



**ICRC**



**KoGuan School of Law  
Shanghai Jiao Tong University**

# **The 11th Red Cross International Humanitarian Law Moot Court (2017)**

## ***An Inter-University Competition for Mainland China***

### **The Rules**

#### **General Matters**

1. The 11<sup>th</sup> Red Cross International Humanitarian Law Moot Court Competition (2017) (“the Competition”) shall be run under the auspices of the International Committee of the Red Cross (“ICRC”) and the KoGuan School of Law of Shanghai Jiao Tong University (“the Organizers”).
2. The Organizers shall have the power to appoint judges and amend and apply these rules as they think fit.
3. The date for the competition shall be **1–3 December 2017** and the venue of the competition shall be at the campus of Shanghai Jiao Tong University.

#### **Delegations and Teams**

##### *Composition*

4. The Competition shall be open to not more than one team from each participating institution, unless specifically authorized by the Organizers.
5. Each team shall consist of two students as counsels and one coach. Each team may also opt to include one student as a researcher.
6. Each team will represent the Prosecutor and the Defendant respectively during the General Rounds of the Competition. The teams qualified for the Quarter-final Round, the Semi-final Round, the Third Place Playoff and the Final will represent either the Prosecutor or the Defendant.

### *Eligibility*

7. Participating students shall be registered with a higher education institution established in the People's Republic of China as of 1 December 2017 either for a first degree in law or for any postgraduate qualification in law below the level of a doctorate. A person is ineligible to participate in the Competition if, as of 1 December 2017 he or she:
  - i. Registered for a doctoral degree in law, at a participating institution or at any other institution;
  - ii. Holds any doctoral degree in law, regardless of the institution that conferred such doctorate;
  - iii. Holds a full time or part time teaching post in any tertiary institution; or
  - iv. Has been licensed to practice law in any jurisdiction.
8. Participating students need not be nationals of, or normal residents in, the country in which their participating institution is located.

### *Registration*

9. Each participating institution must notify the Organizers via e-mail (to Mr. Jiang Bin, [bjiang@icrc.org](mailto:bjiang@icrc.org)) by **30 September 2017** of:
  - i. The names of the two counsels, the coach and if applicable, the researcher;
  - ii. The law degree or programme in which each student is enrolled (e.g. LL.B.); and
  - iii. The name, address, e-mail address and telephone number of a contact person for the team.

### *Contact Person*

10. The coach of each team shall normally act as the contact person. However, each team may designate the researcher or one of the counsels as its contact person. Each contact person will be sent:
  - i. The individual moot number assigned to its team;
  - ii. Information relating to accommodation and transport in Shanghai; and
  - iii. Any other relevant organizational materials.

The contact person of each team is responsible for distributing the foregoing information and materials to each team member. Communication between each delegation and the Organizers through any person other than the relevant contact person for that delegation is at the risk of that delegation and its team.

### *Substitute members*

11. A team will normally not be permitted to make any substitution of its members after they have been successfully registered under Rule 9.

## **The Moot Problem**

### *Selection*

12. The Organizers shall have the sole power to determine the Moot Problem to be used in the Competition.

#### *Distribution*

13. The Moot Problem is posted on the ICRC Chinese website: <http://www.icrc.org/zh/document/china-national-round-moot-problem-2017>.

#### *Facts*

14. The facts that constitutes the subject matter of the Competition are given in the Moot Problem. No additional facts may be introduced into the Moot Problem unless they are a logical and necessary extension of the given facts.

#### *Clarifications*

15. Requests for clarification shall not be entertained unless the clarification would have material significance in the context of the Moot Problem. In particular, teams should bear in mind that the Moot Problem provides a limited set of facts. Teams should not use a request for clarification merely to obtain additional facts to those contained in the Moot Problem.
16. Before making any request for clarification, counsels must discuss the need to make such a request with the coach or the contact person of their team. Any request for clarification of the Moot Problem shall be brought to the attention of the Organizers via e-mail (to [bjiang@icrc.org](mailto:bjiang@icrc.org)) by **13 October 2017**. A request for clarification must include a brief explanation of the expected material significance of the clarification.
17. The Organizers shall have absolute discretion to determine whether it is necessary to respond to any request for clarification and to resolve such request in the manner as they think fit. If the Organizers deem it necessary to respond to a request for clarification, such clarification shall be distributed to the contact persons of all teams by **18 October 2017** via e-mail. Clarifications thus issued shall become part of the Moot Problem.

## **The Memorials**

#### *Form and Length*

18. Each team shall submit memorials for the Prosecutor and the Defendant.
19. Each memorial shall be typed with 1.5 line-spacing, using “Times New Roman” font in size 12. Each memorial shall not exceed 4000 words in length, including citations. In the event that any team submits a memorial of a length exceeding 4000 words, the Organizers shall deduct marks from that team’s memorial score out of 100 (calculated pursuant to Rule 54) 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.

- 20. Citations must be in footnotes (not endnotes) and should be in an intelligible form.
- 21. Each memorial must have one cover sheet. The cover sheet must have on it only the following information:
  - i. the team's individual moot number which was supplied to the contact person of the team's relevant delegation upon registration (see Rule 10);
  - ii. whether the memorial is for the Prosecutor or the Defendant; and
  - iii. the word count of the memorial.

*Submission of Memorials*

- 22. Each team shall submit an electronic copy of its memorials via e-mail (to [bjiang@icrc.org](mailto:bjiang@icrc.org)) by **11:59 pm, 9 November 2017**, and dispatch 24 hard copies (12 for Prosecutor, 12 for Defendant) of the same memorials via EMS (or a similar express mail service) by **10 November 2017** (dispatch date), to the Organizers at the following address:

Mr. Jiang Bin 6-2 Qijiayuan Diplomatic Compound No. 9 Jianguomenwai Dajie, Beijing China, 100600 Tel: 010 8532 3290-151	北京市朝阳区建国门外大街 9 号齐家 园外交公寓 6-2 姜斌 (收)  邮编: 100600 电话: 85323290 转 151
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- 23. The copies of the memorial which are e-mailed must be in the format of Microsoft Word for Windows (.doc or .docx). No other data format will be accepted without the expressed prior consent of the Organizers. The overall size of the memorials shall not exceed 4 MB.
- 24. The hard copies of the memorials must be identical to the electronic ones. The 24 hard copies of the memorials must be printed double-sided (i.e. reproduced on both sides of the paper), except for the cover sheet prescribed in Rule 21. The hard copies must be securely stapled or bound together so that the stapling or binding will hold throughout the Competition. Memorials should not be held together by rubber bands, lightweight staples, paperclips, pins or other insecure means.
- 25. Unless otherwise agreed in advance and in writing by the Organizers for special reasons, a team will be sanctioned by the deduction of 15 marks from their memorial scores if it does not submit both of its Prosecutor and Defendant memorials by the deadline as specified in Rule 22.

*Revision of Memorials*

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

**Pairing of Opposing Teams and Pleading Option**

*General Rounds*

27. The General Rounds of the Competition consist of two oral rounds. Each team pleads once as Prosecutor and once as Defendant.
28. The Organizers will determine which Prosecutor and Defendant teams will meet each other in the General Rounds of the Competition by means of a random draw conducted after 10 November 2017.
29. After the draw has been conducted, the Organizers shall forward each team's memorial to the judges who will adjudicate that team's oral hearings in the General Rounds of the Competition.
30. By 24 November 2017, each team will receive through e-mail the memorials of its opponent teams in the two General Rounds. The Organizers will announce the complete fixtures as determined under Rule 28 in due course.
31. In the event that a team fails to appear for a scheduled oral hearing, the hearing will proceed *ex parte* 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 Organizers.
  - iii. Once the Organizers have been notified, the court clerk will then call the moot number of 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.

The oral hearing will then proceed as an *ex parte* hearing.

The team that is present in the court room will receive scores pursuant to Rules 53 through 57.

#### *Quarter-final and Semi-final Rounds*

32. Subject to Rule 53 through Rule 58, the eight highest-ranking teams from the General Rounds shall participate in the Quarter-final Round. The Quarter-final Round consists of four pairings of the eight highest-ranking teams from the General Rounds.
33. In the Quarter-final Round, the 1st ranking team from the General Rounds shall plead against the 8th ranking team. The 2nd ranking team shall plead against the 7th ranking team; the 3rd shall plead against the 6th, and the 4th shall plead against the 5th.
34. In the Quarter-final Round, the higher-ranking team from the General Rounds shall have the Pleading Option. Pleading Option means the privilege to choose which side (Prosecutor or Defendant) a team would like to plead.
35. The four winning teams from the Quarter-final Round shall enter the Semi-final Round. The Semi-final Round consists of two pairings of the four winning teams from the Quarter-final Round.

36. In the Semi-final Round, the winning team from the Quarter-final pairing of the 1st ranking team v. 8th ranking team shall plead against the winning team from the Quarter-final pairing of the 4th ranking team v. 5th ranking team, as specified in Rule 33. The winning team from the Quarter-final pairing of the 2nd ranking team v. 7th ranking team shall plead against the winning team from the Quarter-final pairing of the 3rd ranking team v. 6th ranking team.
37. Pleading option for the Semi-final Round shall be decided by tossing a coin. A designated team member of the higher-ranking team from the General Rounds will call the toss, and a person designated by the Organizers will toss the coin. If the team member correctly calls the toss, then his or her team will have the pleading option. If that team member does not correctly call the toss, then the opposing team will have the pleading option.

## **Oral Hearings**

### *Dates of oral hearings*

38. Unless otherwise notified by the Organizers, the first General Round will be held in the **morning of Saturday, 2 December 2017** and the second General Round will be held in the afternoon of the same day. The Organizers will give due notice to the contact persons of the venue of the General Rounds.
39. Unless otherwise notified by the Organizers, the Quarter-final and Semi-final Rounds will be held in the **morning of Sunday, 3 December 2017**. The Organizers will give due notice to the contact persons of the venue of the Quarter-final and Semi-final rounds.
40. Unless otherwise notified by the Organizers, the Third Place Playoff and the Final will be held in the **afternoon of Sunday, 3 December 2017**. The Organizers will give due notice to the contact persons of the venue of the Third Place Playoff and the Final.

### *Rules Applicable to the General Rounds and the Final Rounds*

41. Each team shall consist of a first counsel and a second counsel, as designated by the team or the relevant participating institution in the registration form.
42. Each team shall, in any circumstance, keep confidential the name of the participating institution. Any disclosure may subject the counsel concerned to the deduction of 10 marks from the total individual score out of 100, and in turn affect the team's total score out of 200 in each of the oral hearings, pursuant to Rule 56.
43. Each team shall speak for no more than 40 minutes in an oral hearing. The first counsel and the second counsel of each team shall each speak individually for a minimum of 15 minutes.
44. Each team may reserve up to 10 minutes for rebuttal (in the case of a Prosecutor team) or surrebuttal (in the case of a Defendant team).
45. The scope of the Prosecutor's rebuttal is limited to responding to the Defendant's oral pleadings, and the scope of the Defendant's surrebuttal is limited to responding to the Prosecutor's rebuttal.

46. Each team shall indicate at the beginning of its oral argument, for how long each counsel will speak and how much time it intends to reserve for rebuttal or surrebuttal.
47. Either the first counsel or the second counsel may address the court in rebuttal or surrebuttal. For the avoidance of doubt, the time reserved for rebuttal or surrebuttal is not included in the minimum time for each counsel to speak specified in Rule 43.
48. The court may, in its discretion, extend the time for each counsel for good cause, provided that the maximum extension of time granted to any counsel shall not exceed 5 minutes.
49. Time shall be kept by a court clerk, who will warn the counsels by appropriate means when they have:
  - i. 5 minutes left;
  - ii. 1 minute left;
  - iii. to conclude their pleading forthwith.
50. The order of the oral pleadings shall be:
  - i. Prosecutor's first counsel;
  - ii. Prosecutor's second counsel;
  - iii. Defendant's first counsel;
  - iv. Defendant's second counsel;
  - v. Rebuttal, if any (Prosecutor's first or second counsel);
  - vi. Surrebuttal, if any (Defendant's first or second counsel).
51. Every courtesy shall be given to counsels during oral hearings. Communication at the counsel table shall be in writing to prevent disruption; teams and spectators shall avoid all unnecessary noise or other inappropriate behaviour which may disrupt the ongoing hearing.
52. Team members seated at the counsel table shall not be permitted to communicate with spectators, or with any other external person except the judges. Without limiting the foregoing, with respect to teams that have a researcher, counsels shall not be permitted to communicate with the researcher during the oral hearings. The researcher shall not be permitted to sit with counsels at the counsel table.

### **Scoring for General Rounds**

53. Each team's score for the General Rounds shall consist of two parts: the score of the memorials and the score of the oral presentations.
54. Each memorial shall be assessed by two IHL experts designated by the ICRC. The experts will be supplied with copies of the memorials with the cover sheet as specified in Rule 21. The maximum score for each memorial shall be 100. The score of each memorial shall be the average of the scores out of 100 awarded by the two designated memorial judges.
55. The oral presentations shall be assessed by two or three judges on the panel. The judges in each oral hearing shall be a current or former judge, lawyer, or law

professor, or otherwise experienced in the practice of IHL. In each General Round, the maximum score for each counsel shall be 100 and the maximum score for each team's oral presentation shall be 200. The score of each counsel shall be the average of the scores out of 100 awarded by the judges assessing their oral presentations.

56. The total score for each team in the general rounds shall be 600, consisting of the following parts:
  - i. 100 for Prosecutor memorial;
  - ii. 100 for Defendant memorial;
  - iii. 100 for first counsel when pleading as Prosecutor;
  - iv. 100 for second counsel when pleading as Prosecutor;
  - v. 100 for first counsel when pleading as Defendant;
  - vi. 100 for second counsel when pleading as Defendant.
57. The decision of the judges shall be final.
58. The Organizers shall announce the scores of each team and each counsel after the completion of the General Rounds, by indicating only the team number and without revealing the identity of any team. Copies of individual judges' scoresheets for oral hearings will be available to the respective teams immediately after the announcement of the results of the General Rounds. Teams may raise questions with the Organizers within 15 minutes after the announcement of the scores if any arithmetic error is identified. The Organizers shall check and rectify any errors. If such rectification affects the teams entering the Quarter-final Round, the rectified results will be announced within 15 minutes after verification of the rectification.

### **Finalist Teams**

59. The eight teams with the highest aggregate score out of 600 from the General Rounds shall qualify for the Quarter-final Round.
60. In the event that, after the completion of the General Rounds, any two teams tie in their scores out of 600, the team which will proceed to the Quarter-final Round shall be the team which has the higher average score out of 400 for its oral presentations in the General Rounds. In the further event that both such teams are also tied in their average score out of 400 for oral presentations in the General Rounds, the team which will proceed to the Quarter-final Round shall be the team whose first counsel receives the higher average score out of 200 for his or her oral presentations in the General Rounds.
61. In the Quarter-final Round, Semi-final Round, and the Final, the judges will decide which is the winning team based on their oral presentations without scoring.

### **Third Place Playoff**

62. There shall be a Third Place Playoff. The two teams in the Semi-final Round that do not advance to the Final shall compete against each other for the Third Place Award.
63. Unless otherwise notified by the Organizers, the Round for the Third Place Award shall take place in the **afternoon of 3 December 2017**, before the Final.
64. The judges will decide which is the winning team in the Third Place Playoff without scoring.

## **Assistance**

### *Memorials*

65. All research, writing and editing relating to the memorials must be the work of the two counsels submitting the memorials.

### *Assistance from Staff and Other Advisors*

66. Staff of the participating institutions and other coaches, assistants or advisors should restrict their advice to general matters, such as to a discussion of the issues, suggestions as to research sources, and a general commentary on structure, organization and flow of arguments, format, presentation and style.

## **Awards**

67. Three teams will be sponsored to Hong Kong for the 16th Red Cross IHL Moot (2018) for the Asia-Pacific Region. These three teams will be the two teams in the Final and the winning team in the Third Place Playoff.
68. The winning team of the Final shall be the Winning Team of the Competition. The other team participating in the Final shall be the Runner-up Team.
69. Each top-eight team shall be awarded a certificate.
70. The Best Mooter in the Final shall be decided by judges of the Final and awarded a certificate.
71. The counsel with the highest score out of 200 in the General Rounds shall be adjudged the Best Mooter in General Rounds and awarded a certificate.
72. The counsel with the second highest score out of 200 in the General Rounds shall be adjudged the Runner-up to Best Mooter in General Rounds and awarded a certificate.
73. The Prosecutor's memorial with the highest score out of 100 shall be adjudged the Best Memorial for Prosecution; the Defendant's memorial with the highest score out of 100 shall be adjudged the Best Memorial for Defence. The teams that submitted such memorials shall be respectively awarded a certificate.
74. The Prosecutor's memorial with the second highest score out of 100 shall be adjudged the First Honourable Submission for Prosecution; the Defendant's memorial with the second highest score out of 100 shall be adjudged the First

Honourable Submission for Defence. The teams that submitted such memorials shall be respectively awarded a certificate.

75. The Organizers may in their discretion decide to award alternative prizes in lieu of the prizes described above.

### **Interpretation of Rules**

76. The Organizers shall have absolute discretion to resolve any question concerning the interpretation of these rules.