



THIMUN
Qatar

The Hague International Model United Nations Conference in Qatar



Model International Court of Justice
Guidebook 2013



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Overview of the ICJ at THIMUN Qatar

The Function of the Model ICJ in Model United Nations

The ICJ in the United Nations

The ICJ was formed in the United Nations as a mediator for international disputes, with every member of the U.N subject to the ICJ and its verdicts. The ICJ acts to keep all actions of the international community within the bounds of international law. Thus, the Court deals not only with the disputes of countries (contentious cases) but also as an advisor for international action. (More on the Court on page 9).

The Model ICJ at THIMUN Qatar

The Model ICJ completes the U.N experience for students. The United Nations was formed to unify the world and bring peace. This is not done solely through discussing the social and environmental issues that the world faces, but by settling the conflicts that countries have with each other as well. The ICJ at THIMUN Qatar provides students the chance to work within the various aspects that a court functions through, from developing arguments and researching for evidence to judging situations through a lens of legality rather than ideological preference.

The ICJ at THIMUN Qatar operates on two cases. The first case is an advisory opinion, where the Court is asked to give its opinion to the legality of an action. No advocates are involved in this case, where the judges are the ones to research and present on the case (however, no evidence or other documents are collected by the Court). The other case is the contentious case, where the ICJ is to settle a dispute between two nations. Advocates present their arguments for this case, and the Panel deliberates on it according to the evidence presented (including witness testimonies). Each case is chosen from real cases debated within the ICJ in the Hague.

Basic Rules of The Court

The Statute and Rules of Court

The proceedings of the Model ICJ at THIMUN Qatar follow the basic guidelines set forth by the International Court of Justice Rules of Court as well as its Statute, which is also annexed to the U.N Charter. All parties involved in Court proceedings are to have good knowledge of the Rules of Court and Statute. For the purposes of the Model ICJ at THIMUN Qatar, the required information as to the Court proceedings is presented in this booklet. All official international treaties and other such formal documents (including U.N resolutions) also govern the Court. The Registrar will have a copy of the Rules of Court, Statute, and any other United Nations documents requested for the use in the case being presented for any of the Court bodies to ask for during a Court session.

Structure

The Model ICJ at THIMUN Qatar consists of 3 involved bodies:

Applicant: The moving party, or Applicant, consists of the advocates from the country that brings the case to the Court.



Respondent: The responding party, or Respondent, consists of the advocates from the country defending itself from the case presented by the Applicant party.

Panel: The officers and judges of the Court that regulate proceedings and form a verdict make up the Panel.

Each party in a case consists of three advocates that present their arguments and evidence as well as question witnesses in order to justify their position. All participants in the Court must swear in before the court proceedings begin.

Modes of Address

Though the ICJ does not require third-person modes of address, all members of the Court must be addressed with proper formality. A judge should be addressed as “Judge *Surname*” or “Your Honor” or simply “Judge”. Any panel member occupying the duties of the presidency for a case must be addressed as “Mr./Madame President” or “President” while the registrar, if needed to be addressed at any point, should be addressed as “Registrar” or by the modes of address for judges. When addressing specific advocates of either party, the advocate may be called as “Advocate” or “Counsel”; when a specific party is referred to, it may only be called by country name or “Applicants/Respondents”. Keep in mind that there is to be no direct conversation between parties when the court is in session, but that any questions or objections may be asked through the President or Assistant President. Any witness appearing before the Court is to be addressed by their appropriate title and surname (e.g, Dr. *surname* or Ms. *surname*). Witnesses appearing before the Court may use first-person modes of address.



Roles and Responsibilities

Officers of the Court

The Presidency: The President of the International Court of Justice, along with the Assistant President, heads the Court Panel and therefore the Court itself, presiding over all Court proceedings. The President has a thorough knowledge of the rules and jurisdiction of the ICJ and directs and supervises all administrative work taken place in the Panel, acting as the forum's chairperson. The Assistant President fills in for all presidential duties when the President is absent or when the role of the Presidency is transferred to him/her. All advocates refer to both the President and the Assistant President with the same degree of honor and mode of address. For additional information as to the role in the presidency, read Articles 10 to 14 in the ICJ Rules of Court.

The powers of the Presidency include extending deadlines and facilitating proceedings.

The Registry: The Registrar is the administrative arm of the Court and is responsible for all Court records. The Registrar will mark the evidence gathered by the Applicant numerically and the Respondent alphabetically (i.e., Applicant 1, Applicant 2; Respondent A, Respondent B, etc.). The Registrar should provide the Presidents and judges with a copy of the memoranda, stipulations, witness lists, and evidence packets as they find necessary. Evidence, witness lists, and documents as such that will be used by advocates for the case must be turned in to the Registrar or another officer of the Court before Court proceedings begin. For additional information as per the role of the Registrar, see Articles 22 to 26 in the Rules of Court.

In addition to the individual roles and responsibilities of the Court officers, they also each act as judges in each case and are responsible for note-taking and casting their vote on the cases.

Judges

There will be eight judges in THIMUN Qatar's Model ICJ, who are responsible for the verdict on the cases. During the contentious case, the judges must take clear notes on each case in order to prepare themselves for the discussions of deliberation. However, the judges must not come into Court having extensive knowledge or a pre-developed opinion on the case. In the end, the verdict must depend on legality, which must be determined through the evidence presented and the witness testimonies.

In the advisory opinion, judges play the role of the advocate. Judges must come in with extensive research done on the issue and a short speech prepared to deliver to the rest of the Court justifying their opinion on the case. After this, the case is debated between the Court and verdicts are formed.

Advocates

The role of the advocates is to debate the contentious case to the best of their ability. The advocates are responsible for the preparation of evidence packets, memoranda, stipulations, and witnesses before the

cases are debated. During the case, the advocates are responsible for taken notes on the questions asked by the Panel members and the opposing party, as well as the points made by the opposing party. These points must be addressed during the closing speeches.

Each party testifying before the Court will consist of three advocates per case. Each team of advocates must prepare the following documents in accordance with instructions and timelines as stipulated by the Court officers:

Memorandum: A document that clearly states the party's pleas before the Court, with a brief summary of the jurisdiction, facts, evidence, and arguments of the case as presented by that party. At the end of the memoranda, the parties' prayers of relief must be stated clearly. The prayer of relief is the request that each party has for the Court.

Stipulations: Objective facts of the case as agreed by both opposing parties. There will be only one set of stipulations presented to the Court but signed and agreed to by all advocates presenting the case. Advocates must know what they agree to in the stipulations, as it will be a foundation to the Judges' verdict.

Evidence Packet: Documents, treaties, conventions, and other relevant information in support of the case before The Court. The packet should have a table of contents and all pages should be numbered. Advocates must provide titles, authors, dates, and sources of all evidence. Evidence must be presented in its original format, i.e. it must not be re-typed or copied into an application that alters its format in any way.

Please keep in mind that though each case was debated in the actual ICJ in the Hague, this is a simulation of the case and so documents of the ICJ's ruling may not be used as evidence.

Witness List: The names and/or roles of witnesses to be called to give testimony before the Court. For example: "Mr. Anthony Frederickson, President of the World Bank", or "The Ambassador of Nigeria". Each team of Advocates can call a maximum of four witnesses.

Witnesses

Witnesses must understand the case presented before the Court that they participate in, particularly their position within it. They must be prepared to answer the questions that will be asked by advocates and judges, but are not required to answer every question if they do not know the answer to it. In any case, witnesses are required to respond truthfully, which means that the witness may acknowledge not knowing the answer to a particular question or that he/she is in no position to comment on the topic brought up. Witnesses will be asked to take a pledge before the court before examination may begin, and are expected to hold that pledge throughout Court proceedings.



Proceedings

Advisory Opinion

All judges must know the situation of the advisory opinion as best they can before the conference begins. Judges are required to begin the discussion with a short speech each on their view of the situation and the reasons to that view. From there, it is the President's duty to facilitate discussion between the judges in order to provide a proper opinion on the case, which will be given in the form of a verdict (see below).

Contentious Case

The contentious case is presented to the Panel by the two sets of advocates. It consists of opening arguments, presentation of evidence, evidence weighing, witness examinations, rebuttals, and closing arguments. All judges are required to take notes throughout the proceedings on advocate arguments in order to develop a proper verdict, and it is advisable for all judges to bring laptops.

Documents and Swearing In

All case documents to be provided by the advocates are to be submitted before the start of the conference, by the deadline appointed by the Court Officers. Stipulations must be prepared together by the advocates of both countries of the case, while evidence must be gathered and assembled in packets individually by each team of advocates. Deadlines must be met unless special permission be requested by advocates and approved by the President. Note that new evidence will not be accepted nor witness lists altered after the deadline or during the presentation of the case at any time unless deemed fit to do so by the President.

Before the Court may convene for the contentious case, advocates and witnesses must give an oath before the registrar:

"I solemnly declare that the case I present before the International Court of Justice, and the evidence and documents referred to therein, shall be the Truth, the Whole Truth, and nothing but the Truth as best I know it."

Opening Arguments

The advocates of the Applicant party will begin with a well-prepared opening argument with the intent of justifying the issues that they have brought to the Court, outlining the claims of their nation, the fundamentals of the case, and all essential and pertinent information. The Respondent party will then present their opening argument re-outlining the fundamentals of the case (and building upon it if need be), including all necessary points that justify the jurisdiction of their nation and the legality of the act conducted by it that is being tried before the Court. Advocates get up to 20 minutes for their opening arguments. Keep in mind that the opening argument is just a summary of the arguments that will be set forth by the party; it must not include extensive evaluation of evidence from either party.



Presentation of Evidence

Each team of advocates will provide three copies of all their evidence, one for themselves, one for the opposing party, and one for the panel (to be handed to the Registrar). In addition, the advocate team must also give an electronic copy of their evidence to the Panel before the conference date, to be circulated to the opposing team so that they have enough time to prepare their objections and counter-arguments.

While presenting each piece of evidence, advocates will inform the Court of the title, author, date and source, as well as a brief explanation about the significance to the case of each piece. The Applicants will present their evidence first with the Respondents presenting directly afterward. After each piece of evidence has been presented, the opposing party will have an opportunity to object on the grounds of authenticity, undue bias, relevance, reliability, or accuracy. Any objection will be noted by the court Registrar, the piece of evidence will be marked, and the Advocates will present their next piece of evidence. Any objection called does not guarantee omission of the evidence, but the objection will rather be taken into consideration during deliberation.

The most highly weighed evidence by the Court is in the form of international treaties and official government documents. Keep in mind that the Court forms its verdict based on legality, and so documents of law must be used to prove the legality or illegality of an action.

Weighing of Evidence

After the opening arguments the Court will go into closed session, the Panel may remain in the room. All evidence is divided among the judges, where each judge reads, take notes, and evaluates his/her piece(s) of evidence. Judges must take into account the reliability, relevance, and accuracy of the evidence while evaluating it as well as any objections made. Each judge will then present their piece(s) of evidence to the rest of the Panel, summarizing the key points of the evidence and giving it a weighting (high, medium, or low). Judges may discuss the decisions made by their fellow judges and may request to see any piece of evidence for themselves.

Examination of Witnesses

The order that witnesses will be examined in will follow the order that they are written in the witness lists, unless otherwise confirmed by the President due to circumstances (e.g, witness not being able to excuse himself/herself from his/her forum). Keep note that two separate witness lists are given, one from each party, and that the order of witnesses will always alternate between each party. That is to say, the first witness will always be of the Applicant, the second of the Respondent, the third of the Applicant, and so on. A witness summoned to the Court must remain outside until invited to enter. As each witness is called to give evidence, the Registrar will administer the following oath:

“I solemnly affirm that the evidence I am about to give shall be the whole truth as best I know it.”

The witness examinations begin with direct examination, during which the party that called the witness forth will first ask their questions. Advocates must ensure that their witnesses are well prepared prior to court proceedings on that case, ensuring that they know precisely what questions will be asked during direct examination and what answers are to be expected, as well as to know a good deal of information regarding their role in the case (i.e, their character’s relation to the situation). The witness may not be caught lying to the Panel or presenting any information that contradicts other valid evidence that was presented by either of the testifying parties.



Direct examination is followed by cross examination, during which a witness is questioned by advocates of the opposing party, and then by judges. Advocates must therefore prepare their witnesses for cross-examination as well as any questions asked by members of the Panel. Both parties get a total of 20 minutes to examine each witness, which may be expended through several rounds of examinations (i.e, direct examination for 3 minutes, cross examination for 4 minutes, direct examination for 3 minutes, etc.)

An advocate may interrupt a speaker only for the purpose of making the following objections:

- a. Audibility
- b. Relevance to the case
- c. Badgering of a witness
- d. Lack of consistency
- e. Asking a leading question

The President's ruling on an objection is final and may not be challenged. When advocates have finished examining a witness, Judges will be given the opportunity to question the witness.

Rebuttals

Rebuttals take place after the examination of witnesses, allowing advocates time to counter their opponents' arguments so far. A recess will be given between rebuttals for advocates to prepare. Rebuttals should address both written evidence and witness testimony. Beginning with the Applicants, rebuttals are made in two alternating rounds for a total of four speeches, each for a maximum of 15 minutes. As in examinations, this time may be expended through several alternating rounds.

In general, the first round of rebuttals is planned to address directly the arguments made so far of the opposing Advocates. The second round aims at countering points brought up in the first round as well as adding more points. Advocates will be given a brief period prior to this round to prepare.

Closing Arguments

Advocates for each party will have a maximum of 20 minutes to make a closing argument, however this time may not be expended through several rounds. In a closing argument the advocates are expected to summarize the party's case, linking each element of the argument to the evidence presented and/or legal principles, treaties, conventions, and customary international laws, etc. that pertain to the case, including evidence presented by witnesses or important points made in rebuttals and witness examinations.

Deliberation

After the case proceedings, judges re-examine evidence and arguments, deliberate, and form a verdict. This is a closed session – **nobody** other than the members of the Panel are permitted to enter during deliberation. However, advocates or witnesses may be called back by judges for questioning during deliberation.

After determining what specific issues are to be discussed, the judges will consider the merits of the evidence, based on its relevance, reliability, and accuracy (objections being taken into account). Judges may call in advocates to question during this period, and also review the stipulations agreed upon by both parties, using any contradictions of evidence with it in their final decision. The prayers of relief



are extremely important for judges during deliberation in order to consider perspective. However, the ICJ is not limited to supporting either prayer of relief and may come to its own conclusion and conditions.

When the deliberation is finished, each judge will announce to the Court her/his decision and the reasoning behind it. The judges may reach different decisions or the same decisions for different reasons. The position with the majority of judges' votes is called the Majority Opinion. The majority opinion, and a statement explaining the decision, is written down and given to the President of the Court. Judges who disagree with the majority opinion (including the reasons behind it) may write a separate or dissenting opinion.

The Verdict

After deliberation, judges that concur on both a judgment and on the reasons behind the judgment form a mutual *opinion*, while judges that concur on a judgment for reasons other than those stated in the opinion must form a concurring opinion. Judges that do not concur with a judgment must form a dissenting opinion. The opinion with the most votes forms the majority opinion, which is then written up as the Court's official verdict; all other opinions form "separate but concurring" or "separate and dissenting" opinions. These opinions must also be written up, but will only be used for records purposes.

The verdict will be formed depending only on legality, which will be determined by treaties and international conventions ratified by the parties. Therefore, advocates must take utmost care in finding and presenting their evidence. The Verdict will only be announced in the Closing Ceremonies by the President.

The verdict of the Court will follow this format:

The International Court of Justice,

Regarding the case of [subject of dispute] between the [Applicant] and the [Respondent]

We have found the following statements of fact:

(Here, clauses and statements from pieces of evidence will be directly quoted and cited as follows)

Clause [X] of the [Treaty of Y] states:

"[Quote clause here]"

Hence, we, the majority opinion judges, find that:

(Here, the Court would state and evaluate the arguments of the advocates in several numbered clauses, stating what arguments they determined valid and what they did not consider valid pertaining to this case)

For these reasons, we believe that:

(Here, the Court will state its conclusion and conditions in several numbered clauses)



ICJ History

Origins of the Court

The International Court of Justice, though a seemingly new form of judicial law in the world, is based on the Permanent Court of International Justice. The PCIJ was an institution that was until now the judicial power of the world under the League of Nations. The evident dissolution that was quickly approaching the PCIJ in 1943 saw the need to restore international law. Though initially meant to extend the jurisdiction of the PCIJ to counter its demise, the committee assembled to discuss the issue eventually agreed to create a new court altogether; one that was to be the central judicial authority of the United Nations and in the world. The ICJ was thereby formed, belonging to the U.N Charter but with its statute based on that of the PCIJ. Unique to the ICJ, and one of the core points on creating an entirely new judicial institution rather than renew the PCIJ, was that all members of the United Nations were automatically subject to the statute of the ICJ and therefore all member states in the new world order were automatically subject to judgment in its set international law. This lacking quality was one of the greatest flaws of the PCIJ and a core foundation to having the ICJ capable of dealing true international justice.

Though the ICJ is the principal judicial organ of the U.N, there are many other committees and institutions based on the development and implementation of international law such as the International Criminal Court and the Secretary General's Trust Fund. The purpose of the Court is to mediate disputes between states to the U.N and determine the legality of actions taken by governments or activist groups.

The Statute and Jurisdiction

The Statute of the Court was based on that of previous world judicial authority the PCIJ. Many integral articles of the Statute of the PCIJ have been integrated or referred to within the Statute of the ICJ. The Statute has also been annexed into the U.N Charter, and is an integral part to it. All member states of the U.N, therefore, are also member states of the Statute. The statute clearly defines court arrangement and procedure. The statute does not, however, directly define jurisdiction as those of other judicial institutions of the U.N (e.g, the Rome Statute of the International Criminal Court).

Being the judicial core of the United Nations and a truly world court, the ICJ finds its jurisdiction by examining international law that has already been developed, such as passed Security Council resolutions or treaties between countries. The Court is only a judicial body for any case regarding two states and so individuals may not approach the court (Statute Article 34). Any legal situation deemed a threat to international peace and security falls within the jurisdiction of the Court; the Court is open to all member states of its Statute and even non-member states (Statute Article 35). If, however, a dispute between two parties as to the jurisdiction of the Court in a situation arises, the Court shall decide the matter (Statute Article 36(6)). International Law, that the ICJ operates by, is defined under all international treaties and resolutions or other formal documents passed with international consent (e.g, resolutions passed within U.N forums), as well as international custom and the general principles of law recognized by the international community (Statute Article 38).