



22nd Henry Dunant Memorial Moot Court Competition (National Round) 2023

Jointly organized
by
The Indian Society of International Law (ISIL) and International
Committee of the Red Cross (ICRC), New Delhi
21-24 September 2023

The Indian Society of International Law
V.K.Krishna Menon Bhawan
9, Bhagwan Dass Road,
New Delhi- 110001,

Tel: +91-11-23384458/59
Fax: +91-11-23383783
E-mail: info.isil@gmail.com
Website: www.isil-aca.org

REGISTRATION FORM

University/Colleges Name : _____
(In Capital Letters)

Postal Address : _____

Tele / Mobile No. : _____

E-mail : _____

Signature of the Head/Principal/Moot Court Co-ordinator

*There is no registration fee for the Competition.

* Registration form can be send either by postal or email on the above mentioned address.

The Prosecutor V Cosmo Mosco

Before the International Criminal Court at The Hague



Situation in the Peace Sea
Prosecutor v. Cosmo Mosco

Instructions

1. *Proceedings*: The hearing takes place in the jurisdiction of the International Criminal Court ('ICC') at the "confirmation of charges" stage pursuant to Article 61 of the 1998 Rome Statute of the ICC ('Rome Statute'). At this stage, the Prosecutor must "support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged." The Accused may "object to the charges" and "challenge the evidence presented by the Prosecutor".

2. *Facts and evidence*: The case is entirely fictional. The Statement of Agreed Facts includes all the facts supported by evidence that have been transmitted to the Defence, as well as facts and evidence presented by the Defence. Teams should confine themselves to the facts supplied. Neither the Prosecutor nor the Defence may introduce new evidence or facts at the hearing (Article 61(6)(c) of the Rome Statute is not applicable). Teams may nonetheless draw reasonable inferences from the facts. They may also question the credibility or weight of the evidence.

3. *Procedure*: The problem is not intended to raise questions of procedure other than the rights of the accused pursuant to Articles 66 and 67 of the Rome Statute. Any other procedural questions should be ignored.

4. *Jurisdiction and admissibility*: Counsel may, if relevant, address issues of conflict classification or gravity. Any other issues of jurisdiction and admissibility should be ignored.

5. *Applicable law*: In accordance with Article 21 of the Rome Statute:

1. *The Court shall apply:*

(a) *In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;*

(b) *In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;*

(c) *Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.*

2. *The Court may apply principles and rules of law as interpreted in its previous decisions.*

6. Teams are encouraged to look at the case law of international and national courts. If teams rely on decisions of national courts, these should be leading decisions and teams should expect to be asked for copies of the headnote and the portion of the transcript or judgment referred to in their argument.

7. *Participation to treaties*: at all material times, the treaties listed in Annex I were in force for the Republic of Canciferous and the Kingdom of Monstera.

Indicative Authorities and Research Material

International Criminal Court

- a) Rome Statute of the International Criminal Court (1998): [http://legal.un.org/icc/statute/english/rome_statute\(e\).pdf](http://legal.un.org/icc/statute/english/rome_statute(e).pdf)
- b) Elements of Crimes under the Rome Statute: <https://www.icc-cpi.int/Publications/Elements-of-Crimes.pdf>

Basic IHL Documents

- a) IHL Treaties: <https://ihl-databases.icrc.org/ihl>
- b) Customary IHL: <https://ihl-databases.icrc.org/customary-ihl/>
- c) ICRC Commentaries to the Geneva Conventions and their Additional Protocols: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>

Cases

- a) International Criminal Tribunal for the Former Yugoslavia: <http://www.icty.org/en/cases/judgement-list>
- b) International Criminal Tribunal for Rwanda: <http://unictr.unmict.org/en/cases>
- c) International Criminal Court: <https://www.icc-cpi.int/cases>
- d) International Court of Justice: <https://www.icj-cij.org/en/decisions>

Statement of Agreed Facts

1. The Republic of Canciferous ('Canciferous') and the Kingdom of Monstera ('Monstera') are separated by the Peace Sea (see **regional map, Annex II**). The Democratic Republic of Loria ('DRL') is nestled between Monstera to its east and Chiobar to the west. Ru Ru Island ('Ru Ru') is one of 5 islands lying approximately 160 nautical miles (nm) south of Chiobar, DRL and Monstera and 350 nm west of Canciferous. It is the largest island (5,785 km²) of the group of islands situated there and is the only one which is inhabited by the Ru Ru people.
2. Ru Ru Island (an island so nice they named it twice) is home to large exotic wildlife populations. Its beautiful coral reef and white sandy beaches attracts thousands of tourists every year. The island is also known for its surrounding crystal blue waters. Tourism is the main source of revenue for the Ru Ru people. The Ru Ru people are an indigenous tribe who share a unique spiritual connection with the natural environment. To them, the coral reef is considered a sacred site and is frequently visited by them to drink the sacred water.
3. Due to Ru Ru Island's climate and small size, it lacks significant natural resources to grow its own food and relies heavily on imported goods. The island's primary source of energy is liquefied natural gas (LNG) imported from DRL. The *Chameleon* is the regular transporter of LNG to Ru Ru Island. The vessel is privately owned and registered in Chiobar but operates with a crew of 29 DRL nationals. The *Chameleon* delivers approximately 70,000 tonnes of LNG once every two months. The inhabitants rely on rainwater tanks and a desalination system for their drinking water. Fish and other seafood form a significant part of the Ruruan diet. While there is some agricultural production (primarily fruits), the majority of Ruruans' food is imported from around the world through the island's largest trading port, the Port of Milkeno. An ecologically sensitive coral reef is located 10.80 nm east of Port Milkeno.
4. Canciferous is a highly industrialised country and is the world's largest exporter of oil. It sits on 2,527,013 km² of land and has a population of 20 million people. At present, it is one of the richest, most technologically advanced countries in the world with a powerful military boasting state-of-the-art weaponry. However, its riches have come with a price – its advancement has not always led to peaceful relations with its neighbours.
5. On the other side of the Peace Sea, Monstera is a constitutional monarchy with a territory of 2,150,000 km² and a population of 25 million people. The Monstera people live primarily in the nation's capital city, Marika, and across several small coastal villages. Monstera is a peaceful democracy that relies heavily on imported goods. Unfortunately, its poverty is not an accident.
6. Historically, Monstera was one of the richest economies in the world due to the region's abundant natural resources including iron, natural gas and oil and had one of the largest oil reserves in the world. It was also one of the most nutrient rich countries with a pristine natural environment, surrounded by tropical fruit trees, banana plantations and crystal white sand beaches. Despite its riches, it was a peaceful nation. Its leader, King Mutu comes from a long dynasty that has instilled in the Monstera people a philosophy of non-violence. As such, Monstera maintained a very small military which was only deployed in extreme circumstances, as a measure of last resort.
7. Despite this, Canciferous and Monstera have fought several small wars over the past 200 years, largely over the contested sovereignty of Ru Ru Island. Over the last few centuries, Canciferous claimed sovereignty over Ru Ru Island even though Ru Ru Island was under

Monsteran control from 1880 onwards. Under Monsteran control, Ru Ru Island enjoyed complete autonomy in managing its internal affairs, with Monstera only in charge of the Island's defence and foreign affairs.

8. In 1970, Canciferous attempted to take over Ru Ru Island. After 1 month of Canciferan occupation, Monstera successfully reclaimed the island and drove off Canciferan forces.
9. On 10 June 1983, Canciferous invaded the Monsteran coast to gain control of its natural resources, burning its forests and plantations in the process, leaving it with nothing. Outmatched by the powerful Canciferous Armed Forces (CAF), the Monsteran Defence Force (MDF) was overwhelmed after 3 days of fighting.
10. King Mutu was devastated by all the violence. In line with his philosophy of peaceful resistance, he entered into negotiations with Canciferous and signed a peace treaty, the Treaty for Friendly Relations between the Republic of Canciferous and the Kingdom of Monstera ('Friendly Relations Treaty'). Among other provisions, the Friendly Relations Treaty allowed Canciferous to access Monstera's oil reserves for 15 years, on the condition that all CAF were removed from Monsteran territory.
11. Since the 1983 invasion, the region has experienced a significant economic downturn due to the disruption to exports caused by flooding, the effects of which were exacerbated by climate change, and most recently, the COVID-19 pandemic in 2020. However, due to the rich nutrients in Monstera's soil, it managed to slowly regrow some banana plantations and forests, albeit not to their previous scale and beauty. As a result, the country has become heavily reliant on imported goods from around the world.
12. Monstera rebuilt the MDF, however, its personnel and weaponry remained limited. DRL's leader, President McFriendly was so moved by King Mutu's peaceful resistance and lack of retaliation since the Canciferan invasion that, in 1999, DRL signed a security deal with Monstera to provide it with financial and military support to assist with keeping the peace and protect its borders from aggressive neighbours.
13. With the benefit of DRL's support, and in anticipation of possible Canciferous aggression, the MDF established a military base on one of the uninhabited islands located 2.3 nm north of Ru Ru Island. This was the MDF's only viable option as it was the only island large enough to station MDF naval vessels.
14. Since 2001, diplomatic relations with Canciferous had improved however, despite the implementation of the Friendly Relations Treaty it was not renewed at the end of its term and underlying tensions remained.
15. In 2000, Monstera acceded to the Rome Statute and has been an active supporter of the International Criminal Court (ICC) ever since. The adoption of the *International Criminal Court Act 2001* by the Parliament of Monstera followed the year after. Monstera has ratified each of the subsequent amendments to the Rome Statute.
16. In 2004, Monstera's economic prosperity began to improve from Ru Ru Island's steady influx of tourists. In the peak of its economic gains, diplomatic relations began to sour as Canciferous again contested Monstera's sovereignty over the Island. Successive Canciferan governments maintained that Ru Ru Islands is Canciferan sovereign territory. Canciferous repeated this often in the media and in statements at the United Nations General Assembly,

pointing to Monstera's acquiescence in 1970 during the Canciferan occupation as proof of its territorial claim.

17. Between 2018 and 2020, Canciferous was ruled by a military dictatorship led by President Cosmo Mosco. He rose to power largely due to his political campaign promising to make the country stronger and richer than ever. When he took power in November 2018, President Mosco appointed Admiral Niptup as Chief of the CAF.
18. In December 2018, a large oil reserve was discovered off the coast of Ru Ru Island. If successfully drilled and extracted, the oil would provide significant financial benefit. President Mosco engaged in diplomatic talks with King Mutu over the newfound discovery. Touting Canciferous' mining expertise, President Mosco suggested that Canciferous could provide state-of-the-art equipment to undertake the oil extraction and take 70% of the proceeds given its history with the Island.
19. King Mutu declined President Mosco's offer recalling that Canciferous' 1983 invasion for natural resources had left Monstera families torn apart and the country in ruins. King Mutu exclaimed, "*The coral reef is sacred to the Ru Ru people and their spiritual connection to the environment should not be disturbed. Even if I were to agree to that ridiculous offer, it would be to restore Monstera's economic capacity, not to swell President Mosco's already-bulging ego!*"
20. President Mosco was enraged by King Mutu's comments. He immediately tasked Admiral Niptup with leading a CAF military operation to take over the Island.
21. On 1 October 2019, the CAF navy led by Admiral Niptup commenced their campaign to seize Ru Ru Island with a Naval Task Force and the flagship *Deathstar*. The Monstera military received intelligence that CAF were making its way towards the island to seize control. The MDF prepared its naval forces to sail the Peace Sea to intercept the CAF.
22. At 11 am on 4 October 2019, the CAF launched two drones from Canciferan territory which were used to fire four precision-guided missiles at the MDF's military base, killing 20 MDF soldiers. One of the missiles hit the MDF weapons cache on the base, destroying the majority of its military equipment. A secondary explosion from the cache hit a passing fishing vessel, killing its 3 crew members. Afterward, MDF naval assets launched missile attacks on CAF vessels and missile fire was exchanged until about 4 pm.
23. For the next few hours, Admiral Niptup ordered his forces to cease fire, maintain concealment, and refrain from launching any further attacks. After sunset, at around 8 pm, the sea was pitch black and CAF's navy vessels could not be seen or detected. The CAF navy was using the latest stealth technology in their warship construction and this made it almost impossible to detect their vessels through conventional radar.
24. Admiral Niptup intended for the *Deathstar* to capture the Port of Milkeno at the northern end of Ru Ru Island. However, the only route available required the *Deathstar* to travel through the Peace Canal, a maritime choke point which was heavily guarded by the MDF on Monstera's coast. Approximately 54 nm from the Peace Canal, Admiral Niptup ordered the ship to assume a deceptive lighting posture. It would take approximately 2 hours to arrive at the chokepoint from where they were. Approximately 1 hour from the choke point, the ship transmitted false Automatic Identification System (AIS) data to other ships in the vicinity, including MDF authorities, to suggest that the ship was a civilian cruise liner.

25. Approximately 40 minutes after clearing the Peace Canal, the *Deathstar* revealed its true colours while launching several missile strikes against MDF's naval ship. As a result of the missile attack, 8 MDF soldiers, 43 fishermen on two commercial fishing vessels and 26 Monstera coast guards were killed. The fishing vessels – including their catch destined for nearby coastal villages were destroyed.
26. The next day, the *Deathstar* with the support of amphibious forces proceeded to the Port of Milkeno. After a short confrontation lasting 3 hours, the CAF captured the Port.
27. To strengthen Monstera's prospects of victory in the wake of the CAF offensive, King Mutu encouraged the MDF to be more strategic in its approach. The MDF's secret intelligence unit decided to leak information about an upcoming shipment of LNG, which was due to arrive in approximately 3 months' time. The information leaked was that the LNG carrier would transport a defensive capability, the Rapidly Detect Identify and Shoot (RaDISh) system, that can autonomously detect and shoot down any incoming munitions to neutralise the entire CAF missile capability. The decision was made in an effort to bolster the perception of MDF's naval capacity to deter a CAF attack long enough to obtain reinforcements from DRL.
28. The MDF intelligence unit identified a former Canciferan intelligence agent who was working for President Mosco in a personal capacity but also had ties to Monstera. The former agent arranged a call with President Mosco which Admiral Niptup also attended. The agent said:

“I can't talk long, I'm in the middle of an operation ... I'm hearing chatter that Monstera has a game-changing capability, some sort of autonomous weapon ... they're sending it down to Ru Ru on an LNG carrier arriving at Port Milkeno in the next three months. I'll get – ”

With that, the line went dead, and the President's staff were unable to connect to the former agent again after that.

29. The CAF did not have any further information regarding the name of the vessel, its flag state or its port of origin. The CAF was ordered to constantly monitor the movements of all vessels within a 50 nm radius from the Port and to check tanker ships on a more stringent basis—especially ships arriving unexpectedly. This consisted of visiting and searching each such vessel to verify its character.
30. As the days turned into weeks, President Mosco became increasingly concerned about the MDF's capacity to neutralise the CAF's offensive capabilities. President Mosco was conscious that the battle damage assessment from CAF's missile attack on 4 October 2019 indicated a significant majority of the MDF's weaponry had been destroyed. Admiral Niptup's strategy was based on this damage assessment. President Mosco emphasised to Admiral Niptup, *“if MDF get their hands on this RaDISh system, our campaign will be destroyed. We cannot afford to lose this war.”*
31. To further counter the MDF's resistance, Admiral Niptup planned to disrupt the MDF's communications in order to hinder any coordination related to the transportation and deployment of the RaDISh system. The CAF identified a Monstera-owned communications fibre optics cable that connects to a landing station on Monstera's mainland. The cable runs undersea for more than 1,300 km between DRL, Monstera and Ru Ru Island. Admiral Niptup

was advised by her intelligence officers that there was a 45% probability that the routing system of this cable was being used by the MDF to transmit data. President Mosco directed his government to ensure there was adequate connectivity for the surrounding areas through satellite backup (Marlink).

32. On 29 October 2019, Admiral Niptup ordered the use of a submarine with cable-cutting abilities to cut the undersea cable. However, the submarine malfunctioned and only managed to cause minor damage, resulting in internet and communications disruptions to Ru Ru Island, DRL and Monstera for a period of 3 weeks. The MDF lost communications for 24 hours, disrupting its air surveillance capabilities over key CAF targets. The MDF was able to reroute its data traffic to an alternate cable and also rely on Marlink as backup.
33. Although the internet was still able to function, it was at a much slower speed (2G), resulting in significant disruptions to internet and communication networks vital to humanitarian operations and international trade, including difficulties receiving and making bank transfers. Hospitals' and medical centres' limited access to patient data and software hampered efforts to schedule surgery and diagnose health conditions. The slow connection delayed the movement of goods and services to Ru Ru Island by 1 week including essential food and medical supplies. A large cable-laying vessel was mobilized to repair the damage, at a cost of \$10 million and taking approximately 3 weeks to complete.
34. In late December 2019, the *Chameleon* travelled from DRL's south coast towards the Port of Milkeno to deliver the LNG. On 6 January 2020, the vessel was seen to be approaching the Port. By the time it was detected, the *Chameleon* was approximately 5.40 nm away from Ru Ru's sacred coral reef and approximately 4.30 nm away from the Port. A CAF commander, Colonel Right alerted Admiral Niptup about the approaching LNG carrier. The below conversation followed:

Admiral Niptup: *How did this happen – how did we let this vessel get so close to the Island?! Is it carrying the RaDISH?*

Col. Right: *We have no information about the Chameleon's cargo, ma'am.*

Admiral Niptup: *We can't let them get their hands on that weapon. It would be catastrophic to our campaign.*

Col. Right: *Admiral, the vessel is already on its way. We've got to think about the impact on the Port and the potential environmental implications for the reef. What do you want us to do?*

Admiral Niptup: *There is no time to waste! Proceed with the attack!*

35. Admiral Niptup ordered the CAF marines to proceed with a missile strike on the vessel. When the missile hit the vessel, 13 merchant crew members were killed along with 24 Ruruans. There was a significant leak of LNG which spilled into the water in close proximity to the coral reef. The vessel's fuel caught alight, causing an explosion. At the time of the attack, two MDF patrol boats each carrying 22 MDF navy squadron members were patrolling the area in the vicinity of their military base. Due to the wide-radius impact of the explosion, 15 squadron members were killed and the remaining 27 were injured from being thrown off the patrol boats. The remaining 16 crew members and 27 MDF squadron members were injured and shipwrecked at sea. Some were in the water, and other were still on board what was left of the burning vessel.

36. The concentrations of LNG in the water meant that it could not be properly filtered through the desalination process. Engineers estimated that the water would remain unsafe for consumption for at least 1 year. Climate experts also warned that the methane in the spilled LNG could have a climate impact, resulting in an increased risk of tsunamis occurring in the area in the next 3 years. A United Nations Environment Programme report later revealed that the estimated recovery period of the marine environment and wildlife in the area extended beyond several generations.
37. Shortly after the attack, the Governor of Ru Ru Island fled to the Monsteran mainland. The CAF quickly gained full control of Ru Ru Island and the surrounding area. The Canciferous Government established a military administration on Ru Ru Island under the direct supervision of the CAF.
38. Over the next two days, the CAF navy conducted a search and rescue operation to collect the crew and MDF personnel from the *Chameleon* and from the water, and to search for the dead. The people collected were taken to the *Deathstar* and given medical care. The CAF questioned all the *Chameleon* crew members they rescued. They released 12 crew but held the captain and 3 deck officers together with the 27 MDF squadron members they pulled from the water. Admiral Niptup appealed to DRL to provide assistance to the 12 DRL nationals that were released. DRL coastal boats responded to the appeal, collecting and repatriating the crew to DRL.
39. Due to severe weather conditions in the Peace Sea, the *Deathstar* remained anchored off the coast of Ru Ru Island for 12 days before setting sail for Canciferous.
40. The CAF navy were ill-prepared as they had not anticipated detaining people. The *Deathstar* was not set up for holding captured persons onboard. The CAF navy made makeshift holding cells by converting an unused cabin. The cabins were only set up to hold a maximum of 20 people. The conditions on board the ship were extremely poor, with all 31 people sharing 1 small cabin. There were both men and women held together with access to only 1 toilet and 2 bars of soap to share. People were pressed against the cabin walls. They took turns to sleep on the floor without mattresses. They were given 1 loaf of bread and 10L of water a day to share for the whole group. Some of the captured persons started to become extremely seasick and began throwing up. Given the stench, the CAF navy marines decided not to enter the room and refill their 10L carton of water.
41. On 13 January 2020, it was reported in international media outlets that there was a breakout of a new strain of COVID-19, labelled 'Deathicron', which was five times more transmissible than the former Omicron COVID-19 strain. Once contracted, Deathicron symptoms included a breakout of painful boils all over a person's body with extremely high fevers. It also had a mortality rate of 40% if not immediately treated with professional medical care. The World Health Organization dubbed it the "new killer disease" and noted that the pandemic was "far from over." At the same time, another illness existed called 'Murvey' which caused the same symptoms but was not life-threatening.
42. On 19 January 2020, a CAF soldier went to check on the people detained and noticed that two of the deck officers from the *Chameleon* developed boils on their skin and had high fevers. Based on their symptoms, the soldier suspected they had contracted Deathicron. He relayed this information to Admiral Niptup. However, there was no medical personnel on board to examine them as they were busy tending to the CAF troops onshore. Admiral Niptup

responded, exclaiming, “I’m sure they will be fine – until I receive medical proof, they will be fine.”

43. The next day, weather conditions subsided and the *Deathstar* began its voyage to Canciferous. It managed to reach shore two days later on Canciferan territory. Five of the detainees had died on board from unknown causes. Admiral Niptup offloaded the remaining 26 people and placed them in a temporary camp in anticipation of moving them to a more permanent location as hostilities were ongoing. There was no running water and the detainees slept in tents made from a plastic sheet held together by rope. Detainees were given 5L of water a day and 2 meals a day. The CAF arranged with some local farmers to give the prisoners access to an area to grow their own vegetables. This allowed them to get involved in growing their own food, but also provided a relaxing activity to strengthen their mental health and well-being.
44. The CAF cooks provided the CAF troops and the detainees with two meals a day consisting of bread and meat. Some of the detained persons refused to eat any of the food given to them by the CAF due to the food being inconsistent with their religious beliefs.
45. The Canciferous coastal town was prone to sporadic weather conditions. For example, it would be 30°C one day and then the next day would be 12°C, with bouts of torrential rain. At least 10 detainees developed pneumonia and 10 developed boils all over their bodies with high fevers. Fearing the impact of the war, many Canciferans fled to other parts of the world, including the majority of the country’s medical staff.
46. Due to the scarcity of medical personnel in Canciferous, Admiral Niptup requested her daughter’s dance teacher, Ms Flexi to assist. Admiral Niptup instructed her to not take any of them to hospital and to “call the military doctor if necessary.” One month had passed and the detainees remained at the camp. By this stage, medical evidence had been published about the new COVID-19 strain, *Deathicron* which verified and confirmed the information published in the media reports. Admiral Niptup never visited or spoke to Ms Flexi after her initial appointment, nor were any doctors living in Canciferous consulted. By 3 March 2020, 20 detainees had died, with only 6 surviving but severely malnourished.
47. King Mutu was once again distraught at the violence his people were forced to bear, particularly the latest reports of poor treatment of MDF personnel in Canciferan custody. On 15 May 2020, Monstera and DRL jointly agreed to refer the situation to the ICC.
48. On 20 June 2020, the ICC Prosecutor informed Monstera, DRL and Canciferous that they found there to be sufficient evidence to open an investigation. On 12 November 2020, the ICC issued an arrest warrant against President Mosco. President Mosco was arrested while visiting Chiobar on 2 August 2021 and was transferred to the ICC detention facility in The Hague, the Netherlands.

Charges

PRE-TRIAL CHAMBER III

Document Containing the Charges against Cosmo Mosco

The Office of the Prosecutor ("Prosecution") herewith submits the Document Containing the Charges against Cosmo Mosco, filed on 26 March 2022

At The Hague, The Netherlands

Count 1

With respect to the attack killing 8 MDF soldiers, 43 fishermen and 26 Monsteran coast guards on 4 to 5 October 2019:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Killing or wounding treacherously individuals belonging to the hostile nation or army as a war crime pursuant to Article 8(2)(b)(xi) of the Rome Statute

Count 2

With respect to the cutting of the undersea cable on 29 October 2019:

On the basis of individual criminal responsibility, for ordering, soliciting or inducing the commission of such a crime which in fact occurs or is attempted as per Article 25 of the Rome Statute,

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated as a war crime pursuant to Article 8(2)(b)(iv) of the Rome Statute

Count 3

With respect to the attack of the *Chameleon* on 6 January 2020:

On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Intentionally directing attacks against civilian objects, that is, objects which are not military objectives as a war crime pursuant to Article 8(2)(b)(ii) of the Rome Statute

Count 4

With respect to the deaths of 25 detainees held on the *Deathstar* and at the transit camp in Canciferous between January and March 2020:

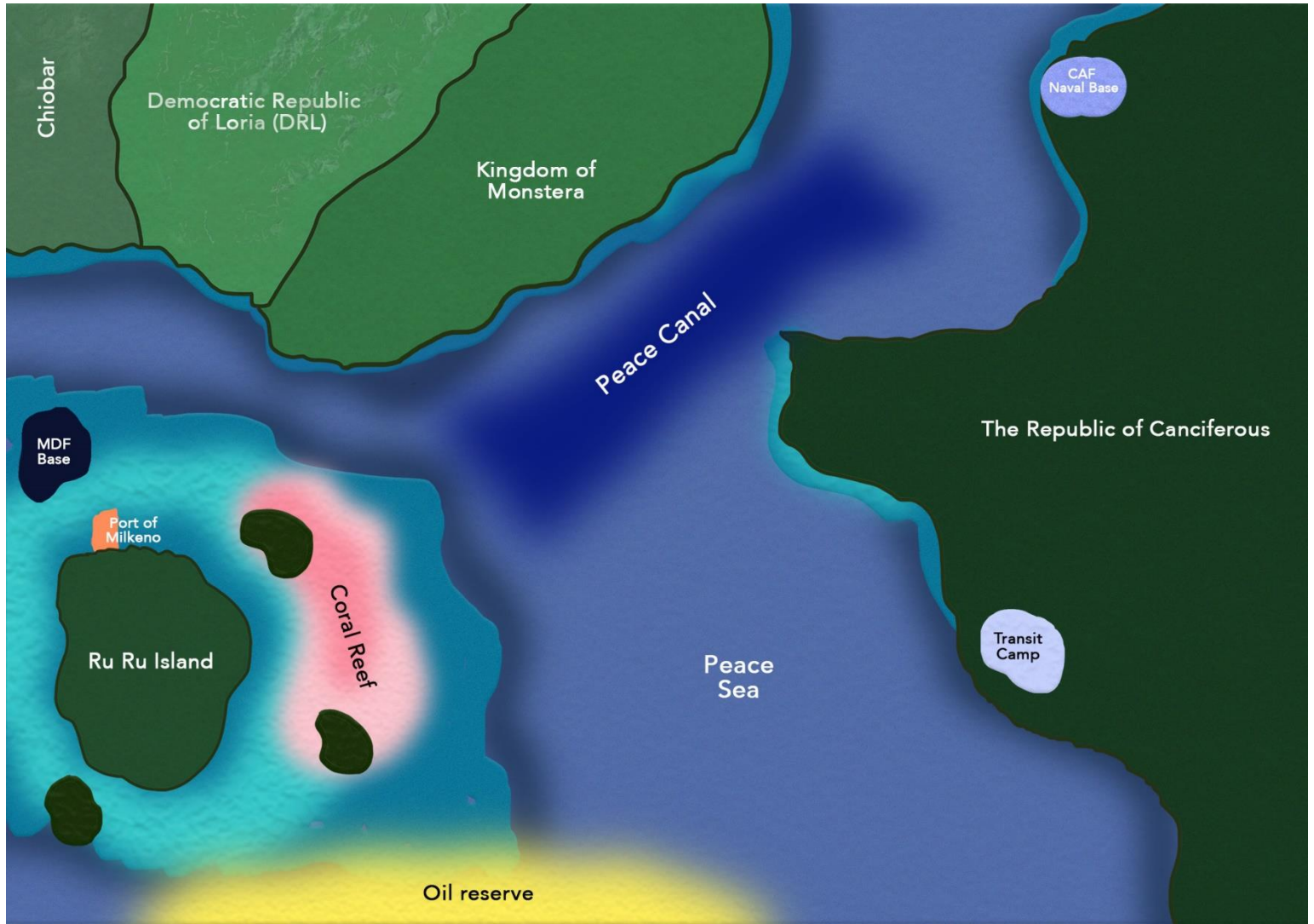
On the basis of the responsibility of commanders and other superiors as per Article 28 of the Rome Statute,

Wilful killing as a war crime pursuant to Article 8(2)(a)(i) of the Rome Statute.

Annex I: Applicable Agreements

Convention	Kingdom of Monstera	Republic of Canciferous
Charter of the United Nations 1945	✓	✓
Geneva Convention I on Wounded and Sick in Armed Forces in the Field 1949	✓	✓
Geneva Convention II on Wounded, Sick and Shipwrecked of Armed Forces at Sea 1949	✓	✓
Geneva Convention III on Prisoners of War 1949	✓	✓
Geneva Convention IV on Civilians 1949	✓	✓
Additional Protocol I to the Geneva Conventions 1977	✓	✓
Additional Protocol II to the Geneva Conventions 1977	✓	
Vienna Convention on the Law of Treaties 1969	✓	✓
Rome Statute of the International Criminal Court 1998	✓	✓
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	✓	✓
Geneva Convention on the High Seas 1958	✓	✓
United Nations Convention on the Law of the Sea 1982	✓	✓
International Convention for the Safety of Life at Sea 1974 (as amended)	✓	✓

Annex II: Regional Map





ICRC

Henry Dunant Memorial Moot Court Competition 2023

Organised by

**Indian Society of International Law, New Delhi and the
International Committee of the Red Cross (ICRC)**

Henry Dunant Memorial Moot Court Competition: Rules and Guidelines

1. Introduction

The Indian Society of International Law (ISIL) was founded in 1959 and was inaugurated in the same year by Pandit Jawaharlal Nehru, the first Prime Minister of independent India. The principal objective of the ISIL is to “foster nation wide, the study and development of International Law and to encourage the comparative study of the application of International Law in other States”. The ISIL has been publishing the since its inception, which has attained a high standard and is held in great esteem the world over. It also publishes the ISIL Yearbook on Humanitarian and Refugee Laws. The ISIL runs post graduate diploma courses on International Law & Diplomacy; Human Rights, International Humanitarian & Refugee Laws and International Trade and Business Laws. It has been actively collaborating with the ICRC in organising the Henry Dunant Memorial Moot Court since 2001.

The International Committee of the Red Cross (ICRC) is a private, independent humanitarian organisation, based in Geneva, Switzerland. The ICRC has been conferred a mandate by the international community to protect and assist persons affected by armed conflict.¹ This mandate includes the promotion and development of International Humanitarian Law (IHL), including in times of peace. In the fulfilment of this responsibility, the ICRC is active in disseminating and promoting IHL in academic circles. This includes developing IHL curricula for universities, conducting university teacher training programmes in IHL and organizing events such as the Henry Dunant Memorial Moot Court Competition.

1.1. The Moot Court

In 2001, ICRC Regional Delegation for South Asia initiated the Henry Dunant Memorial Moot Court Competition, with the aim of promoting better awareness of IHL among law students at universities throughout India. This competition is named in memory of Mr Henry Dunant, the co-founder of the ICRC and the Red Cross and Red Crescent Movement in 1863.

¹ The ICRC's initial mandate is derived from the 1949 Geneva Conventions and their 1977 Additional Protocols. The ICRC's mandate was expanded by the Statutes of the Red Cross and Red Crescent Movement, which were agreed upon by the States Parties to the Geneva Conventions. To date, 194 countries have ratified the 1949 Geneva Conventions.

The reputation and status of the Henry Dunant Memorial Moot Court Competition has grown steadily since its inception in 2001. The national Moot Court has grown to include more than 60 teams, representing universities from across India. The success of the competition prompted the ICRC, in collaboration with its partner organisation for this activity, the ISIL, to expand the Moot Court beyond India in 2005. As a result, the Henry Dunant Moot Court Competition was expanded to include a regional competition, drawing teams from countries across South Asia between 2005 and 2022. South Asia rounds will not be organised in 2023.

The winning (one) team of the national rounds of the Moot Court Competition in each country would be entitled to participate in the Asia Pacific round in Hong Kong.

1.2. Objectives

The principal objective of the Henry Dunant Memorial Moot Court Competition is to develop an increased awareness and interest in IHL in academic institutions throughout South Asia. A further objective is to use IHL to further academic excellence in the student community, and to develop their advocacy skills in an environment of friendly competition.

2. Administration and General Rules

The official name of the competition is *The Henry Dunant Memorial Moot Court Competition* (the "*Moot Court*"). The ICRC and ISIL are the official organisers of the National Moot Court competition in India. National competitions in other participating countries will be organised by the ICRC, in collaboration with partner institutions.

2.1. Eligibility

All universities, colleges, and institutions imparting legal education on a regular or evening basis in a program of study that leads to a Bachelors degree in law (LL.B / BL) or Masters in law (LL.M / ML) are eligible to participate in the Moot Court competition. All students enrolled on a full time or evening basis in a program of study leading to or equivalent to a Bachelors degree in law (LL.B / BL) or Masters in law (LL.M / ML), are eligible to participate. Students who have participated in this Moot Court competition on a previous occasion are not eligible to participate again.

2.2. Official Language

The official working language of the Moot Court is English.

2.3. Team Composition

Each participating university/college/institute shall nominate only one team consisting of **three** student members. It is optional for the teams to be accompanied with a coach from the faculty of the university/college/institute that they represent. **The 3 member composition is mandatory** for participating in the competition.

2.4. Assistance to Teams

All research, writing and editing of written memorials for the Moot Court must be the exclusive product of the team members. Faculty members, coaches and team advisors of the participating team may only render external assistance to the team. During oral presentation, consultation with coaches shall be strictly prohibited.

2.5. Implementation and Interpretation of Rules

Regarding Moot Court practice and procedures, the final decision on the interpretation and implementation of rules lies with the organisers.

2.6. Application of Rules

Rules contained in this document will be applicable to the Indian National Moot Court competition.

Except where otherwise indicated, these rules are also applicable to the National Moot Court competitions that are organised by the ICRC in Bangladesh, Nepal, Pakistan, and Sri Lanka, as well as such other countries that may participate in the future.

There are rules specified in addendum, which will be applicable to those countries where the number of participating teams is less than eight. (refer addendum). With the exception of rules in addendum, all other rules and guidelines contained in this document will apply to the competition.

3. Rules for Oral Pleadings and Procedures

In view of the growing number of teams participating in the Indian national round Moot Court competition, in 2007, the organising committee decided to introduce a quarter-final round. Since 2007 onwards, the national round in India shall consist of preliminary, quarter final, semi-final and final rounds. In other countries (i.e.) Bangladesh, Nepal, Pakistan and Sri Lanka, quarter final round of the competition may be introduced as necessary.

The Moot Court problem for all rounds, including all national competitions, shall be the same. The Moot Court problem shall be prepared annually by a suitably qualified person(s), to be selected by the organisers. The person(s) selected to prepare the problem shall be provided with instructions by the organisers concerning the nature, scope and issues that should be included in the problem.

3.1. Rules for the Preliminary Rounds

- All participating teams in the competition will be divided by the organisers into various groups, depending upon the number of teams participating in the competition.
- Where necessary, more than one court room will be provided for all competitions, in order to facilitate the smooth functioning of the Moot Court competition.
- Teams shall argue cases against each other; the matching of teams will be decided by a draw of lots prior to the commencement of the competition.
- During the preliminary rounds, each team will have the opportunity to argue both sides; once as the prosecution and once as the defence.
- Time allotted for arguments will be 10 + 2 minutes for the prosecution and 10+2 minutes for the defence. The time will be paused when the judges pose a question to the speakers. The time taken to respond to the questions will be counted in the time allotted to the speakers.

- There will be time allotted for rebuttals. Each team will be allowed 3 minutes for rebuttals during the preliminary rounds.
- Both selected members of the team shall make oral presentations during the each round. The presentations shall be divided equally among the Moot Court participants.

3.2. Rules for the Quarter Final Rounds

- In India, the top sixteen teams from the preliminary rounds shall qualify to participate in the quarter-final. Selection will be based upon the marks awarded by the organising committee after the evaluation of written memorials, plus the marks awarded by judges for the oral presentations by teams during the preliminary rounds.
- The arrangement of teams selected for the quarter-final rounds shall be as follows:
 - In India, those teams that have qualified for the quarterfinal will be divided in to four groups – Group A, Group B, Group C, and Group D.
 - The team that attained the highest score in the preliminary round will compete against the team that attained the ninth highest score.
 - The team with the second highest score will compete against the team with the tenth highest score.
 - The team with the third highest score will compete against the eleventh highest score.
 - The team with the fourth highest score will compete with the twelfth highest score.
 - The team with the fifth highest score will compete with the thirteenth highest score.
 - The team with the sixth highest score will compete with the fourteenth highest score
 - The team with the seventh highest score will compete with the fifteenth highest score
 - The team with the eighth highest score will compete with the sixteenth highest score
- The quarter-final rounds will be conducted during the afternoon session of the 3rd day of the competition.
- The sides to be argued by teams will be decided by a draw of lots, prior to the commencement of the quarterfinal round of the competition. Each team shall argue both prosecution and defence during the quarterfinal round.

- There shall be a break after the first round of arguments. After the break, the teams will change, switch over their position and will have to argue against a new team, as follows:
 - The team that argued on behalf of the prosecution in the first round will have to argue on behalf of the defence in the second round against a new team. The team that argued on behalf of defence in the first round will have to argue on behalf of the prosecution during the second round against a new team/new set of judges.
- Each team will be allotted a total of 15 minutes to present its argument during the quarter-final rounds. There will be a warning bell at the end of 12 minutes and there will be a final bell at the completion of the allotted time of 15 minutes.
- There will be extra time allotted to respond to the questions posed by the judges, as necessary. Three minutes will also be allotted for each team for rebuttal in each round.
- Participating teams will be required to strictly follow the time limits.

3.3 Rules for the Semi-Final Round

- In India, the top four teams from the quarter-final rounds shall qualify to participate in the semi-final. Selection will be based upon the marks awarded by the organising committee after evaluation of the written memorials, plus the marks awarded by judges for the oral presentations by teams during the quarter-final rounds.
- The arrangement of teams selected for the semi-final rounds shall be as follows:
 - In India, those teams that have qualified for the semi-final round will be divided into two groups – Group A, and Group B.
 - The team that attained the highest score in the quarter-final round will compete against the team that attained the third highest score.
 - The team with the second highest score will compete against the team with the fourth highest score.
- The semi-final rounds will be conducted during the morning session of the final day of the competition.
- The sides to be argued by the teams will be decided by a draw of lots, prior to the commencement of the semi-final rounds of competition. There shall be two rounds of oral argument during the semi-finals.
- During the semi-final rounds, the teams will be required to argue on behalf of both prosecution and the defence.
- There shall be a break after the first round of arguments. After the break, the teams will change, switch over their position and will have to argue against a new team, as follows:
 - The team that argued on behalf of the prosecution in the first round will have to argue on behalf of the defence in the second round against a new team. The team that argued on behalf of defence in the first round will have to argue on behalf of the prosecution during the second round against a new team.

- Each team will be allotted a total of 15 minutes to present its argument during the semi-final rounds. There will be a warning bell at the end of 12 minutes and there will be a final bell at the completion of the allotted time of 15 minutes.
- There will be extra time allotted to respond to the questions posed by the judges, as necessary. Three minutes will also be allotted for each team for rebuttal in each round.
- Participating teams will be required to strictly follow the time limits.
- Written memorial marks will not be taken into consideration during the marking of semi-final rounds. Only the marks awarded by the judges during the oral round of presentation will be considered to select the finalists.

3.4. Rules for the Final Round

- The top two teams from the semi-final rounds will be selected to compete in the final round of the Moot Court competition.
- The final round of the competition will take place during the second session of the final day of the competition.
- The sides to be argued by the teams will be decided by a draw of lots prior to the commencement of the final round of the competition. There shall be two rounds of arguments by the final teams.
- There shall be a break after the first round of arguments. After the break, the team that argued on behalf of the prosecution in the first round will be required to argue on behalf of the defence; the team which argued on behalf of the defence in the first round will be required to argue on behalf of the prosecution during the second round of the arguments.
- Each team will be permitted to speak for a total of 20 minutes during the final round. There will be a warning bell at the end of 15 minutes and a final bell at the end of the allotted time.
- There will be extra time (5 Minutes) allotted to each team, as necessary, to respond to questions posed by judges. Each team will have three minutes for rebuttal in each round.

4. Memorials

4.1 Submission of Memorials

Each participating team shall prepare both memorials and counter memorials, in English. All teams are to submit their copies to the organisers before the deadline specified by the organising committee in its invitation letter. As a general rule this will be one week prior to the start of the Moot Court competition. Failure to do so will result in disqualification from the competition. Four copies of each memorial and counter memorial in paper (hard copy) shall be submitted to the organising committee. During oral presentations, the participating teams should retain copies of their memorials for their personal use. The copies submitted to the organising committee will not be returned to the participants under any circumstances. There will be exchange of memorials between the teams during the competition. All memorials shall be prepared to the following specifications:

- Memorial or counter memorial shall not be more than 25 typed pages.
- Memorials must be typed and submitted on standard A4 size paper.
- Font and size of the text of all parts of the memorial (excluding footnotes) must be the same and must be in either Times New Roman 12 or Arial 11 font size.
- The texts of all parts of each memorial must be double-spaced, with one inch margin on both sides.
- The text of footnotes and headings may be single-spaced. The font size of footnotes must be 2 points less than the text font.
- There must be double spacing between separate footnotes and between each heading and the body text of the memorial.
- Quotations of sources outside of the memorial of fifty words or more in any part of the memorial shall be block quoted and must be single-spaced.
- The table of Contents, Index of Authorities and Case Title are not included in the 25 typed pages limit.

4.2 Description of Memorials

The Memorial shall consist of the following parts:

- Table of Contents
- Index of Authorities (including corresponding page numbers)
- Statement of Jurisdiction
- Identification of Issues
- Statement of Facts
- Summary of Pleadings
- Pleadings including the Conclusion and/or Prayer for Relief.

4.3 Criteria for assessment

The assessment of the teams during the Moot Court competition shall be out of a maximum of 100 marks, set out as follows:

Written Memorials	30 Marks
Appreciation of Fact and Law	15 Marks
Advocacy (Arguments, Framing of Issues, expression and articulation)	30 Marks
Use of Authorities and Citations	15 Marks
General Impression and Court Manner	10 Marks

- The written memorials submitted by participating teams shall be evaluated by an expert(s) appointed by the organising committee and marks will be awarded for them.
- The late submission of memorials will attract a penalty of 3 marks being deducted from the total marks allocated for memorials.
- The disclosure of the team's institutional affiliation on the memorial will attract a penalty of 1 mark being deducted.
- These marks will be taken into consideration, along with marks awarded by judges for the teams during the oral presentation made by them, in the preliminary round of competition. The teams who secured the top eight positions will be selected to participate in semi-final round competition only.
- Top two teams will be selected based upon their performance on oral presentation made by them during semi-finals. The written memorial marks will not be taken into consideration to select the teams for the semi-final and final rounds of competition.
- Winners of the final round will be selected based upon their oral performance during the final round of competition, written memorial marks of the teams will not be taken into consideration to select the winners of the Henry Dunant Memorial Trophy.

5. Awards and Prizes

Awards and prizes will be awarded for the National Moot Court competitions, as follows:

- The Henry Dunant Memorial Moot Court Competition winners will be awarded a "Running Trophy", medals for the three participants of the team, and certificates.
- The Runners up team will be awarded individual medals and certificates.
- There will be a Best Advocate prize. This prize will be awarded to the participant who is judged by the organising committee to have performed best during her/his oral presentations.
- There will be a Best Memorial prize. All the memorials, which are submitted to the organising committee of the competition, will be evaluated and the best memorial will be chosen among them to award this prize.
- Each participant in the Henry Dunant Memorial Moot Court Competition will be given a general certificate of participation.
- The coaches and advisers of the participating teams will not be entitled to receive any kind of certificate or award.
- Since the trophy of Henry Dunant Moot Court Competition is a "Running Trophy", it is the responsibility of the head of the institution/college/university of the winning team to ensure that the trophy is returned to the organising committee, in New Delhi, within eight months of the date of award, at the expense of the winning team's institution/college/ university.

6. Miscellaneous Rules of the Competition

- Upon completion of the competition, the organising committee reserves the exclusive right to use the memorials submitted to them, as they deem appropriate.
- Participating teams should carry with them required study or reference materials for their own use during the oral rounds of competition. Electronic equipment such as laptops, Ipads, tablets etc. if used during oral rounds will be solely to refer to reference materials saved on the same. There will be no right granted to participating teams to access wi-fi/internet to source information or answers to respond to queries posed by the bench. Any team found violating this rule would be disqualified from the competition.
- Scouting is permitted in the competition in all the rounds.
- Participating teams shall be expected to maintain the proper decorum of the courtroom during the proceedings and shall conduct themselves in a manner befitting the legal profession.
- The organising committee reserves the right, at its sole discretion, to take appropriate action for any unethical, unprofessional and wrongful conduct during the entire period of the Moot Court competition.
- The organising committee's decision as regards the interpretation of these rules or any other matters related to the Moot Court competition shall be final and binding. If there is any situation, which is not covered by these rules, the decision of the organising committee shall be final.
- The organizing committee is vested with the sole and absolute discretion to publish or not publish the scores of any of the oral rounds and memorials.
- The organising committee reserves the right to amend, modify or repeal any of the rules if so required and as they deem appropriate. Participating teams shall receive adequate notice of any/all such amendments or modifications to the rules.
- The organising committee shall not be held responsible for any loss or non-delivery of the Memorials.

7. Rules Regarding the Judges

7.1. Judges

- A person appointed as a Moot Court judge should be well versed in the subject of International Law, in general, and International Humanitarian Law, in particular. Judges are expected to be aware of the procedure involved in mooting and the rules.
- Judges may be selected from the following categories:
 - Academicians,
 - Legal advisers to the Government/armed forces/diplomats,
 - Serving or retired judges of the Supreme Court or the High Court, or
 - Senior advocates of the Supreme Court or the High Court.

- The judges who have presided over the preliminary rounds/quarter final rounds will not judge the advanced rounds. If under exceptional circumstances, which will be determined by the organising committee, a judge from a preliminary rounds/quarter final rounds is required to judge at an advanced round, then he/she will not judge the team he/she has judged during the preliminary rounds/quarter final rounds.
- For the final round of the competition a fresh team of judges will be appointed.
- There should be a full bench of three judges for every session. It is preferable to have a full bench for all the rounds of the competition.
- No faculty advisers, team coaches or other persons directly affiliated with a team shall act as judges at any level of the competition. The organising committee (members of the ICRC and its partner organizations) shall not act as judges in any of the rounds of the competition. Students shall not serve as judges.
- The Bench Memorandum shall be distributed to the Judges for the purposes of briefing them on the legal issues addressed in the Moot Court competition. The contents of the Bench Memorandum are strictly confidential.

7.2. Rules for the Judges

- All written memorials and oral presentations should have a minimum score.
- Judges are instructed to follow the time limit as closely as possible. Interventions from the judges are permitted at any stage of the presentations; however these interventions must be relevant to the issues and be kept to a minimum, so as not to disrupt the presentations of the participants.
- Three minutes per team should be provided for rebuttal during the semi-final and final rounds. Two minutes per team will be permitted for rebuttals during the preliminary rounds of the competition.

7.3. Commentary by Judges

Judges in any round of the competition are encouraged to provide direct feedback to teams regarding the team's performance, at the completion of the round. In providing such feedback, Judges are cautioned to give due regard to the time limitations and the schedule of the competition as a whole.

8. Anonymity

To ensure the smooth functioning of the Moot Court and avoid any perception of bias during the competition, the organising committee maintains anonymity of the college/university/institute names throughout the competition. To ensure this the organising committee will allocate a code number to each participating team in the competition. This code is to be applied by the organising committee to the participating teams during the competition, including on their written memorials.

9. Accommodation and Travel

- The organising committee will provide accommodation and meals to members of the participating teams for the duration of the competition, where it is required.
- For the Indian National Moot Court competition, ISIL will be responsible to coordinate travel, accommodation and meals for all participating teams.
- The ICRC and its partner organisations will be responsible for coordinating all administrative arrangements for participants in their respective national competitions.

10. Questions, Complaints and Suggestions

Any feedback concerning the organisation or conduct of the Moot Court should be directed directly to the organisers. Formal complaints or suggestions for improvement of the competition should be addressed formally, in writing, to the Regional Legal Adviser for South Asia, ICRC or ISIL.

These Henry Dunant Memorial Moot Court Competition Rules and Guidelines were finalized on this the 5th day of June 2006 at New Delhi, INDIA and last amended in June 2023 in consultation with participating countries.

ADDENDUM

Specific Rules for National Moot Court Competitions in Countries² where Number of Participating Teams is less than Eight

During the competition, if less than eight teams are participating, the preliminary round of the national competition will not be held; only the semi-final and final rounds of competition will be conducted. During these competitions, the general rules which are contained in this document will be applicable, subject to the exceptions and modifications which are prescribed below here:

- If only one team is participating:
 - There will not be a competition to select the winner. The team should, however, be required to argue before the organising committee to get acquainted with the competition procedure, court manner, advocacy skills, etc., which are specified in the rules.³
- If two teams are participating:
 - Only one round of competition will be conducted and for this the rules which are specified for the final round of competition (point 3.4 in this document) will be applicable.
- If three teams are participating:
 - The Competition will be conducted using a round-robin system. Each team will have the chance to argue against all other teams. The teams will be selected by a draw of lot to argue.
 - After assessment of the three teams' performances, the top two teams will be selected to compete for the National Henry Dunant memorial trophy.
- If four teams are participating:
 - The general rules contained in this document for the semi-final round of competition will be applicable.
 - The performance of the four teams will be assessed, based upon the written memorial marks and the marks obtained in the oral presentations.
- If five teams are participating:
 - The first four teams will argue according to the rules contained in the semi-final rounds of competition.
 - The fifth team will be then facilitated by two teams which have already argued in the first round of arguments. These two teams will be selected by draw of lots. Here, only the fifth team's performance will be taken into consideration for marking; the facilitator teams will not be marked.
- If six teams are participating:
 - General rules contained in this document for the semi-final round of competition will be applicable.

- Teams performance will be assessed based upon their written memorial marks and the marks obtained in the oral presentations.
- If seven teams are participating:
 - The procedure adopted will be the same as that used to conduct a five team competition

