

# 28TH AFRICAN HUMAN RIGHTS MOOT COURT COMPETITION

## UNIVERSITY OF BOTSWANA

1 – 6 JULY 2019, GABORONE, BOTSWANA

### OFFICIAL RULES

#### 1 GENERAL

Since 1992, the Centre for Human Rights (CHR) at the Faculty of Law of the University of Pretoria organises the African Human Rights Moot Court Competition ("the Moot") in partnership with a host university. Held in a different African country each year, this week-long event has become the largest annual meeting on the African legal calendar and one of the premier events on human rights in Africa. Teams of students argue a hypothetical case before benches of law lecturers and human rights experts as if they were before the real African Court on Human and Peoples' Rights.

##### 1.1 Host

The 28th African Human Rights Moot Court Competition ("the Competition") will be hosted by the University of Botswana (UB) from 1 to 6 July 2019. The administrative authority over the Competition rests with the Steering Committee which is comprised of an equal number of representatives from CHR, UB and whom ever else they wish to co-opt.

##### 1.2 Composition of panels of judges

The judges in the Competition will be panels consisting of representatives of the participating law schools, law faculties or law departments ("the faculty representatives") in the preliminary rounds. These representatives should ideally be human rights law lecturers and in the alternative **must have a legal background**. Additional observers may be added to the number of judges where the Steering Committee deems that the number of judges in a particular court is insufficient.

In the final round, two-thirds (2/3) of the judges will comprise experts in international law and human rights as composed by the steering committee. In order to ensure adequate representation of the different languages in the final round up to two (2) judges will be faculty representatives as selected by the Steering Committee. The Steering Committee can also appoint other similarly qualified individuals as additional judges.

##### 1.3 Official Programme

An official programme for the Competition will be issued by the Steering Committee at the start of the Competition, indicating the time and venue of each session.

##### 1.4 Problem to be argued

A hypothetical case or problem will be posed for argument by the Steering Committee and will be made available to participants in advance.

##### 1.5 Preliminary rounds

There will be preliminary rounds, argued before the faculty representatives, and a final round before the panel of judges mentioned in 1.2

In the preliminary rounds a team will argue the problem four (4) times: twice (2) as applicants and twice (2) as respondents. The preliminary rounds will be conducted separately and simultaneously in English, French and Portuguese.

## 1.6 Determination of opposing teams

Opponent teams in the preliminary rounds will be determined by draw of lots at the start of the competition and announced after the Opening Ceremony on **1 July 2019**. The final number of teams that will compete in the preliminary rounds will be determined at the time of the draw. It is the responsibility of teams to ensure that they arrive in Gaborone on time. **Teams must arrive at least 1 (one) day before registration**. Teams or students who arrive once the preliminary rounds have started may be disqualified.

The top performing teams in each language group competing will be announced after completion of the preliminary rounds.

## 1.7 Final round

**Provided that there are at least thirty (30) Anglophone teams and ten (10) Francophone and three (3) Lusophone teams each participating in the Competition, the three (3) Anglophone, two (2) Francophone and one (1) Lusophone teams** awarded the highest average marks in the preliminary rounds will compete in the final round.

Three (3) teams will be joined to argue the case for the applicant as a new combined team and the other three (3) teams will, as a new combined team, argue the case for the respondent in the final round. One new combined team will be comprised of one (1) Anglophone team, one (1) Francophone team and one (1) Lusophone team; and the other team of (2) Anglophone teams, and one (1) Francophone team. Only three (3) members of each combined team, one (1) from each of the constituent teams, will present arguments during the final round in each language represented. The three (3) teams comprising the combined team with the highest points will be the co-winners of the competition.

Should circumstances so require, the Steering Committee may make amendments to the rules pertaining to the conduct of the final round and specifically to the language composition of the teams.

Lots will be drawn at the beginning of the preliminary rounds to pair the opposing teams during a particular round. Lots will also be drawn to determine the composition of the combined teams in the final round, and who will argue the case for the applicant or respondent.

## 1.8 Moot website

All official documentation on the Moot and other practical information necessary for the teams' preparation ahead of the Competition in Botswana are available from the Moot website: [www.chr.up.ac.za/moot](http://www.chr.up.ac.za/moot)

## 2 SCHOOL ELIGIBILITY

All law schools from the African continent are eligible to participate in the Competition. Each eligible school may enter only one (1) team in the Competition. If the school's curriculum is bilingual (Anglophone / Francophone / Lusophone) the school / faculty may enter one team per language group.

## 3 TEAM MEMBER ELIGIBILITY

### 3.1 Team members must be law students

Only students studying for their **first law degree** are eligible to participate in the Competition. For the purposes of the Competition, the LLB degree, the *Licence en Droit* or the *Licenciatura em Direito* are considered a first law degree. The Steering Committee has the authority to make a ruling on the question whether a particular degree should be considered a first degree. A team member must be a full-time or part-time student at one of the participating institutions during the calendar year of the competition. **The following categories of persons are prohibited from taking part in the Moot: legal practitioners, judicial officers and persons already holding a first degree in law (LLB, *Licence en Droit* or *Licenciatura em Direito*).**

### 3.2 Team members may participate only once

**No team member (student) may participate in the Competition more than once.**

## 4 ASSISTANCE

Assistance rendered to a team in the preparation of its case, including from faculty members, must be limited to a general discussion of issues, suggestions as to research sources and decision-making. Assistance which would interfere with the presentation being substantially the original work of the team members is strictly prohibited.

## 5 TEAM SELECTION

A team will be composed of 2 (two) student members only, preferably of different sexes and/or genders, from a single school. Team members should be chosen by a democratic and transparent method approved by the responsible authority within the school. For the purposes of the Competition, notice to one team member will constitute notice to all team members. The same 2 (two) students who registered at the start must participate throughout the competition. No additional team members are allowed to participate in the Competition.

Due to logistical imperatives and to ensure a level playing field, teams can only be composed of two (2) students and one (1) lecturer.

## 6 MEMORIALS

Each team must prepare memorials (heads of argument or written pleadings) in support of the case of the Applicant as well as the Respondent.

### 6.1 Memorial general format

Each memorial will be composed of the following:

- A standard cover page which must be identical in style and content as Appendix B (template available on the webpage under “Documents”). **The cover page should not carry any mark that identifies the team, such as the name of university or names of team members.**
- The memorial should be composed as follows:
  - A one-page summary, stating the main arguments in brief
  - Arguments, not exceeding 4,000 words including footnotes, if these are used, and cases
  - It is not necessary to include a table of contents, which will, if included in the memorial, form part of the overall 4,000-word count.

Spacing: Double-spaced.  
Form: Typewritten  
Margins: Top: 2cm, Bottom: 2cm, Left: 2cm, Right: 2cm  
Format: **Memorials should be submitted in Microsoft Word, not PDF**  
**Font type: Arial**  
**Font size: 12**

**Failure to meet these requirements may lead to disqualification.**

## **6.2 Submission of memorials**

One (1) copy of the memorials for each side (one for the Applicant and one for the Respondent) should be submitted, to reach the organisers on or before **15 June 2019**. Memorials should be sent as attachments to an email message, to the following address: [yusuf.sayaad@up.ac.za](mailto:yusuf.sayaad@up.ac.za)

**Any team which fails to submit an electronic copy of the memorials to reach the organisers on or before 15 June 2019 deadline may be disqualified.**

Each team is required to submit eight (8) hard copies of **each** memorial **separately** to the organisers when they register in Gaborone **on 1 July 2019**.

The Steering Committee cannot provide computer and photocopying facilities to participants during the Moot Court.

Each team should have a compilation of the materials referred to in its memorials available during oral pleadings.

## **6.4 Memorial marking**

Memorials will be marked by three (3) independent experts in each language group prior to the Competition.

## **6.5 Best memorial**

The teams with the three best memorials in the preliminary rounds, one (1) Anglophone, one (1) Francophone and one (1) Lusophone, based on the points indicated for memorial presentation, will be announced at the end of the Competition during the prize-giving ceremony.

## **6.5 Final round memorials**

During the final round each new combined team must prepare a joint memorial by **17:00 on Thursday 4 July 2019**. Late submission will incur a penalty.

This joint memorial is a two-page summary of all three teams's memorials from the preliminary rounds. Once submitted, it will be translated into English, French, Portuguese by translators hired by the organisers. The combined summary pleadings will be submitted to the judges no less than three hours before the commencement of the final round.

## **6.6 The use of opposing teams' memorials**

As far as the preliminary rounds are concerned, no team will be allowed to view in advance, or otherwise become privy to, the memorials of any other team before these are made available to them at the start of each session. The Steering Committee will make copies of the two separate memorials (used in the preliminary rounds) of the combined teams that qualify for the final round available to their opponents upon announcement of the teams qualifying for the final round. The summary memorial of each combined team will be handed to the opposing combined team and the

final round Judges as soon as possible before the commencement of the final round subject to translation and copying.

## **7 ORAL PLEADINGS**

### **7.1 General procedure**

The order of pleadings will be Applicant team, Respondent team, rebuttal by Applicant team. All team members must act as oralists during the preliminary rounds; only 3 team members will act as oralists during the final round. No team will plead for longer than 30 minutes (including rebuttal) during the preliminary and final rounds. One oralist may not use more than 20 minutes during preliminary rounds, and 10 minutes during the final round. Rebuttal may not exceed 5 minutes. Only the applicant has the opportunity for rebuttal. Time for rebuttal should be reserved in advance.

### **7.2 *Ex parte* proceedings**

Where a team fails to arrive for a scheduled round, the Steering Committee, after waiting for ten minutes, may announce a new team against which the other team will argue, or allow the round to proceed *ex parte*. In an *ex parte* proceeding, the attending team presents its oral pleading, which is scored by the judges. In such a case, the team that fails to arrive for the scheduled round will forfeit all of the round's points. If good cause is shown, and the Steering Committee may arrange for an additional round for the absent team later during the Competition, and if time and administrative concerns permit. The Steering Committee may also, at its discretion, decide that an *ex parte* session will take place where special circumstances, such as translation difficulties, so require.

### **7.3 Scope of pleadings**

The scope of a team's oral pleading is not limited to the scope of its memorial. The scope of the Applicant's rebuttal is limited to the scope of the Respondent's oral pleadings.

### **7.4 Scouting**

No member of a team may attend a preliminary session involving a team if they are scheduled to compete against that team; whether before or after they encounter the team. Teams violating this rule may be disqualified. All rounds will be open to the public. Audio and video taping of oral pleadings is prohibited unless authorised by the Steering Committee and with the permission of the opposing team and the judges.

### **7.5 Oral and written communication**

No oral or written communication may take place between team tables and any spectator during a round.

### **7.6 Absence from the courtroom**

No team member will be allowed to leave the courtroom for the duration of the proceedings of a specific case in which he, she or they are taking part.

### **7.7 Best oralists**

The names of at least the top three oralists in each of the preliminary rounds, based on the points indicated for oral arguments on the score sheets, will be announced at the end of the Competition during the prize-giving ceremony.

## **7.8 Final round**

In the final round, teams will be scored exclusively on their oral pleadings.

## **8 CONFIDENTIALITY OF TEAM IDENTITY**

Each team will be assigned a number at the start of the Competition and will, for the duration of the competition, be identified only by that number, to ensure anonymity. The identity of teams taking part during a specific session will not be divulged to the judges of any round before that session is completed.

## **9 ATTENDANCE OF THE ONE-DAY CONFERENCE ON HUMAN RIGHTS IN AFRICA**

A One-day International Human Rights Conference on the African Human Rights System forms part of the African Human Rights Moot Court Competition. The conference provides participants with a critical understanding of human rights issues across the continent. Attendance at the conference for students is compulsory. Insufficient attendance by any of its members may disqualify a team from participating, or may lead to the imposition of penalties, unless good cause for such absence is shown.

## **10 LANGUAGES**

Teams may present their memorials and oral pleadings in English, French or Portuguese. The preliminary rounds are conducted separately in English, French and Portuguese. Simultaneous translation will be made available in the final round according to the languages used. Other languages may also be accepted at the discretion of the Steering Committee.

All communication from / to the organisers will be conducted in English, French or Portuguese.

## **11 INTERPRETATION OF RULES**

### **11.1 Prior to the Moot Competition**

Prior to the Moot Competition, the rules will be interpreted by the Centre for Human Rights.

### **11.2 During the Competition**

Any dispute that arises during the Competition that concerns the interpretation and application of these rules, or the general administration of the Competition, will be resolved by the Steering Committee. All decisions of the Steering Committee concerning questions of the interpretation and application of rules are final and dispositive.

The Steering Committee, in interpreting the Official Rules, may promulgate such other measures as may be deemed advisable for the orderly conduct of the Competition, provided that these measures do not violate the spirit of these Official Rules.

## **12 CLARIFICATION OF THE PROBLEM**

Participants may submit written requests for clarification of points in the problem which are manifestly unclear and which must be clarified in order for the participants to develop their pleadings.

Requests for clarification must be received by CHR by **30 March 2019**. Clarifications will be made available to all participants by **15 April 2019**. The onus is on each team to establish, before the Competition, whether there has been any such clarification or alteration.

## **13 DISQUALIFICATION AND PENALTIES**

### **13.1 Procedure**

The Steering Committee has the power to disqualify a team on the basis of violations of these rules or the spirit of the competition. It also has the power to impose penalties, in the form of subtractions from the marks awarded, not exceeding 20 points for each violation. Judges may propose disqualification or penalties, but these measures will only take effect once endorsed by the Steering Committee.

When the question of disqualification or penalties arises, the Steering Committee, on its own motion or as a result of a team complaint, must ascertain the facts of the situation in order to determine whether an infraction has occurred. The team initiating the complaint must give timely notice to the Steering Committee and the accused team. If, on its own motion, the Steering Committee investigates a possible violation, it must give timely notice to the accused team. The accused team will be allowed to reply to the complaint(s) made. Where judges intend proposing disqualification or the imposition of penalties, they must inform the teams accordingly and give them time to respond at the end of each particular round.

Complaints pertaining specifically to oral pleadings must be submitted to the Steering Committee **within one hour** of the completion of the round in which the alleged violation occurred. Memorial and oral pleading penalty points will be assessed against the total score given by the judges to the penalised team in the particular session.

### **13.2 Grounds**

The Steering Committee may disqualify or impose a penalty against a team for behaviour which substantially prejudices the Competition, including, but not limited to the following:

- 1) Scouting;
- 2) late submission of prescribed memorials to the Steering Committee, or failure to submit memorials;
- 3) failure to meet memorial length and form requirements;
- 4) communication between counsel table and any person (other than judges) during the oral pleadings;
- 5) engaging in poor sportsmanship;
- 6) submitting petty, frivolous and verbose complaints;
- 7) submitting substantially ill-conceived requests for clarification of the problem;
- 8) revealing the identity of a team to the judges of a session before that session has taken place;
- 9) insufficient attendance of the one-day international human rights conference on human rights in Africa;
- 10) dishonesty or other serious breaches of the spirit of the Competition.

## **14. SCORING**

Scoring must be done in accordance with the following documents:

- Instructions to Judges: Appendix A
- Memorial cover page: Appendix B
- Memorial scoring sheet: Appendix C
- Oral pleadings scoring sheet (preliminary rounds): Appendix D
- Oral pleadings scoring sheet (final round): Appendix E

## **15. CONTACT**

Moot Court Co-ordinator  
Centre for Human Rights  
Faculty of Law  
University of Pretoria  
PRETORIA 0002, South Africa

Tel: +27(12) 420 4841

Email: [yusuf.sayaad@up.ac.za](mailto:yusuf.sayaad@up.ac.za)

[Website: www.chr.up.ac.za/moot](http://www.chr.up.ac.za/moot)