

RULES OF PROCEDURE INTERNATIONAL COURT OF JUSTICE



Awards

- Best Advocate
- Best Judge
- Best Opening Statement

Case to be discussed-

1) The legality of the capture and sentencing of Khulbushan Sudhir Jadhav

General rules and procedure

- There is the President of the Court (Chair)
- Judges: hear the cases of the advocates and make a ruling on the case
- Advocates: Counsel for the two parties (prosecution and defence)
 - Prosecution is the accusing party and the burden of proof is on them
 - They must present a case with evidence that proves to the judges that their side is correct
 - Prosecution must meet the burden of proof for the charges and prove guilt beyond a reasonable doubt
 - Defence are the advocates responsible to respond to the charges and accusations that the prosecution brings
 - Find counter-evidence or defect arguments to disprove the case made by prosecution
 - Focus on undermining prosecution case
- **Special ICJ Rules**
 - Judges decision must be respected
 - One advocate can speak at a time, no interruption will take place unless anyone wishes to object or raise a point of personal privilege or order.
 - No advocates can speak to judges without the President present
 - Personal Pronouns can be used (refer everyone as- advocate / lawyer or your honour / judge; only witnesses can be called by the names of their selected personalities)
 - All other rules of procedure, such as using points apply.

Objections: When an advocate objects to the attempted presentation of certain evidence

- Objections can be sustained or overruled by the judges
 - Judges can have a short recess to discuss whether to overrule or sustain

- President can deem whether the recess seems fit

Different types of Objections

(very important- advocates must use these as much as possible)

- **Vague:** Unclear, unspecific statement or question that needs to be further explained
- **Answer Exceeds:** A question that requires an answer that exceeds the concern and scope of the question
- **Argumentative:** Prejudicial question that does not give facts
- **Assumes facts not in evidence:** Question that assumes facts and evidence that has not been admitted into evidence
- **Badgering the Witness:** Harassing, quarrelling, displeasing or provoking the witness on the stand
- **Continued Objecting:** When one side continuously objects and impairs the participation and presentation of arguments by the other side
- **Hearsay:** The information in a question or answer is hearsay when it is stated by a third party outside the court and reiterated within the court
- **Improper argument:** Information given by a team that is incorrect and can be proven untrue
- **Leading Question:** The question by its form or content suggests the desirable answer
- **Relevancy:** An irrelevant question
- **Speculation:** When something is assumed or guessed in a discussion

Order of Proceedings in The Legal Committee:-

DAY 1-

1. **Oaths**
 - a. Judges, Prosecution Advocates, Defence Advocates
2. **President reads charges to the accused**
 - a. Defence Advocates state how their accused pleads: Guilty or **Not Guilty**
3. **Opening Statements from each Side**
 - a. 20 Minutes
 - b. India then Pakistan
 - c. Floor can be yielded to colleagues
 - d. Introduce case and main arguments/ counter- arguments
4. **Presentation of Stipulations-** Stipulations are facts related to the sources, they cannot be opinions.
 - a. 7 stipulations each side
 - b. India then Pakistan
 - c. Each will be debated and voted upon.
 - d. A stipulation requires a simple majority to pass.

5. Presentation of Evidence: Each Side will present 3-4 pieces of evidence

- a. India begins first
 - i. Evidence presented to Judges, President, and Opposing Side
 - ii. 3-5 Minutes Pleading of the evidence: talk about the credibility, importance, relevance to the case
 - iii. Floor open to POIs by the opposing side then judges.
 - iv. Mods and un mods on the evidence (if required)
 - v. President rules on admission of the evidence
 - vi. Process repeated for every piece of evidence in alternating order (prosecution, defence, prosecution, defence....)

- b. Judges weigh the importance of the evidence. (closed room)

5. Mods and Unmods

- a. Motion raised to move to unmod or challenges

6. Judges Questions

- a. Floor is open for judges to ask questions to any of the advocates regarding anything presented in the court

DAY 2-

7. Presentation of Witnesses

- a. Time given to each Advocate team to prepare their witnesses based on witness sheets / position papers made at the start of the session
 - i. Allocated witnesses must act as their selected personality
 - ii. Witnesses must be minimum of 2 and no more than 3 from each side and the defence must have the accused as one of their witnesses
- b. India presents its first witness
 - i. Witness Oath
 - ii. Direct examination by presenting party for 15 minutes
 - iii. Cross examination by opposing party for 15 minutes
 - iv. Judges can ask questions ONLY BASED ON TESTIMONY AND EXAMINATION- 5 minutes
 - v. Judges discuss reliability, credibility and weigh the witness and evidence they present in private.
- c. Process repeated in alternating order until all witnesses have been examined

8. Rebuttal

- a. Each side given 10 minutes to refute positions of opposing side
- b. Can yield floor to colleagues
- c. In order of India then Pakistan

9. Judges Questions

- a. Judges can now ask any questions to either side (to the advocates)

10. Closing Arguments

- a. 20 minutes
- b. Both sides must include their legal prayer (how much punishment/ damages they believe the accused should receive) in this argument
- c. Can yield floor to colleagues

11. Deliberation by Judges

- a. Judges must vote on the verdict and decide the appropriate punishment/ damages: the majority opinion is the one that will be the verdict

- b. Each judge must then write their own opinion
 - i. Does not matter if their opinion is the majority or dissenting opinion
 - ii. Each judge must write why they believe what they believe based on the evidence presented
- c. Each opinion must be a minimum 2 minute (this will be the closing arguments for the judges)

12. Verdict

- a. Judges give their collective Verdict to President to read out
- b. Judges then present their opinions one by one

-CASE DISMISSED-

What is expected to be done beforehand in preparation for ICJ?

- **EVERYONE:**
 - Read extensively about the case, and do research
 - Research a lot
 - Fully understand the committee's procedure, terminology etc
- **ADVOCATES:**
 - Prepare all the evidence you wish to present
 - Meet with your co-advocate and prepare arguments, visual aids etc
 - Opening statements
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