

ICJ at ISLMUN

A MODEL INTERNATIONAL COURT OF JUSTICE HANDBOOK IN
ACCORDANCE WITH THE ISLMUN PROCEDURES



Overview of the ICJ

Established under the United Nations Charter in 1945, the International Court of Justice has since been the judicial panel of the UN. The court's primary purpose is to mediate any multinational dispute under the boundaries of international law. The ICJ also acts as a principal advisor for any UN body and other specialized organizations regarding legal concerns in international and/or domestic actions.

Note: *This handbook serves as a complimentary tool to the ICJ training process, and does not include all elements of conduct and consideration needed for advocacy. Advocates are thus required to attend their training.*

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Part 1 – Rules of Court

ICJ STATUE

The proceedings of the ISLMUN ICJ will adhere strictly to the statute annexed by the United Nations Charter. As for the judgement and verdict of the court, under *Article 38 of Chapter II* of the Statute of the International Court of Justice, the Court is bound to and shall apply (when dealing with legal disputes between UN member States):

“a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;”

Abiding by this, all subjects of the Court are under the governance of international treaties, UN conventions and other such formal documents.

COURT STRUCTURE

In order for a contentious case to be presented under the jurisdiction of the ICJ, there are three bodies that needs to be involved:

Applicant: The applicant, also known as the prosecutors or moving party, is a team of UN Member States advocates that brings the disputed case to the Court.

Respondent: The respondent, also known as the defense or responding party, is a team of UN Member States advocates that is defending itself in the case brought forth by the Applicant.

Panel: The ICJ panel consists of the Court’s officials and judges that regulate hearing procedures and finalize a verdict for the case presented.

Modes of Address:

Unlike the other major organs that make up the United Nations, the ICJ Court does not require parties to use third-person address. However, the Court's Modes of Address is still restricted to the highest of formality.

Court members that occupy the seat of presidency shall be addressed as ***"Mr./Madame President/Vice President"*** or ***"President/Vice President"***.

Any members of the panel of judges shall be addressed as ***"Your Honor"*** or ***"Judge Surname"*** or ***"Judge"***.

Should there be a need to address the Registrar, he/she shall be addressed as ***"Registrar Surname"*** or ***"Registrar"***.

As for the prosecuting and defending party, there are two modes of address that needs to be taken into account. When addressing a specific advocate of a party, the advocate needs to be referred to as ***"Advocate"*** or ***"Counsel"***. When addressing an entire party, the party should be referred to as ***"Applicant/Respondent"*** or address by the name of the country they are representing.

Any witnesses that testify during court hearings may be referred to, and may use, first-person address.

Roles and Responsibilities

Court Officers:

The Presidency

President – The President takes precedence over all court proceedings, direct the accounts of the case and administers over the Court panel (in weighing of evidence and ruling of verdict). During judicial deliberations, the President will cast a vote for the final verdict alongside the judges.

Vice President – The Vice President acts as a direct assistance to the President, both in proceedings and essential materials of the Court. He/she is also the presiding officer in the absence or vacancy of the President. The Vice President will have casting vote in the final verdict.

The Registry

Registrar – As a court officer, the registrar's duty is to ensure all administrative proceedings in the case has been carefully managed. This includes providing the Presidents and the Judges with copies of the stipulation, memoranda, evidence packets, and any other documents necessary during court proceedings. He/she is also to keep track of the hearing by means of written reports/minutes.

Judiciary Panel:

Judge – Judges are responsible for all the court's deliberation, which includes weighing of evidence, examinations of witnesses, and the final verdict. However, since the court hearing will be of contentious nature, Judges must come to court without any in-depth knowledge or pre-formed opinions on the case. Verdict on the dispute should be solely based upon legality, determined through the hearing of both sides. Due to circumstances, unlike the normal 13 or 15 Judges on a panel, ICJ at the ISLMUN 2018 will be having 3 Judges alongside the Presidents to reach the final verdict.

Advocate:

Advocate – Each advocate will be a part of a team of 3 and can either be of an Applicant or a Respondent party. An advocate's duty is to present the case to their country's best interest to the highest of their ability. On top of that, an advocate must prepare all necessary documents (refer to the **Document** section) and hand them in to the Presidents and Registrar on deadlines set by the President before the case is debated. It is also in the advocate's best interest to prepare their witnesses beforehand.

Witness:

Witness – Any witness that stand to testify in front of the Court must be fully aware of the case. He/she must be prepared to answer questions from the Applicant party, the Respondent party and the Panel. The witness will also be sworn in by an oath during the witness examination.

Documents

All ICJ documents should be submitted prior to the inception of the conference. These documents present a general summary and arguments of each side. During the conference these documents will primarily be utilized for argumentative support and background check purposes.

Important Note: Case files will be received by advocates as a tool for preparation and understanding of the case at hand. This document will delve into the details of the case and is the equivalent of a 'research report' in comparison to other MUN committees.

Stipulations

The list of stipulations is a piece of written evidence that has been agreed upon by both councils. The purpose of the stipulation is to help advance the case quickly by avoiding disagreement on basic aspects of the case, such as definition of terms or history of events. Stipulations should contain, in bullet form:

- Definition of key terms
- Important historical events
- Activities by both countries
- Relevant treaties and special agreements prior to the conference

Both councils should work in collaboration to produce one final list of stipulations to present to the court. During their research, each council should first compile a list of draft stipulations individually. The drafts should then be sent to the opposing council for evaluation.

Communication between the two councils can take place in the form of email, Skype, or any other medium the two councils prefer. Advocates should attempt to correct, combine, and rephrase the stipulations where appropriate. The final stipulations, generally 1 to 1.5 pages long (font 10 Times New Roman), should be compiled after two to three exchanges between the councils. The final list of stipulations, once agreed upon by all four advocates, should be sent to presidents electronically.

Advocates are not required (yet recommended) to make copies of stipulations for the court. It is important to keep in mind that the final list of stipulations is considered evidence and is not debatable in court, so please make sure that all stipulations are approved by both parties before these are sent forth to the presidency.

Examples of Case Stipulations

- A. A treaty between the Sultan of Johor and the British was signed on Feb. 6th 1819, acknowledging British rule over Singapore.
- B. Both the British and Dutch held joint occupation of the Malay region (including Malaysia, Singapore, and Indonesia) until the Anglo-Dutch treaty was signed in 1824 in which the Dutch withdrew all objections to British rule over Singapore.
- C. Thus Singapore and the 10 nautical miles of sea around it were lawfully given to the British East India Company

Memorandum

A memorandum is a document that advocates in the International Court of Justice write up to the judges and opposing counsel with regard to the overview of the case, facts of the case, your party's view on the issue, along with legal principals that you may apply to this case. Memorandums are not considered evidence. Some advocates also find it useful to withhold some trial strategy in the "Arguments" section. The memorandum should be written in bullet-points, and be about 1.5 to 2 pages long in Times New Roman font size 10.

Format of a Memorandum

Memorandum of [Country's name]
International Court of Justice

Submitted by: Advocate (Surname)

On Behalf of: [Country represented by advocates]

Date: [Self Explanatory]

I. Statement of Jurisdiction:

In this part of the memorandum, you will write a brief introduction on what the case is about. You need to address on how this case came about to become a dispute and how it got to be heard in the ICJ.

II. Statement of Law:

In this section of the memorandum, advocates need to present to the judges and opposing parties of the relevant law, treaty which your party will rely upon greatly. This should also insert further clarification on how these treaties and laws help or build your case. This is very crucial in that this would help judges understand these large documents easier. However, the judges do not take this as evidence. It is merely a way to communicate to the judges on how you think these treaties help you.

III. Statement of Facts:

In this section, you will provide some of the details on what this case is, and also provide few brief points on how some of the previous attempts made to resolve this issue. However, one must bear in mind to always put up this section in support of your party's cause.

IV. Arguments:

This is where you list your points of arguments on why you believe that the law is on your side. Along with each argument, one should narrate on how such treaty of laws or legal principals help you in your case. These should make up your major arguments because at frequent occasions, judges refer back to this to achieve the point you are trying to communicate. Therefore, it is very important you insert the relevant articles or annexes where you base your claim on. However, some advocates do not wish to communicate all of their arguments, as it is useful to have a "secret weapon", so they need not put it in the memorandum.

V. Summary and Prayer for Relief:

The summary and Prayer of Relief is what you the advocates wish the court to rule. This is one of the possible verdicts. After deliberations, the judges will choose between the two Prayers of Reliefs on which they favor more towards. Judges cannot stray away from these Prayers of Relief to give a bit of everything to both parties. They have to choose between the two and therefore, it could be strategically advantageous to

write one's Prayer of Relief in a more neutral manner instead of a harsh, one-sided one, as judges tend to disagree, and therefore would more likely be able to come to a consensus on a more neutral Prayer of Relief.

Evidence Packet

Evidence is most essential and critical part of the ICJ forum. All your points and arguments must be presented to the judges through your evidence, therefore it is required of each party to put forth a compilation of all their evidence. Evidence is nothing but the documents that will support your arguments and/or from where you found your arguments. Evidences can include, but is not limited to:

- Pages from books, magazines, newspapers, journals
- Treaties -UN Declarations and other documents
- Visual representation of statistical evidence

When presenting their evidence to the forum, advocates will have to provide the following information:

- Name of Document/Title
- Date of Publication (if this is not available, try and find the latest date of editing)
- Source (website URL/Publication's name)
- Author

If the information for one of the above categories cannot be found, it is OK; however, anote that during the evaluation of the evidence, the determined value of this piece of evidence would have more reason to be weighed lower than normal.

For documents (especially large documents such as declarations and treaties), advocates are expected to highlight the important clauses, sentences, statistics and other information. However, non-highlighted information can also be used as evidence. Furthermore, during their research, advocates may come across extremely large documents. Sometimes these documents could even stretch to tens and hundreds of pages. In such cases, advocates need only print out the important pages of the documents (Cover page, index, first page, last page, and any other required pages as evidence).

There is no limit to the minimum or maximum number of pieces of evidence that can be admitted. However, usually about 5-8 pieces of evidence are sufficient.

Part 2 – Court Proceedings

A contentious case is opened when an Applicant party holds other country/countries responsible on legal grounds and refers the dispute to the ICJ. The Respondent party will be expected to respond by presenting their case at the Court's hearing. During the actual day of the hearing, the following proceedings will be followed:

Swearing In

Before both parties can appeal before the court, all advocates are obligated to take an oath that goes as such:

"I solemnly declare that the case I present before the International Court of Justice, and the evidence and documents referred to therein, shall be the truth, the whole truth, and nothing but the truth as best I know it."

Opening Speeches

The Applicant party will lead the opening speeches by justifying reason(s) for bringing forth the case to the Court, defining the nation's claim(s), laying out the fundamentals of the case, and presenting any other relevant and essential information advocates feel holds weight to the case. The Respondent's party opening speech, on the other hand, will start by re-outlining the fundamentals of the case (and adding any information significant to their defense), justifying the jurisdiction and legality of their nation's action(s) in the case, rebutting the Applicant's contentions, and presenting any other relevant and essential information advocates feel holds weight to the case. It is important to note a few crucial points:

- Each party is given a duration of 10 minutes to present their arguments. During which, advocates may divide up the time between members of the same party.
- Opening speeches are simply a summary of arguments which will be later presented. Do not present any evidence, extensive argument or in-depth evaluation of the case during this time.

Presentation of Evidence

Each party is required to have had their Evidence Packets (refer to **Documents** section) submitted to the Court Officers on the given deadline

before the Court presentation. This way the Registrar will be able to provide Evidence Packets of both parties to each advocate and member of the Panel during this phase of the hearing.

The Applicant party will be the first to present their evidences one-by-one. Advocates are expected to recite the title, author, medium and date of evidence, including a brief explanation of each evidence's significance to the case. After the presentation of one evidence, the opposing party can either agree with the evidence or object its substance on the grounds of:

- a. Authenticity
- b. Undue bias
- c. Relevance
- d. Reliability
- e. Accuracy

If an opposing party objects to an evidence, a justification on their behalf is also warranted. The objection will be noted by the Registrar and Panel members. This, however, does not necessarily mean that the evidence will be omitted immediately but rather will be taken into consideration by Panel members during the weighing of evidence. Once all the Applicant's evidences have been presented one-by-one, the Court will immediately move to the presentation of evidence from the Respondent's party. The same process will be followed through.

Weighing of Evidence

During the weighing of evidence, the Court will go into a closed session, inclusive only of the Panel members. Judges will evaluate evidence, and objection of evidence, on the following criteria:

- Bias
- Relevance
- Lack of information (Reliability)
- Date of Publication (the more recent the document, often the better; for treaties this is not the case)
- Accuracy Evidence can be weighed as that of low importance.

Note that the presidency has the power to eliminate evidences, if they feel it is not substantial. If a piece of evidence is not admitted/removed, that piece of evidence can no longer be used to support your arguments

Examination of Witness

Witness examination will begin with direct examination, in which the witness will be asked questions by the party he/she was called by. Following this, the Court will immediately move to cross-examinations. During cross-examinations, the witness will first be questioned by members of the opposing party, and then by the Judges (and if need be, the Presidents). A time of 15 minutes will be allocated for the examination of each witness.

No witness will be allowed into court until they are called upon. The order in which the witness will be examined will follow the order of the witness list provided by each party, unless the President states otherwise (e.g. when witness is not able to leave his/her committee at the given moment). Witnesses' examination order will also alternate between parties; the Court's first witness will be of the Applicant's party, the second will be of the Respondent's party, the third of the Applicant, and so on. When a witness is called upon, the President will administer the oath that goes as such:

"I solemnly affirm that the evidence I am about to give shall be the whole truth as best I know it."

Keep in mind that an advocate may interrupt an examination only to make objections on the following grounds:

- a. Audibility
- b. Relevance
- c. Badgering of a witness
- d. Lack of consistency
- e. Asking a leading question

Rebuttals

After the witness examination, a brief recess of 10 minutes will be entertained for advocates to discuss argued points and draft their arguments. Rebuttals are to allow each party to refute, disprove and/or argue points that have been brought up by the opposing party thus far.

There will be 2 rounds of rebuttals. In each round, the Applicant party will present their arguments first, followed by the Respondents. A time of 5 minutes will be allotted for each rebuttal, with a 2-minute recess in between.

Closing Statements

Each team of advocates will then be given 20 minutes to present their closing statement. In the closing statement, each party should re-address points of contentions and rebuttals they have presented throughout the case, and offer a final argument to the Panel members.

Deliberation

After the closing statements are presented, the Court will go into a closed session (inclusive only of the Panel members) once again. During the deliberation, Judges will enter a discussion led by the President in which they will consider all aspects of the case, including arguments from each party, any supporting evidences and solutions to the dispute at hand.

Once the discussion is over, each Judge will announce their decision to the rest of the Panel. The Majority Opinion is the solution with majority vote and is the one that will be proclaimed in the final verdict.

Verdict

At the end, the final verdict will be written out and announced at the ISLMUN closing ceremony. The verdict will outline the Majority Opinion (i.e. what regulations will be passed, and which party has won the case), and should comply to this format:

"The International Court of Justice,

Regarding the case of [subject of dispute] between the [Applicant] and the [Respondent]

We have found the following statements of fact:

[Here, clauses and statements from pieces of evidence will be directly quoted and cited as follows]

Clause [X] of the [Treaty of Y] states: "[Quote clause here]"

Hence, we, the majority opinion judges, find that:

[Here, the Court would state and evaluate the arguments of the advocates in several numbered clauses, stating what arguments they determined valid and what they did not consider valid pertaining to this case]

For these reasons, we believe that:

[Here, the Court will state its conclusion and conditions in several numbered clauses]"

Compiled by Saidatul Zahidah Zairin.

Structure and information from Online MUN ICJ
booklet and <http://www.icj-cij.org/en>, the official
International Court of Justice website