

"WE ARE ALL DIFFERENT - WE ARE ALL EQUAL"

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AFRICAN
HUMAN RIGHTS
MOOT COURT COMPETITION

30

CONCURSO AFRICANO
DE JULGAMENTO FICTÍCIO
SOBRE DIREITOS HUMANOS

2020

Stellenbosch
SOUTH AFRICA
26.07.2021 – 31.07.2021



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
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www.chr.up.ac.za/moot



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Centre for
Human Rights
UNIVERSITY OF PRETORIA

Organised by the
CENTRE FOR HUMAN RIGHTS,
UNIVERSITY OF PRETORIA
in collaboration with
STELLENBOSCH UNIVERSITY

30TH AFRICAN HUMAN RIGHTS MOOT COURT COMPETITION
CO-ORGANISED BY THE CENTRE FOR HUMAN RIGHTS, UNIVERSITY OF
PRETORIA

AND
STELLENBOSCH UNIVERSITY

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.

Due to the ongoing COVID-19 pandemic the organisers of the Moot have adopted a hybrid format for the 30th African Human Rights Moot Court Competition (the Competition) in compliance with Alert Level 3 lockdown regulations in South Africa in force on 1 March 2021.

The first phase, comprising online preliminary rounds, are scheduled to be held between late May and early June 2021. Qualifying teams will then be invited to proceed to the in-person quarter-final, semi-final and final rounds in Stellenbosch.

1.1 Rounds

There will be preliminary rounds, argued virtually (through video conference), quarter-finals, semi-finals round, and a final round.

1.2 Host of the final rounds

The final rounds – quarter-finals, semi-finals and the final - of the Competition will be held in Stellenbosch, South Africa, and hosted by **Stellenbosch University from 26 to 31 July 2021**.

1.3 Steering Committee

The administrative authority over the Competition rests with the Steering Committee, which is comprised of an equal number of representatives from Centre for Human Rights and Stellenbosch University, and whomever else they wish to co-opt.

1.4 Composition of panels of judges

The judges in the preliminary (virtual) rounds of the Competition are panels consisting of legal practitioners and academics who will be selected by the Steering Committee.

In the quarter-finals and semi-final rounds, judges are human rights experts from different jurisdictions as composed by the Steering Committee.

In the final round, the judges are recognised experts in international law and human rights, including judges of international tribunals, as composed by the Steering Committee.

1.5 Official programmes

The Steering Committee will issue two official programmes, one indicating the dates and time of the preliminary rounds, and one indicating the time and venue of the quarter finals, semi-finals and final round of the Competition.

1.6 Problem to be argued

The hypothetical case (the problem) to be argued is available to all participants on the CHR website: <https://www.chr.up.ac.za/african-moot-documents>

1.7 Arrival and designation of team number

It is the responsibility of teams qualified for the quarter-finals to arrive in Stellenbosch on time. **Teams must arrive at least one day before registration.** Teams or students who arrive once the quarterfinals have started may be disqualified.

Upon registration Stellenbosch on **26 July 2021**, each registered team will be designated a number, which each team should use throughout the competition to identify itself.

1.8 Preliminary rounds

Opponent teams in the preliminary rounds are determined randomly. The final number of teams that will compete in the preliminary rounds will be determined at the time of this determination.

In the preliminary rounds, a team argues the problem two times: once as applicants and once as respondents. The preliminary rounds are conducted separately in English, French and Portuguese.

The top performing teams in each language group competing are announced after completion of the preliminary rounds and posted on the Moot web page.

1.9 Quarter finals

Quarter-final rounds will be held for Anglophone and Francophone teams. (For Lusophone teams, only a semi-final round is held.)

Provided that there are at least 16 Anglophone teams and 8 Francophone teams participating in the virtual preliminary rounds, the 8 Anglophone and 4 Francophone teams awarded the highest average marks in the preliminary rounds will compete in the quarter-final to determine the 4 Anglophone and 2 Francophone teams that will advance to the semi-final round.

The 8 teams in the Anglophone and 4 teams in the Francophone teams with the highest scores during the preliminary rounds in the English and French preliminary rounds automatically advance to the quarter-final rounds.

Lots are drawn before the quarter-final rounds to determine how teams appear against each other, and which team appears for which side of the argument during a particular round. The quarter-final rounds will be conducted separately in English and French. Should less than 8 but more than 4 Francophone teams participate in the preliminary virtual rounds, no Francophone quarter-finals will be held. The top 2 teams from the Francophone preliminary rounds will in that event proceed to the semi-final rounds. Should circumstances so require, the Steering Committee may make amendments to the rules pertaining to the conduct of the quarter-final rounds and specifically to the language composition of the teams.

1.10 Semi-final round

The teams awarded the highest average marks in the **quarter final** rounds will compete in the semi-final to determine the teams that will advance to the final round. Two Anglophone semi-final rounds, one Francophone and one Lusophone semi-final round is held.

For the Lusophone teams, the teams with the highest scores in the preliminary rounds advance to the semi-final round.

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

Lots will be drawn to pair the opposing teams during the semi-final round, and to determine who will argue the case for the applicant or respondent.

1.11 Final round

The winners of the 2 Anglophone, 1 Francophone and 1 Lusophone semi-final rounds advance to the final round. Two teams are joined to argue the case for the applicant as a new combined team and the other two teams, as a new combined team, argue the case for the respondent in the final round. One new combined team will be comprised of one Anglophone team and one Francophone team; and the other team of one Anglophone team and one Lusophone team. Only three members of each combined team will present arguments during the final round. 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 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.

1.12 Moot website

All official documentation on the Moot and other practical information necessary for the teams' preparation are available from the Moot website: 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 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 A team member may participate in the Competition only 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 two student members only, preferably of different sexes and/or genders, from a single school. Team members should be chosen through 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 two students who registered at the start must participate throughout the Competition. No additional team members are allowed to participate in the Competition after the virtual rounds have started.

6. MEMORIALS

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

6.1 Memorial general format

Each memorial must 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 the university or names of team members.**
- The memorial should be composed as follows:
 - A one-page summary, stating the main arguments in brief

- Arguments
- Prayers

Memorial should not exceed 5000 words including footnotes, if these are used. It is not necessary to include a table of contents, which will, if included in the memorial, form part of the overall 5000-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 **10 May 2021**. Memorials should be sent as attachments to an email message, to the following address: yusuf.sayaad@up.ac.za

Any team which fails to submit an electronic copy of the memorials to reach the organisers on or before the 10 May 2021 deadline may be disqualified.

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

6.3 Memorial marking

Memorials will be marked by independent experts in each language group prior to the start of the preliminary rounds (virtual rounds) of the Competition.

6.4 Best memorial

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

6.5 Final round memorials

During the final round each new combined team must prepare a joint memorial, to be submitted by **13:00 on Friday 30 July 2021**.

This joint memorial is a two-page summary of all two teams' 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 start of the final round.

6.6 The use of opposing teams' memorials

As far as the preliminary rounds, quarterfinal and semi-final 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 24 hours before 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 start 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, quarter-finals and semi-finals; 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, quarter-final and semi-final rounds, and 45 minutes in the final round. One oralist may not use more than 20 minutes during preliminary rounds, quarter-finals and the semi-finals, and 15 minutes during the final round.** Rebuttal may not exceed 5 minutes. Only one member of the team appearing as applicant has the opportunity for rebuttal. Time for rebuttal must be reserved in advance.

7.2 Ex parte proceedings

Where a team fails to arrive or appear 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, 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 or technical 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 Oral and written communication

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

7.5 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, except in cases of force majeure.

7.6 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.

7.7 Preliminary rounds

In the preliminary rounds, teams will be scored based on both their oral pleadings (35% of the team's total mark is allocated for each oralist's oral pleadings) and on their written memorials (which counts 30% of the team's total mark).

7.8 Quarter final, semi-final, and final round

In the Quarter final, semi-final and 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. LANGUAGES

Teams may present their memorials and oral pleadings in English, French or Portuguese. The preliminary rounds, quarter-finals and semi-finals 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 or to the organisers will be conducted in English, French or Portuguese.

10. INTERPRETATION OF RULES

10.1 Prior to the Moot Competition

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

10.2 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.

11. 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 Centre for Human Rights by **30 April 2021**. Clarifications will be made available to all participants by **15 May 2021**. The onus is on each team to establish, before the Competition, whether there has been any such clarification or alteration.

12. DISQUALIFICATION AND PENALTIES

12.1 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.

12.2 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) late submission of prescribed memorials to the Steering Committee, or failure to submit memorials;
- 2) failure to meet memorial length and form requirements;
- 3) communication between counsel table and any person (other than judges) during the oral pleadings;
- 4) engaging in poor sportsmanship;
- 5) submitting petty, frivolous and verbose complaints;
- 6) submitting substantially ill-conceived requests for clarification of the problem;
- 7) revealing the identity of a team to the judges of a session before that session has taken

place;

- 8) insufficient attendance of the one-day international human rights conference on human rights in Africa;
- 9) dishonesty or other serious breaches of the spirit of the Competition.

13. 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 (quarter-final and semi-final round) Appendix E
- Oral pleadings scoring sheet (final round): Appendix F

14. CONTACT

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