



ICRC

## The 12<sup>th</sup> International Humanitarian Law Moot (2021) An Inter-University Competition for Taiwan

*Co-organized by the Red Cross Society of the Republic of China and  
the International Committee of the Red Cross (ICRC)*

### The Rules

General	Rules 1-2
Participating Teams	Rules 3-5
The Mooting Problem	Rule 6
The Memorials	Rule 7
Oral Hearings	Rules 8-15
Assistance	Rule 16
Judging and Scoring	Rules 17-20
Awards	Rule 21
Interpretation and Application of Rules	Rule 22

#### General

1. The 12<sup>th</sup> International Humanitarian Law Moot (2021) (the “Competition”) shall be run under the auspices of an Organizing Committee, comprising representatives from the Red Cross Society of the Republic of China (TRC) and the International Committee of the Red Cross (ICRC), which shall have the power to:
  - i. plan and organize the Competition;
  - ii. set Rules for the Moot, which interpretation should exclusively rest with the Organizing Committee;
  - iii. decide the criteria of participating teams and invite such teams to join the Competition;
  - iv. invite and appoint writer(s) of Moot problems, judges and other persons who can assist in the Competition;
  - v. delegate all or any of its power to a Secretary to administer the Competition.
  
- 2a. In light of the recent pandemic of the COVID-19, the Organizing Committee decides to conduct the 2021 edition of the IHL Moot Court Competition for Taiwan (IHL Moot) through **submission of memorials** and with **virtual oral hearings**. The date for the virtual oral hearings competition shall be 20<sup>th</sup> – 21<sup>st</sup> November 2021.
  - i. 20<sup>th</sup> November 2021 – General Rounds I & II
  - ii. 21<sup>st</sup> November 2021 – General Rounds III & Final Round

- 2b. Unless otherwise notified by the Secretary, the Secretary will convene an **online briefing meeting**, which all teams must attend (restricted to all participating students, local and overseas alike), two weeks before the oral hearings. At the meeting, the Secretary will provide a briefing to all participating teams.

## **Participating Teams**

### *Composition*

- 3a. The Competition shall be open to not more than one team from each participating institution.
- 3b. Each team shall have two students as mooters. Each participating institution may also opt to include one student as a researcher (the “Researcher”).

### *Eligibility*

- 4a. The total number and eligibility of teams to participate in the Competition shall be decided by the Organizing Committee. The Organizing Committee, at its own discretion, may invite or consider additional nominations.
- 4b. A person may register as a member of a team if he or she is a registered student of the relevant participating institution as of 1<sup>st</sup> September 2021, either for a first degree in law, including Juris Doctor (JD), or for any university degree below the level of a doctorate.
- 4c. A person is ineligible to participate in the Competition if he or she, as of 1<sup>st</sup> September 2021:
- i. holds or has held a full time or part time teaching post in law at any tertiary institution
  - ii. has been admitted or licensed to practice law in any jurisdiction.
  - iii. has already participated twice in previous years, regardless of acting as a mooter or a researcher. Participating students must make a declaration when registering for the Competition that they have not participated twice in previous years whether as a mooter or as a researcher.
- Any false declaration could lead to disqualification of the entire team concerned.
- 4d. Participating students need not be nationals of, or normally resident in, the country in which their participating institution is located.
- 4e. The Organizing Committee shall have discretion to:
- i. grant exemption for specific requirement(s) relating to the eligibility pursuant to Rule 4a-d should the Organizing Committee in its view consider such requirement(s) being not applicable/practical in the competition,
  - ii. determine the eligibility of participating students in case of disputable circumstances, and

- iii. invite an institution from Taiwan to send a team after the registration deadline (Rule 5a) in case of withdrawal of a registered team or in the event that an odd number of teams register for the Competition. The deadlines for the request of clarifications and submission of the memorials shall be adapted according to the circumstances.

### *Registration*

- 5a. Each participating institution must register with the Organizing Committee (sandy226@redcross.org.tw) via e-mail on or before **17:00 (Taiwan Time UTC+8), 7<sup>th</sup> October 2021**, indicating:
  - i. The full names of the two mooters and the researcher, if any; (The certificates of participation will show the names of the mooters and researcher **exactly** as they have been submitted.)
  - ii. The law degree or program in which each mooter and the researcher, if any, is enrolled (e.g. LL.B.);
  - iii. The number of times the mooters and the researcher, if any, have participated in the Competition before;
  - iv. The team coach, if any; and
  - v. The name, address (with postal code), e-mail address, and phone number of a contact person.

### *Team Coach*

- 5b. Team coaches should be a law teacher or a legal practitioner. The team coach of individual team, if any, should be responsible to verify the declaration made by its participating students (refer to Rule 4c).
- 5c. To expand the pool of judges and to share their expertise, team coaches may be exceptionally invited to participate as judges of General Rounds of the Competition. Team coaches may be invited to provide a brief curriculum vitae detailing their academic attainments for the consideration and approval by the Organizing Committee.
- 5d. Appointed team coaches shall uphold the principles of fairness and confidentiality in exercising their role as judges, so that no participating team will be preferentially or unfairly treated.

### *Contact Person*

- 5e. Each contact person for a participating institution will be sent:
  - i. The individual moot number assigned to each of its team;
  - ii. Memorials of opposing teams to be met in General Rounds (refer to Rule 8b) to each member of its team.
  - iii. Information relating to virtual competition, not limited to login info, online registration info, and etc.;
  - iv. Scoring results of the competition; and
  - v. Any other relevant material.
- 5f. The contact person for each participating institution is responsible for:
  - i. Distributing the information and material (refer to Rule 5e) to each member of its team;

- ii. Conveying enquiries or other correspondence for that team to the Secretary;
- iii. Verifying the declaration of participating students in absence of team coach (refer to Rule 4c).

Communication between each team and the Secretary through any person other than the relevant contact person for that team is at the risk of the team.

#### *Substitute members*

- 5g. A team will normally not be permitted to make any substitution of its mooters and researcher after they have been registered under Rule 5a.
- 5h. In exceptional circumstances and with the express prior approval of the Secretary, a team may for the oral hearings substitute a student registered as its mooter with the student registered as its researcher. Any other substitution of registered members of a team shall be permitted only in extraordinary circumstances and with the express prior approval of the Secretary.
- 5i. The eligibility of substitute members will be the same as other participating students pursuant to Rule 4.

### **The Mooting Problem**

#### *Selection*

- 6a. The Organizing Committee shall have the sole power to determine the mooted problem to be used in the Competition pursuant to Rule 1.

#### *Distribution*

- 6b. The mooted problem will be distributed on 10<sup>th</sup> August 2021, unless otherwise updated by the Secretary on the TRC website at the following URL: <https://www.redcross.org.tw/english/home.jsp?pageno=201402140002&acttype=view&dataserno=202108100002>

#### *Clarifications*

- 6c. Requests for clarification shall not be entertained unless the clarification would have material significance in the context of the mooted problem. In particular, teams should bear in mind that the mooted problem provides a limited set of facts. Teams should not use a request for clarification merely for convenience to obtain additional facts to those contained in the mooted problem.
- 6d. Before making any request for clarification, a team must discuss the necessity for making such a request with the team coach or the contact person for their team. Any request for clarification of the mooted problem shall be brought to the attention of the Secretary via e-mail (sandy226@redcross.org.tw) on or before 17:00 (Taiwan Time UTC+8), 13<sup>th</sup> October 2021. A request for clarification, if any, must include a brief explanation of the expected material significance pursuant to Rule 6c.

- 6e. The Organizing Committee shall have absolute discretion to determine whether it is necessary to respond to any request for clarification and to resolve such request in a manner in which it thinks fit. If the Organizing Committee deems it necessary to respond to a request for clarification, such clarification shall be distributed to all teams by 20<sup>th</sup> October 2021 using the same method for distribution as used for distribution of the moot problem. Clarifications issued become part of the moot problem.

#### *Receipt of Problem and Clarifications*

- 6f. Any team that is unable to receive the moot problem or any clarification in the manner distributed should notify the Secretary immediately via e-mail to arrange an alternative method of distribution.

### **The Memorials**

#### *Form and Length*

- 7a. Each team shall submit two memorials for the Prosecutor and the Defendant respectively.
- 7b. Each memorial (including body of the text, citations and footnotes) shall be typed with 1 ½ line-spacing, using 'Times New Roman' font in size 12. Citations must be in the body of the text or in footnotes (not endnotes) and using a proper legal citation standard.
- 7c. Each memorial must have one cover sheet. The cover sheet must have: (a) the team's individual moot number which was supplied to the contact person of the team (see Rule 5e), (b) whether the memorial is for the Prosecutor or the Defendant (The purpose of this requirement is to protect the anonymity of the teams to ensure no prejudice or bias is shown in the assessment of the memorials), and (c) the word count of the memorial.
- 7d. Each memorial (excluding cover sheets) shall **not exceed 2000 words in length in total**, including titles and subtitles, citations, footnotes, endnotes, sources, etc. Omitting space between individual words to circumvent the word limit would be subject to mark deduction at the discretion of the Secretary. In the event that any team submits a memorial exceeding 2000 words, the Secretary shall deduct marks from that team's memorial score out of 100 (calculated pursuant to Rule 7j) 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.

#### *Submission of Memorials*

- 7e. Each team shall submit both of its Prosecutor and Defendant memorials in electronic form in two formats (both Microsoft Word for Windows (.doc or .docx) and pdf and **should be identical via a single e-mail** (sandy226@redcross.org.tw) by **17:00 (Taiwan Time UTC+8), 28<sup>th</sup> October 2021**. No other data format will be accepted without the express prior consent of the Secretary. Submission of hard copy is not required.
- 7f. The memorial as submitted via electronic copy should also add the page number starting on the second page of the memorial (eg. P.1/32; P.2/32). Sample of the submission format will be uploaded at the TRC website (mentioned in Rule 6b) for reference.
- 7g. In the event that any team fails to submit both of its Prosecutor and Defendant memorials on time (pursuant to Rule 7e), the Secretary shall deduct 5 marks for each calendar day from each of the team's memorial score out of 100 (calculated pursuant to Rule 7j).

#### *Revision and Scoring of Memorials*

- 7h. A memorial may not be revised for any purpose whatsoever once it has been submitted.
- 7i. Each memorial shall be assessed by no less than two judges, at least one of whom is a current or former judge, lawyer, or law teacher, or otherwise experienced in the field of international law. The judges will be supplied with copies of the memorials with cover sheets showing only the teams' individual moot number and word count.
- 7j. The maximum score for each memorial shall be 100 points, which shall be the average of the scores awarded by the judges assessing their memorials. When the scores given by two judges on one memorial have a disparity of 15 points or more, the memorial will be sent to the third judge for scoring. Among the two original scores, the one closer to the third score will be taken as the registered one.
- 7k. The score of the memorial will not be included when calculating the score of the General Rounds and will be announced only after the General Rounds. Appeal will only be entertained on deduction of marks, and result of the appeal will only affect the Best Memorial Award.

#### **Oral Hearings (Virtual)**

##### *Virtual Oral hearings.*

- 8 The oral hearings will be held remotely and NOT as hearings in-person. The oral hearings will be held in form of a virtual hearings by use of a virtual platform. Details of the online login, logistics, technical guidelines and regulations specify for the virtual hearing will be announced at a date prior to the hearings. The same procedure for the conduct of in-person hearings will apply to virtual hearings. The Organizing Committee is responsible of the logistical organization and technical preparation of hearings by video link. The participating teams, however, are

expected to cooperate with the Organizing Committee for the successful conduct of the virtual hearing. The Secretary will distribute the *Guidance for Virtual Oral Hearings* to all teams using the same method for distribution as used for distribution of the moot problem. A tentative version of the document will be distributed on 10<sup>th</sup> August 2021, and a final version will be updated two weeks before the oral hearings.

### *General Rounds*

- 8a. The General Rounds consist of three oral rounds. The Organizing Committee shall decide and announce which Prosecutor and Defendant teams will meet each other in the three general rounds on or before 9<sup>th</sup> November 2021. The roles (Prosecutor or Defendant) for all teams in the General Rounds shall also be determined by the Organizing Committee.
- 8b. For the first two General Rounds, the Secretary will distribute to the respective contact persons electronic copies of memorials of the opposing teams, pursuant to Rule 5e, on 9<sup>th</sup> November 2021. For the third General Round, memorials of the opposing team shall be distributed after the second General Round on 20<sup>th</sup> November 2021. The teams should prepare their own materials, including the memorials of the opposing team for the General Rounds, to be used in the court room, if needed. The Secretary shall forward each team's memorial to the judges who will adjudicate that team's oral hearings in the General Rounds.
- 8c. The Organizing Committee will assign a moot number to each of the participating team by means of a random draw. The Secretary will email the moot number to the contact persons of participating institutions on or before 12<sup>th</sup> October 2021.
- 8d. Any team that is unable to receive the memorials of its opposing teams should check with their respective contact person first, while the contact person should notify the Secretary in a reasonable time to arrange an alternative method of distribution.

### *Final Round*

- 8e. The two teams with the highest average scores in the General Rounds (calculation pursuant to Rule 17d) shall enter the Final Round. The Organizing Committee will determine the role to be played by the two teams (Prosecutor or Defendant) by means of a random draw.
- 8f. The roles of the competing teams in the Final Round shall be exchanged if the qualifying teams have already assumed the same roles against the same team during the General Rounds.

### *Proceedings before the court*

- 9a. Each team shall consist of a first mooter and a second mooter, as designated by the team or the relevant participating institution.
- 9b. The pleading order of the two mooters for each team shall be consistent throughout the Competition, regardless of the team pleads as Prosecutor or

Defendant.

- 10a. In the event that a team fails to appear for a scheduled oral hearing, the round of the Competition in concern will proceed as an *ex parte* hearing 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 Secretary.
  - iii. 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.
  - iv. In a General Round, the oral hearing will then proceed as an *ex parte* hearing. The team appearing will receive the score pursuant to Rule 17d.
- 10b. In the event that only one mooter appears for a scheduled oral hearing, or one mooter withdraws in the midst of the oral hearing, the court clerk will notify the Secretary. Once the Secretary has been notified, the court clerk will announce the start or continuation of the oral hearing. The oral hearing will proceed as follows:
- i. The single mooter shall speak in the oral hearing in the order pursuant to Rule 13 and receive an individual score from the judges pursuant to Rule 17d. The mooter's score shall be computed for the purpose of determining the Best Mooter award pursuant to Rule 21c.
  - ii. There shall be no rebuttal or surrebuttal.
  - iii. In the General Rounds, the team with only one mooter will forfeit all scores as a team for that round of the Competition. The opposing team with both mooters present will be heard and scored as provided in the rules.
11. Each team member shall refrain from disclosing the name of his or her institution at all times until the announcement of the final results of the Competition. Team members or any person associated with a team shall also refrain from disclosing the name of his or her institution to any person acting as a judge whether during or outside the hearings until the announcement of the final results of the Competition. Disclosure may subject the mooters concerned to a deduction mark of 5 points from the mooter's individual score. The deductions shall also affect the team's overall score.
- 12a. Each team shall speak for no more than 40 minutes. The first mooter and the second mooter for each team shall each speak individually for a minimum of 15 minutes.
- 12b. 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).
- 12c. The scope of the Prosecutor's rebuttal is limited to responding to the Defendant's oral hearings, and the scope of the Defendant's surrebuttal is limited to responding to the Prosecutor's rebuttal.
- 12d. Each team shall indicate at the beginning of its oral argument how long each mooter will speak and how much time it intends to reserve for rebuttal or

surrebuttal.

- 12e. Either the first mooter or the second mooter 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 mooter to speak as specified in Rule 12a.
- 12f. The court may, in its discretion, extend the time for each mooter for good cause, provided that the maximum extension of time granted to any mooter shall not exceed 5 minutes. In the Final Round, the maximum extension of time granted to any mooter is at the discretion of the Court.
- 12g. Time shall be kept by a court clerk, who will indicate to each mooter by displaying a sign when they have:
  - i. 5 minutes left;
  - ii. 1 minute left;
  - iii. to conclude their address forthwith.
13. The order of the oral hearings shall be:
  - i. Prosecutor's first mooter;
  - ii. Prosecutor's second mooter;
  - iii. Defendant's first mooter;
  - iv. Defendant's second mooter;
  - v. Rebuttal, if any (Prosecutor's first or second mooter);
  - vi. Surrebuttal, if any (Defendant's first or second mooter).
- 14a. All oral hearings are open to the public. The presence of team coaches or other spectators affiliated with a team is permitted in a courtroom during an oral hearing in which that team is competing.
- 14b. Every courtesy shall be given to mooters during oral hearings. Communication between team's members shall be in writing to prevent disruption, and teams and spectators shall avoid all unnecessary noise or other inappropriate behavior which distracts from the argument in progress.
- 14c. Mooters seated at the counsel table (in this case, once enter to the virtual court room) 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, mooters shall not be permitted to communicate with the researcher during the oral hearings. Mooters shall not leave the counsel table once the oral hearing has started. If a mooter has to leave the counsel table for any reason, the mooter concerned will be considered to have withdrawn from that round of the competition, and the oral hearing will proceed pursuant to Rule 10b.
- 14d. Team members or persons directly associated with any team may only attend the General Rounds in which their team is competing.

- 14e. Scouting is prohibited. Persons directly associated with any team shall not attend or record an oral hearing involving one or more teams against which their team may compete in the subsequent rounds.
15. Violation of Rules 14d-e should be brought to the attention of the Secretary immediately, without disturbing the oral hearing, or immediately after the oral hearing is finished. The team concerned may be subject to a mark deduction at the discretion of the Organizing Committee.

## **Assistance**

### *Memorials*

- 16a. All research, writing and editing relating to the memorials must be work of the team members registered pursuant to Rule 5a.

### *Assistance from Staff and Other Advisors*

- 16b. Staff of the participating institutions and 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.

## **Judging and Scoring**

- 17a. In the General Rounds, scoring will be based on oral hearings.
- 17b. The oral hearings shall be assessed by at least two judges and preferably three judges in each oral hearing of the General Rounds and by at least three judges in the oral hearings of the Final Round. At least one judge in each oral hearing of the General Rounds and at least two judges in the oral hearing of the Final Round shall be a current or former judge, lawyer, or law teacher, or otherwise experienced in the field of international law. In case the number of judges cannot be consistent across all oral hearings of a particular round, due to unexpected absence of judges and no substitute can be identified, the assessment of oral presentation for competing teams will be subject to available judges who present at the oral hearing.
- 17c. In each General Round, the maximum score for each mooter shall be 100 points and the maximum score for each team's oral hearing shall be 200 points. The score for each mooter shall be the average of the scores (out of 100 points) awarded by the judges assessing their oral presentations. The maximum score for each team shall be 200 points in each General Round, consisting of the following parts:
  - i. 100 for first mooter when pleading as Prosecutor / Defendant;
  - ii. 100 for second mooter when pleading as Prosecutor / Defendant.The decision of the judges or the court shall be final.
- 17d. The two teams with the highest aggregate score out of 600 (Memorial score + two highest average oral scores from the three General Rounds for each of the two counsels; its breakdown shown below) shall qualify for the Final Round. In

the further event that such teams are also tied in their aggregate score in the General Rounds, the team whose first counsel has the highest average oral score shall enter the Final Round. If a tie persists, the representative of the Organizing Committee shall discuss with the respective judges and the decision after discussion shall be final.

- i. 100 for Prosecutor average memorial score;
  - ii. 100 for Defendant average memorial score;
  - iii. 100 for the highest average oral score of the first mooter;
  - iv. 100 for the highest average oral score of the second mooter;
  - v. 100 for the second highest average oral score of the first mooter;
  - vi. 100 for the second highest average oral score of the second mooter.
18. The Organizing Committee shall reveal the scores of the memorials and the three General Rounds to participating teams via email after the completion of the General Rounds, by indicating only the team number and without revealing the identity of any team. Teams may appeal to the Secretary through their team coach or first counsel (if the team coach is absent) within 15 minutes after the announcement of the score if any arithmetic error is identified. The Secretary shall check and rectify any errors. If such rectification affects the teams entering the Final Round, the rectified results will be announced within 15 minutes after verification of the rectification.
19. Any appeal other than arithmetic error or exceeding 15 minutes after the announcement of the results shall not be handled.
20. In the Final Round, the court will decide which is the winning team based on their oral presentation without scoring.

## **Awards**

- 21a. The winning team of the Final Round shall be awarded a certificate and a trophy. The team shall be sponsored to participate in the 20<sup>th</sup> Red Cross International Humanitarian Law Moot (2022) for Asia-Pacific Region (the “2022 AP IHL Moot”).
- 21b. The runner-up team shall be awarded a certificate. In case the winning team is unable to participate in the 2022 AP IHL Moot for any reason, the runner-up team shall be sponsored to participate in the 2022 AP IHL Moot.
- 21c. The mooter with the highest average oral score in the oral hearings of the three general rounds shall be pronounced the Best Mooter and shall be awarded a certificate.
- 21d. The mooters with the second and third highest average oral score in the oral hearings of the three general rounds shall be pronounced the Outstanding Mooter and shall each be awarded a certificate.
- 21e. The memorial with the highest average score shall be named Best Memorial, and the team that submitted said memorial shall be awarded a certificate.
- 21f. The memorial with the second highest average scores shall be named the Outstanding Memorial and shall be awarded a certificate.

- 21g Electronic copies of Certificates for participants will be sent to the contact person via email after the Competition. The certificates will show the name of the mooters and researcher exactly as they have been submitted and will send to the postal address given on the registration form.
- 21h. The Organizing Committee may in its discretion decide to award alternative prizes in lieu of the prizes described above.

### **Interpretation and Application of Rules**

- 22a. The Organizing Committee shall have absolute discretion to resolve any issue concerning the interpretation and application of these rules.
- 22b. All rules are subject to change in line with the development of COVID-19 and out of public health concerns.