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 Organizing Committee 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 Organizing Committee 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 **6 July 2020** and closed on **25 September 2020**. No fee shall be charged. Upon registration, the name, address, e-mail address and telephone number of a contact person of the participating institution shall be notified to the ICRC.
10. Each participating institution shall also notify the ICRC by **9 November 2020** 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 **16 October 2020**. All clarifications request shall be replied to at the latest on **23 October 2020** 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 49**) 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 11** 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 **9 November 2020**, at the following address: ihlmootcourtjapanround@gmail.com.
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 49**) shall be deducted.

Revision of Memorials

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

Maximum number of teams to proceed to the oral hearing

24. If more than twelve teams are registering for the Moot Court Competition, the Organizing Committee may select highest ranking teams of total score of memorials to proceed to the oral hearings of the competition.

Pairing of teams and exchange of memorials

25. 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.

26. Pursuant to **Rule 50**, 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

27. 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

28. 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

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

ADMINISTRATOR AND COMPLAINTS BOARD

30. As a neutral Administrator, a representative from the ICRC will be appointed to oversee the organization and judging of the Moot Court Competition.
31. 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

32. The Moot Court Competition will be held on **28 and 29 November 2020** (depending on the number of teams registered).
33. The Moot Court Competition will be held **Online**.

COMPOSITION OF TEAMS AND ORDER OF THE ORAL HEARING

34. Each Prosecutor/Defendant will consist of **TWO** oralists comprising of a **First Counsel** and the **Second Counsel**.
35. 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 52 through 55**.

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.

36. 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)
37. 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.
38. 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 35**.
39. 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.
40. 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.

ADDITIONAL RULES FOR 2020 ONLINE COMPETITION

41. Each team is responsible for finding a suitable venue from which to participate. The venue must be a quiet location which can be closed and private and which has adequate and reliable internet connectivity and have a desk and chairs for the oralists during the argument. Locations in open spaces or hallways or cybercafes or similar areas are NOT permitted.
42. Each team shall prepare the appropriate setups to participate in the competition with a computer screen or monitor, microphone and camera with internet connectivity. The team's camera and microphone should be firmly positioned at the appropriate distance throughout the argument so as to ensure both team members are visible and to ensure their voices are clearly audible.

43. Microphones of participants in the competition must be muted at any time during the proceedings unless they are making their oral presentation. Any communication between the team members shall be in any written or electronic medium to prevent disruption. The team members must avoid any noise or inappropriate behavior which may disturb the proceedings.
44. Team members are not allowed to communicate with their respective coaches and any other person during the oral rounds. Each team must certify that there is no one in the room providing assistance with them or observing the oral rounds (General Rounds up to Final Round).
45. Each oralist may communicate with the judges, and the judges may communicate with that oralist, only during his or her allotted time. The judges may, where necessary, communicate with an oralist, or another participant or observer in the Online Moot, to ensure the orderly conduct of the Moot (for example, to request participants or observers to turn off their camera or mute their microphone, or to clarify the spelling of an oralist's name).
46. In order to prevent problems with the bandwidth during the competition, online streaming will not be done. Teams are prohibited from sharing the virtual room log in credentials to keep the quality of the connection as high as possible and to prevent any potential scouting. As far as practicable, the final round will be cast online and may be recorded by the Organizing Committee. No recording, whether audio or video, of the whole or any part of an Online Moot is permitted by any Team or Observer.
47. A Team may request authorization for any other person connected to the Team to be provided with a link to allow him or her to observe an online moot remote from any member of the Team. All persons granted permission must have their camera switched off and microphone muted at all times.
48. During on online moot, team members or observers affiliated with a Team may not directly or indirectly indicate their school to the judges, including through the display of screen names, the wearing of name tags, logos, or other signifiers, or the placement of folders, files, or other materials identifying their school in such a way as may be visible to a judge.
49. The administrator must provide for time to be kept during each online moot by way of a time keeper showing timecards such that the oralists and the judges are able to see those cards.
50. Should there be a significant interruption or drop in the connection of any team, the team shall immediately inform the Administrator. The proceedings shall be paused until the team whose connection dropped is able to reestablish their connection. A team is given a maximum of five (5) minutes to reconnect, otherwise they shall forfeit the match. This five-minute period can only be availed of once per team per match.

FORMAT OF THE MOOT COURT COMPETITION

51. The format of the Moot Court Competition shall consist of the submission of memorials and the oral rounds. (See **Rules 17-26** 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 or three general oral rounds of the Competition depending on the number of teams participating in 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

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

53. 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.

54. 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 allowing the higher ranked team to nominate their preferred side based on the 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 after completion of the General Rounds. The Secretary will then announce 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 allowing the higher ranked team to nominate their preferred side based on the overall score of the oral hearing scores in the Semi-final Rounds from both the Prosecutor and the Defendant after completion of the Semi-final Rounds. The Secretary will then announce 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 in the oral rounds shall be **300 points respectively**.

55. The decision of the judges shall be **FINAL**.

AWARDS

Best Counsels

56. 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

57. 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.

58. The Organizing Committee may in its discretion decide to award alternative prizes in lieu of the prizes described above.

INTERPRETATION OF THE OFFICIAL RULES

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

OTHER RULES

60. The Organizing Committee may from time to time make any other rules and procedures deemed advisable for the conduct of the Competition, in its sole discretion.