

# A GUIDE TO INTERNATIONAL MOOT COURT COMPETITION

With this guide, Universitas Gadjah Mada's Community of International Moot Court gives you a glimpse into the world of international legal advocacy. The book comprehensively covers the critical aspects of what one would encounter when joining international moot court competitions, and provides insight to questions such as "What do I need to prepare to be selected into a moot court team?" and "What can I expect when I present my arguments before the bench of judges?"

Authored and edited by the community's strong network of highly-esteemed and experienced alumni, this guidebook will give you a closer look at international moot court competitions, its workings, and the benefits you can reap with your participation. This includes everything from the vast knowledge you will retain, the legal instincts you will sharpen, and the mentors you will be under the guidance of, to the lifelong friendships you will make.

Lead your law school experience with the fun, intrigue, and challenge that come with joining international moot court. Your participation is long-awaited.

A Guide to International Moot Court Competition



UNIVERSITAS  
GADJAH MADA



COMMUNITY OF  
INTERNATIONAL MOOT COURT  
UNIVERSITAS GADJAH MADA

## a Guide to **INTERNATIONAL MOOT COURT COMPETITION**

Community of International  
Moot Court

[www.cimcugm.org](http://www.cimcugm.org)



FAKULTAS HUKUM UNIVERSITAS GADJAH MADA  
Jalan Sosio Yustisia No. 1 Bulaksumur, Depok, Sieman  
D.I. Yogyakarta, 55281  
Telp/ Fax (0274)512781  
Website <http://law.ugm.ac.id>



# **A Guide to International Moot Court Competition**

**Community of International Moot  
Court**

**Publisher**

**Fakultas Hukum Universitas Gadjah Mada**

**2020**

# **A Guide to International Moot Court Competition**

## **Team of Authors:**

Kusuma Raditya

Kukuh Dwi Herlangga

Mohamad Ibnu Farabi

Johanna Devi

Albertus Aldio Primaldi

Grady Lemuel Ginting

Ibrahim Hanif

Emilia Jasmine Susanto

Naila Sjarif

Indira Jauhara Pratiwi

Abigail Soemarko

Felicity C. Salina

Regina Wangsa

Nabila F. Oegroseno

Fajri Matahati Muhammadin

Muhammad Ryandaru Danisworo

Muhammad Awfa

**ISBN:** 978-602-18775-9-3

**Head of Editorial Team:**

Balqis Nazmi Fauziah

**Editorial Team:**

Abdurrahman Faris A.

Bagoes Carlvito Wisnumurti

Felicia Komala

M. Farhanza Onyxsyah Rachman

I Gusti Agung Indiana Rai

Audrey Kurnianti P.

Gracia Monica

**Layout and Design:**

Daven F. Salim

Ariel River Of Joy

Farhan Fauzy

**Publisher:**

Fakultas Hukum Universitas Gadjah Mada

**Address:**

**Fakultas Hukum Universitas Gadjah Mada**

Jalan Sosio Yustisia No.1 Bulaksumur, Depok, Sleman

D.I. Yogyakarta, 55281

Telp/Fax. (0274) 512781

Website: <http://law.ugm.ac.id/>

First Print, September 2020

All materials are subject to applicable Copyright laws.

It is prohibited to quote or reproduce a part or all contents of this book without the written permission of the publisher.

The contents are outside the scope of responsibilities of the publisher.

**Foreword from the Dean**  
**Faculty of Law of Universitas Gadjah Mada**

I was delighted have been asked to write an introduction in the framework of the publication of the guidebook prepared by a team of brilliant and dedicated members at the Faculty of Law, UGM. I am also very encouraged by the commitment shown by the team members for their dedication and commitment in preparing, writing, and publishing this important book. To achieve the goals envisioned, the team has been working uncompromisingly in the last several years.

International moot competitions serve as a platform for law students to learn about the most current global issue and tackle them at its core. Moot competitions undeniably help to polish legal practical skills and foster the lawyerly mindset that one would need to further a legal career. However, in Indonesia, this mooting culture is yet to be recognized.

To fill this gap in UGM Faculty of Law, the Community of International Moot Court has long served to facilitate for UGM law students to thrive in the world of legal advocacy through the participation of international moot court competitions. This book aims to further raise awareness of the benefits of mooting and what to expect from the experience. Where by the involvement of UGM students in those competitions have brought fruitful and excellent results, this book serves to be a reliable source and guiding hand for the

active participation in moot court competitions for all law students.

With this goal in mind, this book has undergone an extensive writing and editing process by CIMC's alumni and active members alike to provide a substantial and comprehensive guide for potential mooters. Each chapter provides insight to each aspect one would encounter in a typical moot competition.

Lastly, I extend my congratulations to CIMC for the publication of this remarkable book. I believe that in a broader context, the publication of this book would contribute significantly to the academic environment and legal education in this country.

A handwritten signature in black ink, consisting of a series of fluid, connected strokes. The signature is centered horizontally and appears to be the name 'Sigit Riyanto'.

Prof. Dr. Sigit Riyanto, S.H., LL.M.

## On Behalf of the Authors and Editors

The UGM Community of International Moot Court (CIMC) proudly presents *A Guide to International Moot Court Competition* to all of you international law enthusiasts, the first guidebook written by a student-run community in Indonesia about the ins and outs of participating in international moot court competitions. This book has been a long time in the making and without a doubt, one of the most anticipated projects that CIMC has been waiting to launch. It has been incredibly exciting to watch interest in international mooting grow in UGM Faculty of Law, and I hope this book is a timely catalyst for the development of a culture that is not only fun but that which also provides immeasurable benefits for law students everywhere.

From the start of the recruitment process, the technicalities of memorandum drafting, to the *dos* and *don'ts* of making oral arguments in the courtroom, the tips and tricks found in the guidebook can help you anticipate the checkpoints of training for the competition and how to best navigate the long months of preparation. There is a standard generally set and deemed successful for CIMC federates over the years this book gives insight on.

There is great advantage in having the book authored by the most experienced mooters at UGM. This means getting to understand international mooting through their process, trials, and wins. However, I hope this guidebook can offer you more than that. I hope you are able to read

the book through the eyes of people that have thoroughly enjoyed learning and growing through the rigor of the entire process. I hope you can identify yourself within these pages. May this book be a helping hand to those that are excited to learn more, those still reluctant to take part, and those about to delve into the world of international mootings. I hope yours to be a journey that would, too, be filled with passionate learning, bold endeavors, and life-long friendships.

To conclude, I would like to give my sincere thanks and appreciation to the hardwork and cooperation of the team who has helped me with the many rounds of edits in the last several months: Gracia Monica, Audrey Kurnianti, and Rabita Madina. There would not be a cohesive book to publish without their efforts and dedication. I would also like to extend my deepest gratitude to Dean Prof. Dr. Sigit Riyanto, S.H., LL.M., Vice Dean Dahliana Hasan, S.H., M.Tax., Ph.D., Head of Undergraduate Program Dr. H. Jaka Tryana, S.H., LL.M., M.A., and Mr. Fajri Matahati Muhammadin, S.H., LL.M., Ph.D., along with the Faculty's Research and Publication Unit. The completion and publication of this book would not have been possible without their immense support.

I hope you enjoy the book and find it to serve you well.



Balqis Nazmi Fauziah

## Table of Contents

<b>Foreword from the Dean Faculty of Law of Universitas Gadjah Mada</b> .....	<b>v</b>
<b>On Behalf of the Authors and Editors</b> .....	<b>vii</b>
<b>Chapter I Introduction</b> .....	<b>11</b>
I.    What is an International Moot Competition?	11
II.   Benefits of International Mooting .....	12
<b>Chapter II Recruitment</b> .....	<b>14</b>
I.    Why Attending the Workshop is Important ..	14
II.   Memoranda Drafting.....	15
III.  Oral Pleading and Interview.....	17
IV.   Important Notes for the Recruitment Committee .....	19
<b>Chapter III Being a Team Member</b> .....	<b>22</b>
I.    Maintaining a Relationship with Yourself ....	22
II.   Maintaining a Relationship with Your Team	24
<b>Chapter IV Planning</b> .....	<b>25</b>
I.    Team Introduction .....	25
II.   Setting Boundaries in Your Team .....	28
III.  Memoranda Phase.....	32
IV.   Oral Pleading Phase .....	44
<b>Chapter V Brainstrom</b> .....	<b>51</b>
I.    Understanding the Facts.....	51
II.   Identifying Legal Issues .....	52
<b>Chapter VI Research</b> .....	<b>54</b>
I.    Differences between Research in Public Law and in Private Law .....	54
II.   Preliminary Research.....	60
III.  Comprehensive Research .....	62
<b>Chapter VII Memoranda</b> .....	<b>65</b>
I.    What is a Memorandum? .....	65

II.	Language in Writing a Memorandum.....	66
III.	Constructing Your Arguments .....	71
<b>Chapter VIII</b>	<b>Pleading .....</b>	<b>80</b>
I.	Basics of Pleading .....	80
II.	Clarity .....	81
III.	Questions During Pleading .....	88
<b>Chapter IX</b>	<b>Managerial Affairs .....</b>	<b>102</b>
I.	Monetary Matters .....	103
II.	Administrative Matters .....	104
<b>Chapter X</b>	<b>Unwritten Rules .....</b>	<b>108</b>
I.	Keep a Stellar Attendance .....	108
II.	Be There for Your Team.....	109
III.	Be Ready to Compromise on (insert aspects of your social life here).....	110
IV.	Set Aside a Portion of Your Allowance.....	110
V.	Don't (Proof) Read Your Memoranda After Submission.....	111
VI.	Get Your Formal Attire on.....	111
VII.	Be (Sufficiently) Curious About Your Competition .....	112
VIII.	Good Impression is a Must .....	113
IX.	Thank Those Who Helped .....	113
<b>BIBLIOGRAPHY</b>	<b>.....</b>	<b>115</b>
<b>CONTRIBUTORS</b>	<b>.....</b>	<b>117</b>

# **Chapter I**

## **Introduction**

*Kusuma Raditya*

---

When studying the law, it is not enough to only focus on its theoretical aspect, as its practical aspect is equally imperative. A moot competition is a perfect medium for law students to experience and develop in both aspects. This is because moot competitions create a meeting point that requires law students not only to gain new knowledge, but also apply their theoretical knowledge to legal issues in the form of a fictional case.

### **I. What is an International Moot Competition?**

In Indonesia, the most common types of moot competitions are generally divided into two, namely, national moot competitions and international moot competitions. The participation in a moot competition is colloquially referred to as “mooting.” An international moot competition is an internationalised-level competition, where law students will compete with other law students from all over the world, and be judged in their performance by renowned practitioners from different national origins. These law students will be faced with a medium, may it be litigation or arbitration, to solve a fictional case (also known as the moot problem), where they are expected to analyze the fictional case from an international law perspective.

Unlike a national moot competition that is typically done in an “exhibition style” performance of a mock-trial setting of the Indonesian legal system, international moot is more dynamic in its practice. This is because international moots will have students arrange their arguments, present those arguments, answer questions spontaneously directed by the adjudicators, and in some cases reply to opposing arguments.

Moot competitions are generally divided into two phases: the drafting of the legal memoranda and the oral pleading rounds. These two phases will be explained in detail within the upcoming sections of this guidebook. In these two phases, students are expected to be able to formulate arguments with the applicable legal bases.

Some competitions such as the ICRC International Humanitarian Law Moot Court on humanitarian cases and the Philip C. Jessup International Law Moot Court on public international law require their delegations from each university to compete and win the national rounds first in order to be able to compete in the international rounds. The competitions that have national rounds are the perfect opportunity for those who still have no or little experience in international moot competitions to polish their skills and knowledge in preparation to compete in the international rounds.

## **II. Benefits of International Mooting**

It should be understood that mooting is not for everyone. In addition to balancing academics, mooting

requires long-term dedication and intensive preparation. The preparation of an average international moot competition can take on average six months. With that said, if you ever decide to participate in an international moot competition, you will gain experience and opportunities which are not easily obtained elsewhere. As an example, mooting allows law students to network and gain access to well-known law firms. Throughout the competition, students will engage with many legal practitioners and experts from all over the world who will be acting as judges or arbitrators. Depending on the performance of the team, mooting can lead to a potential internship, if not job offers.

Additionally, mooting can develop one's skills in public speaking, debating, communicating in English, and critical thinking. The experience you gain from mooting will also be highly valuable when applying for a job, especially in law firms. This is because mooting develops the analytical and research skills that are required in the work place. Not only that, having mooting experience will help familiarizing yourself with the long hours that is often demanded when working in a law firm.

## **Chapter II Recruitment**

*Kukuh Dwi Herlangga, Mohamad Ibnu Farabi*

---

Before the establishment of a moot team, every member has to undergo the recruitment process. In CIMC UGM, candidates who wish to apply are expected to attend the workshop, compose a memorandum, and conduct an oral pleading and an interview session before the recruiters.

### **I. Why Attending the Workshop is Important**

The workshop for a specific moot competition is intended to equip students with information they will need going into the competition and the recruitment process. Whether they are still hesitant or already sure they want to apply, these workshops are beneficial for everyone since they generally depict what the competitions under CIMC UGM would be like. Besides any information on the competition itself, there are some other things that the workshop will cover:

First, there will be insights on the field of law applicable to the competition and how these laws are used to answer the moot problem. This information is very crucial, considering you are expected to be able to apply the given knowledge throughout the period of the recruitment and the competition itself.

Second, the memoranda writing style will also be taught to prepare you for the next recruitment phase. Here, critical information that will be given varies from argument structure, application of the law, and format of the memoranda used in the competition, i.e., font, font size, margin, footnote or endnote, and spacing).

Third, you will be able to look into what the whole mooting experience is like. This part will include the overall view of the training regime, such as the timeline, different stages of preparation, and even what the day of the competition will bring.

Overall, the workshop will offer a glance of the moot competition and give vital information for each candidate before they enter into the recruitment process.

## **II. Memoranda Drafting**

To initiate the recruitment stage of memoranda drafting, you must send to the recruitment committee namely your Curriculum Vitae and motivation letter. Afterwards, you will be given a moot problem, entailing a topic or fictional case that may be the actual moot problem for the competition or drafted by the recruitment committee, which will become the basis to draft the memoranda. Memoranda drafting is mandatory for the recruitment process, and if it is not submitted, you will be disqualified.

The drafting of memoranda for the purpose of recruitment should not be complicated. You will be asked to draft a memorandum to represent only one of the disputing parties. This is as opposed to drafting two memoranda for both the Applicant (usually also known as the Claimant in arbitration cases and the Prosecution in criminal cases) and the Respondent (also known as the Defense in criminal cases) for the actual competition. Generally, you will be given one legal question by the moot problem (also known as a claim) to be used as your basis of argument. This argument is expounded in a written form, equipped with a legal basis to support it. What will be evaluated by the committee is your ability to argue and write. Some things you must consider in preparation for memoranda drafting are:

First and foremost, understand the given question and the case that is provided by the recruitment committee. Thereafter, start to analyze the points within the case to be used as the materials for the oral pleading stage. By understanding the facts, you are expected to have strong arguments to defend your position in the proceedings. Facts of the case can also determine how much significant research should be done. It should also be taken into account that participants of moot competitions should refrain from developing the provided facts based on assumption.

Second, start research about the topic along with a compilation of research materials provided by the committee. This research includes law-finding to serve as a legal basis, which can be done through accessing

online resources on international law, international contracts, literature or even comparisons of case laws with court jurisprudences.

Third, assess the facts and research results. In this phase, you are expected to incorporate the facts and the legal basis. Besides coming up with strong arguments, you are also suggested to know the strength of your arguments in order to anticipate counter arguments.

The fourth and final phase in this process is to start drafting the memorandum. It should be structured by touching on the issue, facts, laws, and analysis. Memoranda drafting has to be structured and has to be able to address the legal issue(s) given by the committee.

The methods of memoranda drafting will be covered in Chapter VII of this guidebook.

### **III. Oral Pleading and Interview**

Oral pleading is one of the last phases of the recruitment process. Here, you are expected to give an oral presentation on your prepared arguments as written in your memoranda before the recruitment committee.

You are encouraged to prepare a short script that includes fact points, arguments, and the legal basis that will be used. This is to mitigate stage fright and increase ability to recall arguments.

The oral pleading shall be done in a formal manner. Start with an introduction, and address the position, e.g., Applicant or Respondent, which was assigned to you by the committee. After that, start by verbally presenting your arguments in the same structure as the written memoranda (facts, legal basis, and analysis on the issue).

When being faced with questions in the middle of the oral pleading, maintain your focus and seriousness. Respond to the issue as succinctly as possible. If there is a legal basis that can be provided, briefly explain how the law is in your favor. As you reach the end, input can be given about the oral pleading, and an interview may also be conducted afterward.

Following the oral pleading is the interview session, where you are given one last chance to convince the recruitment committee of your abilities and commitment to be a valuable asset to the team. It is important for you to take this time to disclose information accordingly about yourself that would prove to be an advantage for the team but it is also important to be honest to the committee when answering questions about your weaknesses. With this, the committee can make informed decisions in order to form a team full of individuals that can complement each other's working styles and personalities in order to work well together.

#### **IV. Important Notes for the Recruitment Committee**

As part of the committee, there are several things that need to be examined and used as considerations during the recruitment process in order to make it as organised, systematic, and useful as it could be:

##### **Workshop**

This phase would be an excellent opportunity for the committee to evaluate any potential candidates. Not only does the committee have to give an introductory lecture about what the competition encompasses, but it is mandatory to also provide a quick practical insight on the legal training. This legal training includes, but is not limited to, memoranda drafting and oral pleading sessions. Both of these activities are paramount for candidates to allow them to observe how the recruitment process will be carried out.

##### **Drafting Memoranda**

In this step, the committee has to evaluate the analytical skills and logic of the candidates based on their memoranda drafts. An important point to consider is how the candidates can analyze and apply the law regulating the issues being questioned into an argumentative form of writing and speech. Besides that, the rules of each competition should be taken into

account, especially when it comes to the formatting of memoranda.

If errors are present or are significant in the first memorandum draft, the recruitment committee should provide comments prior to handing it back to the candidates to revise according to said comments. The committee will have to evaluate how determined and hardworking each candidate is to cater to the comments for their memorandum. By comparing the first and the revised draft, the committee may consider if there exists any significant changes to the memorandum, which will be particularly taken into account for the final marks.

### **Oral Pleading**

When candidates plead, two components that will be marked are English speaking skills and how comprehensive they are when it comes to understanding and making their arguments. Although a different and lower evaluation threshold will be used for the recruitment process, any shown progress should be considered to decide if and how the particular candidate can be shaped for the competition later on.

### **Interview**

This would be the last chance for the committee to evaluate all candidates. Here, the candidate's personality will be an important consideration. The assessment entails, but is not limited to: whether the candidate is able to work in a team, how they perform working under

pressure, and what other activities they currently have that could affect their performance and productivity of the team for the duration of training leading up to the day of the oral rounds of the competition.

## **Chapter III**

### **Being a Team Member**

*Johanna Devi*

---

Now that you have been selected as a team member, you need to be mindful that you will have to see the same people every day throughout the span of many months of preparation for the competition. With that being said, be professional and refrain from making any unnecessary drama. Good relationships and positive energy between team members will affect the team's success in the future. In this regard, there are several things to consider:

#### **I. Maintaining a Relationship with Yourself**

##### **Trying Your Best**

As a team member, you have to give your all to achieve the best result possible in all stages of the preparation despite what your own initial plan was in joining the competition. Even if you only seek experience, this should not hinder you from going out of your way to improve every day and ensure that your performance is linear with the collective expectations of the team. Have a mindset to become the best representation of your university. This way of thinking is important for each team member to have so everyone will prioritise the competition and to ensure the balance of contribution within the team.

## **Maintaining Your Emotional and Mental Stability**

Mental preparation is paramount to any substantive preparation. Other than building your confidence, your physical and mental health should also be considered and maintained to be able to perform well on the day of the oral rounds. Despite the actual preparation consuming most of your time, try to also maintain self-care by exercising, eating healthy, and not pushing yourself too hard. The team should also have an occasional time off to unwind and refresh, as this would significantly and positively affect each individual and the team collectively.

If, as an oralist, you feel overwhelmed by pressure during the competition, so much so that you feel like having a nervous breakdown during the oral rounds, make sure you identify your feelings before the round starts so you are able to do the pleading that you have trained so hard for so long to pull off. As a team member, it also becomes your responsibility to check if your other teammates are emotionally stable. This is especially pertinent when that specific teammate is an oralist that needs to perform their oral pleading during the round.

In essence, moot competitions do not derive far from human elements. If the team can work well together, the competition itself can teach you and your teammates strong values and help forge deeper bonds with one another, which is one of the most invaluable things that one can experience in a moot court competition.

## **II. Maintaining a Relationship with Your Team**

### **Being Professional**

Besides having sufficient capability and knowledge, a professional work ethic means that you have integrity and can work objectively without any sentiment. This will include time management and self-discipline without other factors that could hamper the team's performance. Even if you have built a friendship outside the competition with other team members, no special treatment or bias should be present within the team in order to maintain strong teamwork and productivity.

### **Maintaining Good Communication With Your Teammates**

Open communication is key in any successful relationship. Your moot team is no exception. In a team full of different opinions, each member should be able to understand how to cope with internal team problems—both professional and personal ones. To be able to have open communication, everybody should be able to be open to criticisms and input. Any criticisms and input should always be given constructively and without any ill-mannered intention to make it personal. This sort of communication will be able to open discussions conducive to finding the best solution to any problem.

## **Chapter IV**

### **Planning**

*Albertus Aldio Primaldi, Grady Lemuel Ginting*

---

Before you officially begin your moot experience, you and your team should plan or strategize for the competition. In this chapter, we will go through several points that can guide you when planning for the success of your team.

#### **I. Team Introduction**

##### **Getting To Know Your Team Members**

Now that your team has been assembled, the chances are, they consist of strangers to you. Even though this is your first time meeting them, you will need to spend the next six to seven months intensively with those strangers. However, the first phase of being part of a moot team is getting to know your fellow teammates since only with solid teamwork would you be able to produce a firm argument, achieve stellar research findings, and ultimately, able to snatch that trophy together.

There are a hundred ways as to how to build rapport with your teammates. Starting from a having a kick-off meeting over coffee to contemplate about your life decisions, checking your zodiac sign compatibility, solving a BuzzFeed quiz to determine which kind of

vegetable you are, taking the 16Personalities test, and many more. The point is, develop mutual trust, friendship, and affinity by interacting with your teammates in any way possible. This will help you establish a good interpersonal relationship and thus will facilitate your teamwork for the months ahead.

## **Positions Within the Team**

### 1. Coach or Mentor

The presence of a coach varies in each moot team. While most moot teams have at least one coach to help the team excel in the competition, some teams could, go without any assistance of a coach. Ex-members are expected, and many of them are willing to coach a moot team. Some teams even have lecturers or legal experts to help them get through the mooting voyage. This will depend on whether the team decides if they require assistance.

### 2. Head Delegation

A head delegate is a formal position that usually is present in a moot team. The function of this role is to represent the team both for administrative concerns required by the faculty or by the competition itself. Another unspoken role assigned for a head delegate would be to maintain the team's quality in performance throughout the span of the months of training up until the competition day. Appointing a head delegate would be left to the discretion of the team members. In some instances, however, a head delegate could be selected by the moot alumni (or the members of the previous team)

when open recruitment takes place or the coaches during any time after the recruitment and before the day of the competition.

The qualities of a head delegate revolve around many things. Personality trait frequently plays a considerable role in determining who the head delegate will be. One has to have leadership skills, a sense of responsibility, is organised, and has quick wit in resolving problems—either problems appearing from within the team or external problems that may arise.

### 3. Oralist

The oralist has to shoulder the heavy responsibility of presenting the team's complex and carefully crafted arguments before the bench of judges during the oral rounds. The selection of who may become an oralist typically falls under the coaches' deliberation. This process may be done from constant oral tests, or even just merely assessed from one's pleading performance during the recruitment process. Some competitions require names of the oralists to be submitted within the registration form, e.g., the International Criminal Court Moot Court. But, other competitions allows for such determination to be done further within the competition, e.g., the Philip C. Jessup International Moot Court.

### 4. Researcher

While oralists are also required to do their own research and be included in the drafting of the memoranda, the main job of compiling all research and ensuring they are available for oralists to access falls

under the scope of job of the researchers. This separation of responsibilities will be especially distinct during the last leg of preparation after memoranda submission, where the focus of training will shift to polishing oral pleadings. The oralists will lean on the researchers to help judge their oral pleadings, ask substantially heavy questions, and fill in gaps in the legal arguments. Therefore, it comes as no surprise that behind every successful oralist is a strong researcher.

### 5. Observer

An observer is part of a moot team that shoulders the same obligations as a main team member would, i.e., researchers. The position of an observer is not necessarily mandatory in a moot team, and the existence of an observer is dependent on the needs of the team. However, this role does not only exist to solely assist substantially the main team members but to also prepare them to become team members for next year's delegation.

## **II. Setting Boundaries in Your Team**

### **Establish Internal Rules**

Participating in a moot competition requires a high degree of commitment. To honor this commitment, an accompanying rule needs to be established to anticipate those occurrences. This internal rule should be a product of consensus between all members instead of rules that have been passed down from one moot team to another, from year to year, such as:

### 1. Promptness

This rule is self-explanatory. Team members not only have to agree as to how often the training should be conducted, where to train, when to train but also how to handle late attendance. Tardiness is a common occurrence in any training regime. What is uncommon, however, is repeated tardiness without any justifiable grounds. It is up to the team members whether a penalty shall be introduced for those who fail to comply with the attendance rules established in the team.

### 2. Possible Termination or Downgrade

Chances are you have survived the Hunger Games by being the last few standing from a gruesome and intense internal mooting selection. This means you have to take your position seriously. You have been one of the chosen few among many others. One way to ensure that the team members do not take this for granted is to introduce a continuous performance evaluation system. Inability to perform within the expected result is a ground for termination or downgrade. However, please note that this is quite a drastic measure, and if it is not handled and appropriately discussed, it might lead to an internal conflict between the teammates.

### 3. Leave of Absence

There will be a time where you are just unable to attend practice on a particular day, possibly due to prior academic commitments, or the celebration of religious or cultural events. You are allowed to take a leave from practice based on the consensus of your teammates. Just

make sure that this is something that is discussed by all team members– when to take a leave of absence and how long the maximum period for one leave of absence would be. This is why you also need to disclose any potential commitments that might coincide with your practice schedule to all teammates from the beginning.

You might also need to discuss what to do during the semester holidays. Will you go back to your home town and start remote training? Or will you be spending your Christmas with your teammates instead of your family? These are all things that should be discussed beforehand to ensure everyone is on the same page when it comes to plans outside of the team.

#### 4. Daily Reports

The idea of daily reports is that every individual has to compile a summary of the work that they have done on that particular day. This can be in the form of research result, case analysis, or description of an argument development. And as the name may suggest, it is to be sent daily. The system is created to ensure performance during the training and is particularly suitable for remote training. Controversies, however, sparked as to whether this system is necessary or redundant. This is why the existence of daily reports varies from one moot competition to another.

#### **Daily Training vs. Regular Training**

No one training methodology fits all type of circumstances. The method depends on the profile of

your teammates, their preferences, and their class schedules. However, seeing from the perspective of the frequencies of the training, there are at least two types: daily training and regular training.

Daily training, as the name suggests, compels the attendance of the team members on a daily basis. There are also some universities willing to rent a six bedroom house for the months of training to quarantine all of the team members under the same roof. The purpose is to facilitate effective discussions between team members every day. This, however, will require unwavering commitment since you are pledging to reserve all the time and energy you have after classes up until you go to sleep for the competition.

On the other hand, regular training will only call the need to gather the team members together in a certain interval of time. For instance, twice in a week, four times in a week, or even once in a blue moon. Some teams actually find this regular training more productive compared to the daily training as it will allow the team members to channel their focus either to research, construct arguments, or even training oral advocacy at their own pace and give the flexibility to do so in an environment they work best in.

All in all, the training regime for a moot competition varies in each team. However, if you are still in the process of completing your studies, classes should always be number one priority. While winning an award in a moot competition is great, remember that getting

to wear the graduation sash is still the primary goal and why you enrolled in law school in the first place.

## **Venue**

Why is having a good mattress important? As what every great mattress advertisement would say: “because you spend one-third of your life sleeping.” This is why some people do not hesitate investing a ridiculous amount of money in having the most comfortable bed. Now that you are committed to mooting, you will have to pledge about a half of your life to the many months ahead. So, applying the same mattress logic, you should also secure the most comfortable venue you can find.

For financial reasons, a three-star hotel as a venue is clearly off the table. However, other financially viable options include the public library (they usually have discussion rooms), a co-working space, or even renting a house for a certain length of time. You can also try to ask permission from your university to borrow one of the available classrooms for usage after class hours.

## **III. Memoranda Phase**

In most of moot court competitions, as you know, the competition is divided into two stages: submitting a written memoranda and the oral pleading phase. This chapter will discuss the planning during the memoranda drafting phase.

## **Before the Release of the Moot Problem**

Chances are your team has already been assembled prior to the release of the moot problem. However, just because the starting line has not been drawn, it does not prevent you from setting camp nearby said line so your team can have the early start. This section will cover some practical tools to enable your team in having the upper hand in drafting the memoranda for the competition.

### 1. Determining the Style and Template of the Memoranda

International moot competitions tend to regulate the format of the written memoranda. Be it page limit, font size, or margin requirement. Therefore, familiarize yourself with these rules carefully. Failure to comply with this formatting might be fatal. For instance, in the Philip C. Jessup International Moot Court, you will receive a penalty for every formatting mistake. In the Willem C. Vis International Commercial Arbitration Moot, your memoranda will not be considered for awards if such mistakes were to be identified.

If your seniors have successfully snatched prizes for the memoranda, you can ask for their advice and possibly request for their memoranda to assist in the drafting of yours as a reference. Alternatively, since most memoranda that have won the title Best Memoranda from previous years are published publicly as the committees of the competition usually upload

them on their websites, take the initiative to gather and compile the ones from recent years. In this way, your team can analyze the strength in their memoranda and formulate the style and format of your memoranda based on your observation. Read it in tandem with the rules of the moot, especially on formatting, to determine the style that your team will be using.

The following are items that your team have to contemplate includes but not limited to:

### **Page Setup**

- a. Paper size
- b. Margin
- c. Font
- d. Spacing
- e. Alignment
- f. Hyphenation
- g. Page number

### **Skeleton of the Memorandum**

- a. Cover Page
- b. Table of Contents
- c. List of Abbreviations
- d. Index of Authorities
- e. Index of Cases
- f. Statement of Facts
- g. Summary of Arguments
- h. Arguments
- i. Prayer for Relief
- j. Signature Block/ Certificate

## **Headings and Subheadings Format**

For Example:

***I. Jurisdiction Issue Number One (small caps, bold)***

***A. Sub-Issue Number One (small caps, no bold)***

***1. Point Number one (normal, underlined)***

***2. Point Number two (normal, underlined)***

***a. Sub-point number one (normal)***

***b. Sub-point number two***

***i. Detail Number one (italics)***

***ii. Detail Number two***

***B. Sub-Issue Number Two***

### 2. Effective Research

The ability to conduct research is one of the skills that a lawyer must have. There is a plethora of ways on how to do research, and the team members should be briefed as to how to find and utilize the legal authorities efficiently. This is better to be done as early as possible, and ideally before the release of the moot problem.

Although this will be covered more thoroughly in the next chapters, the following are several points worth noting:

- Figure out how to identify relevant authorities and sources of law needed;
- Consider investing in the paid research tools;
- Do not cite unhelpful authorities—less is more;
- Keep track of your research progress—do not get lost; and

- Do not underestimate the time that research takes.

### **Read the Rules**

Each moot court competition has its own set of rules, and it might be different from one to another. Before you even begin to comprehend the moot problem, you should be familiar with the nature of the competition. This is especially important for the drafting and submission of the memoranda because in some moot competitions, failure to comply with one of the clauses in the rules will render your team to be ineligible to win an award, or even lead to the disqualification of your team. The rules of the competition will pave the way on how your team can effectively draft your memoranda in the time that you have.

### **Release of Moot Problem**

With the release of the moot problem, you will most probably find yourself reading it every single day for the next couple of months. After reading the moot problem, you will need to construct a skeleton or several pointers to visualise your potential arguments, and ideally for both of the disputing parties. After the skeleton has been laid out, you will then need to divide the claims based on the capacity of your team members to best tackle which claim. However, please note that as time goes by, you might discover new facts and novel arguments which might require you to amend the skeleton.

In this vein, you must keep reading the moot problem. The author may have planted ground-breaking twists that you would not be able to decipher in your first few times reading it. With this, ensure that you have the moot problem be as accessible as it can be to you. Download the soft copy version in your desktop and/or your phone. It is also not a bad idea to print hard copies to plant in your bag, your car, and even on your nightstand.

## **Division of Labor**

There is an expression that reads “too many cooks spoil the broth” where there are just too many people involved in trying to do the same thing which will ultimately spoil the final result. This adage applies in drafting the memoranda. As we have discussed earlier and as you will figure out yourself sooner or later, numerous tasks revolve around the drafting phase. This is why task delegation is crucial and desired, where each person, aside from handling their own arguments, will be in charge of a specific responsibility. Below is a list of roles commonly found in every team which could be varied depending on the needs of your team.

### 1. Grammar Police

The Grammar Police—also known as the most annoying person on the planet. The Grammar Police will find the constant urge to correct the use of your English; grammar, spelling, punctuation, and/or diction. If you are coming from a non-native English-speaking country and you are rarely exposed with legal drafting

experience, your writing skills are prone to mistakes, starting from a simple grammatical error. Repeated grammatical errors, however, can result in a fallacy which you would want to avoid, or by the very least, it will prompt the memoranda judges to decrease your score. Therefore, the Grammar Police is a necessary evil.

Interestingly, however, if you take a look at the winner of the Best Memoranda in Willem C. Vis International Commercial Arbitration Moot or the Philip C. Jessup International Moot Court, most of the recipients originate from countries wherein English is not their native tongue:

- As of 2019 in Willem C. Vis International Commercial Arbitration Moot Vienna, Albert-Ludwigs-Universität Freiburg won the Best Memorandum Award 8 times (1994, 2001, and 2007 for Claimant; and 2012, 2014, 2016, and 2017 for Respondent).
- As of 2019, in Willem C. Vis International Commercial Arbitration Moot Hong Kong, University of Munich won the Best Memorandum Award 7 times (2004, 2005, and 2006 for Claimant and Respondent and; 2015, and 2016 for Claimant and Respondent).
- In the Philip C. Jessup International Moot Court, ever since the international era (1968) until 2019, National University of Singapore has won the Best Memorial Award 5 times (1982, 1987, 1987, 1996, and 2010).

This means that just because you are coming from a country where no one in your neighborhood speaks English, it should not demotivate you to write an award-worthy memorandum.

## 2. Citation Scholar

Citation Scholars will be on the lookout for citations that have gone awry and will have to ensure their uniformity. To help them out, it is important to title your footnotes for each case with the full case name and law report citation (or citations if the case appears in more than one series of law reports) to track them down. A complete and accurate citation of these cases will enable you to find the authority quickly in the future. Note the page or paragraph references for the most important passages of each judgment so that you can include the most accurate and precise part of your authorities. It is likely that you may at some point, forget the authority where you have gotten your research from, and digging up information like that from the depths of your mind can be the most frustrating thing in the world. You may have to find these passages again before the moot, and you will not want to re-read entire reports to do so.

## 3. The Scribe

With distinctive writing styles, it is easily recognisable when different people have written various passages in one document. A document that incorporates only one writing style will reflect a degree of consistency and fluency in your team's work. In this way, the delegated person is the Scribe whose job is to translate the ideas of the whole group into one document.

In order to effectively do this, one person is usually delegated to re-write the document with their own style towards the end of the memoranda drafting phase. They should be sitting in front of the same keyboard as the final document is produced with other team members rotating in joining said person to explain and clarify their share of arguments in which they have worked on. The Scribe must remember that they are being entrusted to prepare a group document. With that in mind, they should not let their own personal ideas overpower ideas of the rest of the team's.

### **Claim Rotation**

Notwithstanding the relevant considerations during the division of labor, in certain instances, claim rotation may be necessary. This will depend on the team's internal evaluation on their current memoranda progress. To rotate individuals between claims may provide an objective and fresh point of view to the disputed issue. On the other hand, getting a new claim assigned means needing to catch up with the previous research to develop their teammate's previous work. When done poorly, this can easily hamper the claim's progress. All in all, the urgency to rotate depends on the circumstances at a certain point of the memoranda drafting phase. Based on experience, claim rotations have more often than not proven to be beneficial.

## **Review Methodology**

Revising and editing are invaluable to the preparation of any document. You will inevitably make errors while writing the first draft of your submission. When you consider the complexity of the writing process, this is not surprising. When you write, you are not merely thinking about the next word that is about to appear; you are thinking about the whole sentence. You are also thinking about the point you are making in the paragraph as a whole.

You might have distractions as well, such as the presence of other team members. With all of this going on, it is no wonder that sometimes the ideas you have in your head are not conveyed perfectly by the words you write on the page. Revising the content and editing how you express your arguments allow you to compensate for these distractions and mishaps.

### 1. Internal Review

Once the memoranda have been produced, the team will need to review it many times over. An internal review refers to the core team being the reviewers who will examine the memoranda. This can be done in different ways, from each member reading the memoranda individually and giving their own comments, to the entire team reading the memoranda on a big screen from start to finish and giving collective feedback.

Another technique is for the team to write down important notes and create a check-list that needs to be included in the memoranda. This ensures that each research deemed to be relevant will be included in the memoranda, and not accidentally deleted during the writing process.

Printing out the draft might also be useful during the review process. Although some people feel comfortable reading documents on a computer screen, there is a risk associated with reviewing this way. Authors of documents tend to read what they intended to write, not necessarily what has actually been written. There is likely to be a greater risk of doing this if you read the document on the screen. When studying, students are often encouraged to have a dedicated space where all they do is study. We train ourselves that if we are sitting in that seat, we are there to work. The same can occur when writing submissions, whether as part of a moot competition or for a real case. For this reason, when you begin reviewing, it is a good idea to find a place to work that is different from where the document was written. This can help you clear your mind for the task ahead. The aim when reviewing is to be as objective as possible.

## 2. External Review

After reviewing a draft yourself, most teams also find it useful to ask a third person to read and review their memorandum. Regardless of how hard you try to be objective when reviewing your work, it will be nearly impossible to be 100 percent objective. It is essential for

external people to review the document. These people can advise on matters of expression as well as the content. Having a family member or friend look at your document, one who has no idea about what you are writing, can offer you different benefits.

First, this person will be even more objective than your teammates. Like you, other team members will tend to read the document with a mindset similar to yours because they are familiar with the material. Second, and perhaps most importantly, if this third person can understand your argument, then you know you have expressed it clearly and logically. If your argument appeals to both who know the law and facts and those who do not, then it is likely to be a strong one—both in substance and expression.

### **Setting Deadline**

The task of estimating the time required to complete a project is often one of the hardest. Breaking down the process of preparing for the moot into individual tasks can effectively determine how long each one will take. Keep in mind only rarely do things go to plan, so make sure you have enough time to accommodate any unexpected obstacles. Be careful not to fall into the trap of thinking the deadlines you set are always flexible. Once you set a deadline, always work towards finishing your tasks well in advance.

## **IV. Oral Pleading Phase**

### **Oralist Selection**

In terms of tactics, it is important to pre-define the number of potential oralists needed, divide their efforts appropriately at the memoranda drafting stage between procedural and substantive issues, and last but not least, find oralists who are capable and willing to perform the task. Because the performance of the oralists is a determinant on the quality of the team, it is important to ensure that the oralists are able to shoulder the weight of the most important task of delivering the arguments.

One of the most common ways to select the oralists is when both memoranda are ready to be submitted. Afterward, oralists are chosen based on their oral advocacy skills. Some teams may choose to hold several practice sessions to evaluate everyone's oral skills. If this is the case, teammates would be given the chance to plead at least once. This approach, allowing for some "warm-up" periods, encourages enthusiastic participation of the team, at least in early oral pleading practices. Furthermore, the progress of each member will be evident to the rest of the group. This helps justify decisions when it comes to the oralist selection. After oralists are selected, this means that the remaining team members that have not been selected will be assigned as a researcher for each oralist.

The second method widely applied is based on the oralist pre-selection made by the coaches at the team

formation stage, but not disclosed to the team members (including the prospective oralists) until the beginning of the oral pleading phase. This method promotes the feeling of initial equality in the roles of team members, which might be quite helpful at the memoranda drafting stage.

During the process of oralist selection, serious attention has to be devoted to several team-spirit restoration factors, such as first, providing comprehensive reasoning behind the selection decisions—it is advisable to lay out these selection criteria in writing. Remember to explain the contribution of each team member, especially the researchers, whose roles have not and will not come second in importance. It is always good to ingrain the reminder that all members will still reap the same benefits that the moot can provide for all members regardless of their participation in the oral rounds.

## **Oral Pleading Preparation**

### 1. Division of Claims

It is common to maintain the same division of groups for the preparation during the memoranda drafting and the oral pleading stage for each oralist. Breaking down the teams into smaller groups has been proven to be more efficient. For example, one oralist pleading for one claim will have researchers who have also researched for the same claim during the memoranda drafting stage. For instance, in the Willem C. Vis International Commercial Arbitration Moot, these smaller teams are usually made

up of the Procedural and Merits team, where the members that have researched to draft the Procedural claims and those that have drafted the Merits claims will maintain this bloc when practicing for the oral pleadings. This will reduce the amount of time being used for a “catch up” session to understand an issue of the problem that they have not yet dealt with. During these practice session, the remaining time should be focused on the oral presentations based on materials already dissected and prepared.

## 2. Double Agent

A double agent is commonly debated about and considered in most teams. It refers to an oralist who is an agent for both the Applicant and Respondent, tasked to deliver conflicting arguments to represent both of the disputing parties. The rules in each moot tend to differ from one another with regards to double agents. In Willem C. Vis International Commercial Arbitration Moot, for example, an oralist is considered a double agent if they plead for both parties once throughout the entire oral rounds. This is as opposed to the International Humanitarian Law Moot Court, for example, where the two oralists will automatically become double agents as there are only two slots for the role of oralists in each team. These two moots also differ from the International Criminal Court Moot Court, where there is usually only one oralist representing one side.

This role requires a degree of efficacy and consistency as the double agent will always face the challenges of representing conflicting sides. While it

would help the oralist see both sides of the same coin, it would require more effort and training hours put in. Therefore, having a double agent rather than two oralists should be based on the team's consideration when assessing the composition of oralists they want to maintain.

### 3. Unlimited Q&A Sessions

One of the key skills demanded in any moot competition is the ability to answer questions. All oral pleading sessions would not go without interruptions, and the judges would assess how each oralist is able to answer questions from them. In preparation for this, an unlimited Q&A session should be considered to be incorporated during the training of pleading sessions. This requires the oralist to answer every question in a pleading manner, without the restriction of time, which allows the oralist to be familiar with answering questions directly and properly. Such may be applied on a weekly basis or in any amount deemed necessary, judging from the oralist's ability to answer questions.

### 4. Division of Assessment

The researcher has a significant role in shaping the oralists' performance. There are quite a number of criteria that make up a good oral presentation. With this in mind, a division of assessment is necessary to ensure that all areas are covered and each criterion is fulfilled. This includes manner, diction, substance, and question and answer. The oralist has to master all these components satisfactorily. However, you can quite imagine how challenging it would be to plead and judge

yourself at the same time. Therefore, the researchers have to keep in check all areas of the oralists' performance during the pleading sessions. That way, each component can be improved depending on the circumstances and the team's needs.

## 5. External Training

Similar to the memoranda drafting phase, external feedback is necessary during the oral preparation. Most moot rules allow assistance from external parties in preparing their oralists for the oral rounds. External feedback would clearly assist the oralist in assessing their current skills, and whether their style of pleading would appeal to certain judges or "audience" in which the moot demands. This can be done with any ex-mooter, seniors, alumni, and even practitioners and professionals in the legal field as allowed in the rules of each competition.

External training or feedback may come in different forms. Some professionals would have a degree of experience with the moot problem and would be able to assist the oralist with their substantive arguments. Some would not be familiar with the issue but have had experiences with the moot and would be able to help in terms of mannerism of the oralist. Any of such assistance would be beneficial and would be recommended to any team during their preparation for oral pleadings.

Most teams utilize the holidays to approach external help in order to avoid clashes with their class schedule. This is commonly practiced with law firm visits, in order

to receive feedback from lawyers who are, in the majority, Jakarta based. However, some teams have used online video call or Skype to overcome the issue with distance. In Willem C. Vis International Commercial Arbitration Moot or the Foreign Direct Investment International Arbitration Moot, as the rules permit them to do so, utilize this method to train with foreign teams that they are not competing against in the preliminary rounds.

#### 6. Open Pleadings in the Faculty

Your university is comprised of amazing intellectuals with many different levels of expertise in different fields of law. Initiate an open pleading and invite them to attend. Such has been a long tradition in CIMC UGM, which was kept year after year due to the benefits it brings to many teams that have seen them through. Admittedly, aside from the feedback that may come from the panel of external judges and the audience, it would be an excellent opportunity to show the result of the many months' worth of training!

#### 7. On-Site Training

With the competition approaching, teams are usually ready and have re-located somewhere near the venue. Some teams would be tempted to peruse the city they are in. If you are reading this, be cautious of treading the line between treating your stay as if you are on holiday and actually taking time to do last minute preparation for the oral rounds. Prior to and during the competition, on-site training is typical and may be beneficial as it still allows room for final tweaks to be made for the oral

pleadings. Such can be done with local firms or other teams in accordance with the parameters set out within the rules of each competition.

## **Chapter V**

### **Brainstrom**

*Ibrahim Hanif, Emilia Jasmine Susanto*

---

As mentioned before, in every moot competition, the moot problem consists of a fictional legal case that would become the basis in making arguments. This chapter will discuss each step in approaching the moot problem.

#### **I. Understanding the Facts**

To start, the most important step is to understand the facts of the moot problem. First, look at facts which are undisputed by both parties. All moot problems will include these facts, although it might go by different names such as:

- Factual Background
- Statement of Agreed Facts
- Uncontested Facts

These facts are uncontested and considered to be “true” in the eyes of the court or the tribunal examining the dispute. This would portray the actual dispute of the parties, and would guide you to understand the direction of the issue and the stance that each of the parties had. However, these facts tend to be ambiguous and well-balanced between the two disputing parties. Therefore, this identification process would require a discussion necessary between the team to identify the relevant

issues which is a crucial step to make sure that every team member is on the same page in viewing the moot problem and the stance of the Party represented.

## **II. Identifying Legal Issues**

The next step would be to look at the claims, which should be answered within the memoranda and oral presentations. In most moot competitions, the claims would be laid out by the moot problems themselves. This is generally easy to find; the form is usually a list of issues where both parties have to argue based on their respective stances, e.g., regarding the tribunals' competence: "whether the tribunal has jurisdiction over the dispute."

However, such is not always the case, as some claims and legal issues have layers and are hard to follow. Therefore, thorough research is necessary to go through this second step. With an understanding of the academic perspective and where the legal issue is directing upon, the next step is to connect such legal issue or claim with the relevant given facts. To connect such claims with the facts, it is helpful to classify the claims into several types:

- Jurisdiction
- Admissibility
- Merits

To explain briefly, jurisdiction and admissibility refer to procedural issues, while merits relate to the

substantive aspects of the case. As a result, one of the ways to separate the facts from the legal issues can be by identifying which set of facts relate to such procedural issues, and which relate to the substantive issues.

Identifying such question of law would determine the direction of the memoranda as well as the oral presentations. In most moot competitions, procedural, jurisdiction or admissibility matters would tend to have different governing law with the merits issue. Therefore, classifying those legal issues would be determinative to the outcome of the arguments presented.

With the final step finalized, at this point, you should have a clear picture and overview of the problem and the direction in which it is heading. During the brainstorming process, all of that information should be recorded in the form of a document and should be discussed with the rest of the team. The result of the brainstorm and discussion sessions would be able to be transformed into a working skeleton. This would aid the memoranda drafting process, in order to have a clear overview of the arguments as well as the focus of the research.

## **Chapter VI**

### **Research**

*Naila Sjarif, Indira Jauhara Pratiwi, Abigail Soemarmo*

---

When you moot, you will spend most of your time researching. These are a few things that you need to pay your attention to in order to make the task a little more bearable to handle:

#### **I. Differences between Research in Public Law and in Private Law**

Both public law and private law moot competitions always require the participating teams to conduct extensive research from sources such as treaties, any agreements applicable to the relevant parties, case laws, among other things. However, as questions rising from the moot problem mostly require the participating teams to use interpretation method, both public and private fields have their own standards in utilizing the sources. This section will explain the differences in each field of law.

#### **Public Law**

In public international law matters, it is generally accepted that the sources of international law are listed

in the Article 38(1) of the Statute of the International Court of Justice.<sup>1</sup> It provides that the Court shall apply:

- a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
- b) international custom, as evidence of a general practice accepted as law;
- c) the general principles of law recognized by civilized nations;
- d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

There is no hierarchy of law between international conventions, customs, and general principles of law. In practice, however, international conventions or treaties are always considered to be the primary sources before customs and general principles of law. When looking for a relevant treaty, make sure that parties to the dispute are bound to it. This is because the basic principle underlying the law of treaties is *pacta sunt servanda* which means every treaty in force is binding upon the parties to it and must be performed by them in good

---

<sup>1</sup> C Greenwood, 'Sources of International Law: An Introduction' (2008) (available at: [http://legal.un.org/avl/pdf/ls/greenwood\\_outline.pdf](http://legal.un.org/avl/pdf/ls/greenwood_outline.pdf)); K David, 'The Sources of International Law' (1987) 2 Am U Intl Law Rev 1, 2.

faith.<sup>2</sup> In the event where there is ambiguity in wordings put in the treaty, the preparatory work of the treaty (*travaux préparatoires*) can be used as a supplementary means of interpretation.

International custom—or customary law—is evidence of a general practice accepted as law through a constant and virtually uniform usage among States over some time. Rules of customary international law bind all States. The State alleging the existence of a rule of customary law has the burden of proving its existence by showing a consistent and virtually uniform practise among States. This includes those States especially affected by the rule or having the most significant interest in the matter.

Meanwhile, general principles—being distinct from customary law—do not therefore depend on actual State behavior. By reference to the dissenting opinion of Judge Tanaka in the South West African cases (Second Phase), general principles extend “the concept of the sources of international law beyond the limit of legal positivism, according to which the States are bound only by their own will.”

In article 38(1) of ICJ Statute, we can also see that judicial decisions and teachings can be used as a secondary means for interpretation. Bear in mind that these are subsidiary sources of law, and should only be

---

<sup>2</sup> R Beckman & D Butte, ‘Introduction to International Law’, 3 (available at: <https://www.ilsa.org/jessup/intlawintro.pdf>).

used in support of primary sources of law. To put it bluntly, if the publicist is a key authority to begin with, their published works, can be a good source of reference.

Now with all this being said, we will show you how private law will vastly differ in the types of sources and the applicability of those sources.

## **Private Law**

All in all, there are seven types of legal authorities, including, in roughly descending order of importance: **a)** International conventions and treaties; **b)** National laws; **c)** Arbitral rules; **d)** Law of the dispute (procedural orders and agreements between the parties); **e)** Arbitral awards; **f)** Case laws; and **g)** Scholarly works (treatises, monographs and articles) They will be discussed one by one.

When it comes to researching for “private” matters, it has to be kept in mind that the arbitration agreement is critical as it is the foremost source of authority in the proceedings.<sup>3</sup> This is because consent is the cornerstone of an agreement and hence it has to be conducted in good faith.<sup>4</sup>

---

<sup>3</sup> JDM Lew, ‘Does National Court Involvement Undermine the International Arbitration Process?’ (2009) 24 Am U Intl L Rev 489, 491; SI Strong, ‘Research in International Commercial Arbitration: Special Skills, Special Sources’ (2009) 20 Am Rev Intl Arb 119, 131.

<sup>4</sup> JDM Lew et al, *Comparative International Commercial Arbitration* (Kluwer Law International 2003) [5.2-5.33].

As private competitions are mostly set in the form of arbitration, all matters regarding the arbitral procedure must also be included in conducting research. When considering questions regarding arbitral procedure, it is critical to identify whether the parties have chosen to be bound by any arbitral rules, since those are one of the most important sources of authority in this area of law.<sup>5</sup> In regards to this, the participating teams must also take a look at mandatory provisions of national or international law, or for the mandatory requirements of any arbitral rules that they have chosen to apply to the proceedings.<sup>6</sup>

Further, international awards and case laws may play significant roles in understanding the applicable agreement and the arbitration rules. Although awards and case laws are not considered as precedent in the private field, as they are not binding on anyone other than the parties to whom the award was issued for, arbitral awards may constitute as highly persuasive forms of authority.<sup>7</sup>

The third source of expert commentary involves legal articles, found either as part of a book of essays or within a law review or journal. Though treatises are often considered the most prestigious and influential form of scholarly commentary, articles can be very

---

<sup>5</sup> SI Strong, *Op. Cit.*, 139.

<sup>6</sup> Y Derains & EA Schwartz, *A Guide To The ICC Rules Of Arbitration* (Kluwer Law International 2005) 7-8, 312-13.

<sup>7</sup> SI Strong, *Op. Cit.*, 143.

persuasive as well, particularly since they can be the best means of obtaining insight into a highly detailed or rapidly changing area of law, or an overview of a jurisdiction beyond the well-known arbitral centres.<sup>8</sup>

Understanding the comprehensive sources of law for both the public and private areas of law and acknowledging their differences proves to be beneficial. It will enable you to effectively build your legal arguments, and make a convincing and strong case against your opponent across a variety of different legal fields and thus different types of moot court competitions.

---

<sup>8</sup> *Ibid.*, 152.

## **II. Preliminary Research**

### **Research Questions**

Research cannot begin without questions. Once a moot problem has been dissected, you will most likely have a compiled list of questions. These questions are not limited to the claims brought by the specified opposing parties! You can have questions ranging from “What is meant by this term?” to “Why is this agreement non-binding to the Parties?” The variety truly depends on the moot problem you are dealing with. As such, always write down any questions that arise because it will be your starting point into your research.

### **Research Sites**

Google is your best friend. Regardless of what type of moot you participate in, many materials can be found through Google. The search engine provides you with an opportunity to curate journals and articles relevant to your topic. Do not be afraid to go beyond the first few pages of search results; there are plenty of gems hidden in the depths of your search results.

How about inaccessible documents? Free research can only get you so far. There will be many instances where you will find crucial yet inaccessible documents. Do not fear. Many moot competitions will provide you with access to online legal resources, usually anything by Oxford University Press or even LexisNexis. Be sure to contact your competition’s coordinators to inquire

about access to these legal resources. A whole new treasure trove will be available for your team’s perusal.

A little-known fact—national libraries usually provide access to online resources. You are not required to visit the national library physically, as you can check through their website. Access to these online resources is commonly known to be free! P.S. the National Library of Indonesia subscribes to both LexisNexis and Westlaw and is accessible anywhere!

### **Refined Research**

Take time to learn how a search engine operates. Every search engine, even Google, has its methods to make their search results more precise. Most commonly, search engines utilize Boolean operators to help widen or limit your search results.

The three Boolean operators are “AND”, “OR”, and “NOT”. These operators are used to connect and define the relationship between your search terms.

- Using “AND” between your search terms will narrow your search results to materials containing both terms, e.g., negotiation AND mediation.
- Using “OR” between your search terms will widen your search results to materials containing either and both terms, e.g., negotiation OR mediation.
- Using “NOT” for search terms will exclude materials containing such terms from your search

results, e.g., arbitration NOT negotiation NOT mediation.

### **III. Comprehensive Research**

#### **Reading to Identify the Key Points**

When the moot problem is released, download it, and read it thoroughly. We have established how important it is to familiarize yourself with it by reading it every day (and night for that matter). This is crucial to pick up facts that you might not have picked up previously. Make sure you comprehend the background—or the “story”—of the case and how it leads to the issues submitted before the judges or arbitrators. To help, do not forget to highlight the parts of the moot problem that you think is important. You can use different colors of highlighters to pinpoint which facts of the case are in favor of the Applicant or Respondent.

In short, you should have a basic understanding of the moot problem, and can briefly explain it when someone asks about it. By grasping the gravity of each facts and issues, you will be able to easily form arguments in your head and know what to roughly research on for the claim you are assigned to do.

#### **Taking Separate Notes**

Apart from highlighting, underlining and/or scribbling on the moot problem, it is advisable to have notes of your own; it could be either handwritten on your

notebook or even typed on your laptop, whichever works best. The notes could, among others, include your remarks of the case, such as what you find intriguing or perplexing, or the strongest and weakest facts for your client or the side you are arguing for.

Come up with research questions and jot down keywords to help you with your research later on. You can even start creating a to-do-list of which topics to research on. Additionally, if any aforesaid questions are related to the lack of clarity of the moot problem, you can also submit these questions for “Clarifications” (if any), which will result in a release of document by the committee of the competition containing more facts to be explored and embedded in your arguments.

### **Teamwork**

Compare your notes with the rest of the team members to obtain different, insightful perspectives to form creative arguments. Have as many discussions as possible, such as deciding which fact supports which party, which arguments can be included in which parts of the memoranda, and also in the creation of the timeline of facts (events in chronological order) for both of the parties.

Although it is not mandatory, the team is encouraged to prepare a form of “Bench Brief” or “Arbitrator’s Brief” that contains a clear and short summary of the issues in the moot problem. This will come in very handy for when the team is seeking for comments on

their memoranda from coaches, alumni and/or practitioners, who might not have the time to read the numerous pages of the moot problem.

## **Chapter VII**

### **Memoranda**

*Felicity C. Salina, Regina Wangsa, Nabila F. Oegroseno*

---

It goes without saying that every competition is a battle. A moot court competition is no different. As a competitor, legal arguments are your spear and the rule of law is your shield and armor. Much like any soldier, you will need to strategize and form a plan of attack before going into the battlefield. This is where a memorandum—the blueprint of what you will later argue in the courtroom—comes into play. This section will provide an in-depth discussion of how legal memoranda are drafted, from what language must be used, how arguments are structured, all the way to how citations are done.

#### **I. What is a Memorandum?**

Put simply, a memorandum (sometimes colloquially referred to as “memorials”) is a compilation of your arguments in written form. Your team’s memoranda will be submitted to the committee before the competition day and will be distributed to your opponent teams as to allow them to prepare their rebuttals during the oral rounds. Therefore, much like the oral performance, a team's memoranda are representative of its caliber and have substantial bearing on the impression said team creates upon other competitors and judges alike. Well-organized memoranda supported by sufficient, accurate, and convincing legal basis will

undoubtedly give the impression that your team is competent, thereby gaining you the upper hand over your opponents without even having stepped up to the podium!

The use of clear, professional, and well-structured language will make it easier for your submissions to be understood by your audience, especially judges who are not particularly well-versed in a given subject your memoranda relate to. Memoranda that are easy to follow would be a plus value to the judges, and would also show your opponent that your team must not be underestimated.

Generally, the substance of your memoranda will be similar to the content of your pleading. However, this does not close the possibility of your arguments changing between the submissions of the memoranda and the oral rounds.

## **II. Language in Writing a Memorandum**

In every moot court competition, the limitation of the word count (or pages) for a memorandum is strongly regulated. Therefore, every word written in the memorandum must be functional, in the sense that it serves a specific purpose; be it to support a premise, render an argument more cogent, or emphasize the meaning of a sentence in its entirety. Diction and syntax must be carefully considered and correctly executed. Every team member has their own writing style. Nevertheless, some basic concepts shown below can do

a great deal to improve your memoranda's language arrangement.

### **Structuring Sentences**

In an international moot court, memoranda must be written in English. To start with, English has a similar grammatical structure as Bahasa Indonesia because it follows the same pattern of SPOD (Subject-Predicate-Object-Description). This concept may seem straightforward and, perhaps, rudimentary. However, when drafting a memorandum, even the most basic rule of SPOD is often overlooked. This is a classic mistake. Competitors must understand the importance of paying attention to whether or not a sentence shows legible SPOD elements, as to ensure its clarity.

One might ask if there are specific sequences which must always be adhered to. The answer would be: not always. As previously stated, each writer has their own writing style. Any assessment of the quality of a memorandum must pay due regard to an author's individual flair. If anything, a memorandum that reads fresh and original is much more attractive! Still, originality without organization is chaos. This has always been, and will always be, one of the key criteria on which your memorandum is judged.

### **Length of Sentences**

Before we start, let us take a look at the following example:

*In this case, the main issue follows Nilfgaardian pirates which comprise of approximately 1000 children under the age of 12 and that has been terrorizing the Bay of White Orchard for the past ten years from the year of 2000 to 2010, which is a violation of customary international law that has declared piracy as the most heinous of crimes.*

Now compare it with:

*Here, the main issue is the pirate activities along the Bay of White Orchard conducted by the Nilfgaardian pirates for the past 10 years. Their crew includes approximately 1000 children below 12 years old. These activities constitute a violation of customary international law.*

Which of the two sentences requires more energy to read?

In a reading exercise, our brain has been trained to process the comma (,) as a sign to pause for a short second while the full stop (.) as a sign to mark the end of the sentence. Therefore, we naturally have the tendency to stop and digest the main idea of a sentence we are

reading only when we reach the end. In the process of speed reading, punctuations such as a comma and a full stop are there to help readers maintain their pace and rhythm.

This proves that it is incredibly important to pay attention to the length of your sentences in the memoranda. Essentially, one sentence should deliver one idea (SPO), and added with one Detail (D). Sometimes, you will find two related ideas that are jointly put in one sentence; this is often referred to as a compound sentence. There is nothing wrong with incorporating compound sentences into your memoranda. However, you should still be mindful of their length. The rule of thumb is that the longer the sentence, the longer it will take for people to read, and the harder it is to digest.

### **Passive or Active Sentences**

The choice between passive and active sentences is a common pickle in the drafting process. In general, it would be better to have your memoranda written in active form. Active sentences are engineered to allow the delivery of ideas in fewer words in comparison to its passive counterpart (remember, the length of your sentences matter!). There are, however, instances where the use of passive sentences is preferable given their aptness to convey the nuance and overtone in a phrase.

Before going into several examples, the difference between active and passive sentences in the literary realm should be noted. Active sentences are generally

more direct, since they follow the conventional SPOD pattern. However, writing a memorandum in all active sentences would inevitably lead to monotony. This is where passive sentences can be used to create variety among those mechanical strings of legal arguments.

So, when should we opt for passive sentences? Let us compare the following examples:

*The Court is barred from exercising jurisdiction by virtue of Article 9 of the Agreement.*

*Article 9 of the Agreement bars the Court from exercising jurisdiction on the present matter.*

Both sentences have the same word count, yet the difference lies within the emphasis that they convey. The attention of an idea can be reflected from the main idea that a sentence tries to deliver. In the first sentence, there is heavy emphasis on the consequence, i.e., “[t]he Court is barred.” Meanwhile, the second sentence emphasises more on the authoritative source of law, i.e., “Article 9 of the Agreement.” More often than not, to show the urgency or significance of an argument, it is more effective to place the consequence at the beginning of the sentence— “[t]he Court is barred” is therefore preferable over “Article 9 of the Agreement” in this case.

Mastering the art of choosing which form of sentence to use requires practice. It also entails a comprehensive

understanding of how phrases in a passage interact with another. At the end of the day, this exercise serves to answer a question you, as a counsel, must always ask yourself: had I been told that if a layperson were to read my arguments, would they easily grasp it?

### **III. Constructing Your Arguments**

The direction and persuasiveness of your arguments rely on the way they are arranged. How you can do this effectively is to ensure that the following factors contribute to the clarity, brevity, and accuracy of your memoranda:

#### **Signposting**

An excellent memorandum will not be without excellent signposting. A memorandum is like a hand-drawn map, and signposting is like the legend that guides the reader to understand the map. Signposting usually refers to the symbols or phrases to indicate the structure of the argument. Good signposting helps the systematization of the memorandum and greatly aids the reader to navigate through the arguments. Signposting is crucial at the start of a claim because the first paragraph of a claim would usually be a roadmap for the following paragraphs.

There are several ways to signpost one's argument in the memoranda. Nevertheless, it is generally encouraged to put the most persuasive argument first. That is, the argument with the most supporting legal basis.

Alternatively, there are instances in which an argument needs to be arranged in a particular order. This is particularly relevant where a stratified set of issues are concerned. Therefore, when an issue serves as a precondition or contextual background of another, arguments with respect to the former must be placed uppermost, followed by the next argument in the sequence, and so forth. This method of organising arguments based on their cause and effect relationship is central to writing a memorandum that is logically sound.

The following is an example of a string of arguments methodically arranged in adherence to the cause and effect paradigm:

*Notwithstanding Respondent's classification of the Kin people under its national legislation, Applicant asserts that (A) Kin people in Respondent's territory are migrants under international law. Additionally, (B) Applicant denies any wrongdoing in the enactment of Water Resource Allocation Program Act ["WRAP Act"] and hence (C) Respondent is not entitled to claim for reparation arising from it. (D) Alternatively, compensation is not the appropriate form of reparation.*

Here, the whole argument rests on the question of whether this so-called “Kin people” legally qualify as immigrants or refugees. Therefore, the discussion on this point must be laid down first and foremost in the memorandum before we can move on to the remainder of the discussion. Moreover, as you can see above, argument (C) is the direct consequence of argument (B), and that is the reason why they were arranged as such.

With this, the enumeration of (A), (B), (C), and (D) are the signposts indicating that the claim would have four branches of argument. This would help the readers get a basic idea of what the following paragraphs would be.

## **IRAC/CIRAC**

Another essential consideration when structuring your arguments is how you would convey each case in a manner that would be most understandable. There are two different methods, both are universally recognized among law students: IRAC (Issue-Rule-Analysis-Conclusion) and CruPAC (Conclusion-Rule-Proof-Application-Conclusion).<sup>9</sup> The main difference between IRAC and CruPAC would be that with CruPAC, the conclusion appears twice: at the start and the end.<sup>10</sup> This format is chiefly used in a responsive memorandum,

---

<sup>9</sup> Gerald Lebovitz, ‘Cracking the Code to Writing Legal Arguments: From IRAC to CRARC to Combinations in Between’ (2010) 82 6 New York State Bar Association Journal 49, p.50.

<sup>10</sup> *Ibid.*

where the issue has already been introduced and framed by the Applicant.

Most commonly, memoranda drafting would use the schematic of IRAC. IRAC stands for:

- Issue
  - What are you trying to prove here?
  - What is the problem you are arguing on?
- Rules
  - What is the legal basis you are basing your position on?
  - Any case laws? Scholarly articles?
- Analysis
  - How would the rules apply to said issue?
  - How are readers to read or interpret the rule in question as to support your case?
- Conclusion
  - What is the upshot of your analysis?

The structure of I-R-A-C does not have to always come in that order. Again, deference is given to authors to choose which arrangement works best for them. It is helpful, however, for beginners to follow the standard order until they grow accustomed to writing in such format.

Do note that IRAC serves the main purpose of guiding you to reduce an otherwise lengthy and complicated legal discourse into a compact yet comprehensive text. That said, an IRAC argument does not have to be crammed into a single paragraph. Sometimes the whole IRAC can be so long and tedious that it has to be broken down into several paragraphs. This is fine. You just have to make sure that each point of your argument clearly shows its IRAC or CruPAC elements.

Take a look at the following example of a classic IRAC:

*Applicant asserts that compensation should not be the appropriate form of reparation in the present matter. ARSIWA promotes the primacy of restitution in reparation of internationally wrongful acts, and this has been reaffirmed in the Factory at Chorzow case in which the PCIJ held that reparation must reverse the consequence of the wrongful act to the greatest extent possible, i.e., restitution. Thus, Respondent could not immediately request for compensation without attempting the possibility for restitution.*

In the above example, the IRAC form can be easily disassembled. The issue here would be “compensation

should not be the appropriate form of reparation in the present matter.” The rule comes in the form of provisions from ARSIWA, as well as part of a case law from Factory at Chorzow. The analysis comes into play where, since the rules promote the precedence of reparation above compensation, Respondent in this case, cannot immediately request for compensation. It just so happens that the analysis was phrased as a conclusion to the paragraph.

Below is another example of IRAC, in which the points are not arranged in the order of I-R-A-C:

*The Euroasia BIT, in line with the vast majority of other BITs in force, stipulates that the term “investor” includes any natural person “having the nationality of either Contracting Party in accordance with its laws.” Hence, in line with the Soufraki and Siag tribunals’ interpretation, the Euroasia BIT gives explicit precedence to the States’ domestic law, establishing Claimant’s nationality as a Euroasian investor pursuant to Art.1(2) Euroasia BIT .*

In the above paragraph, the author started by immediately stating the facts of the case, referring to the stipulation under the Euroasia BIT. The definition of the term “investor” is not part of the rule, but rather part of the facts of the case. The **rule** comes in the next

sentence, which is the allusion to *Soufraki* and *Siag* tribunals' awards. The **analysis** comes afterwards where the "Euroasia BIT gives explicit precedence to the State's domestic law" because the rule accords great weight to the nationality of the Contracting State party. One interesting point in this example would be the way the **issue** is not stated outright, but is seamlessly incorporated into the paragraph in its last part of the **concluding sentence**, which refers to how Claimant's nationality is established with reference to Euroasian law under the Euroasia BIT. Similar to the first example, the issue is phrased to double as a conclusion to the paragraph as well.

### **Footnotes and References**

A good memorandum is not only measured by the yardstick that is good substance but also based on the use of footnotes and references. These references have to be of relevance to the substance included within the memorandum, and are accurate and clear. Good footnotes and references show that you have done remarkable research that have substantiated your arguments. The two components then become one of the main indicators in determining legal reasoning, the strategic pattern in choosing your legal basis, and also the understanding of these materials.

In practice, good footnotes and references become one of the grading components that will determine the quality of your memoranda. With that in mind, it should be ensured that every legal basis or research material is

cited correctly based on the appropriate citation method. To do that, there are several things you need to note:

### 1. Determining the Citation Method

In the academic world, specifically in the context of international law writing and publication, there are several types of citation methods that are commonly used. However, the first thing you need to do before choosing a citation method is to refer back to the rules of your moot competition. See if there is already a chosen citation method required by the rules. In the case that such a requirement is absent, only then will you have the opportunity to select from the citation methods commonly used. This includes *The Bluebook: A Uniform System of Citation, 20<sup>th</sup> Edition* by Harvard Law School, *Oxford Standard for Citation of Legal Authorities, 4<sup>th</sup> Edition* by Oxford University, and the *APA Citation Format* (most commonly used for in-text citation).

### 2. Applying Your Footnotes and References

International courts or tribunals are usually more familiar with the system of footnotes or common law references. In referencing sources, competitors oftentimes overlook the importance of prioritizing legal bases based on the weight it carries to support the substance of the corresponding arguments. Those legal bases include case law, treaties, and scholarly writings, as explained previously in this guidebook. However, by citing a reliable legal basis does not automatically render your argument as legitimate or stronger.

In the common law system, judges often consult jurisprudence to interpret the law. There are numerous reasons as to why case laws hold particular significance in common law proceedings, such as to ensure consistency between decisions across cases whose material facts are similar or identical, and to provide judges with a context-specific, empirical guide in deciding upon a case. However, decisions from the same forum should be prioritized. For example, if you are joining the Philip C. Jessup International Moot where the forum is before the International Court of Justice, then the decisions rendered by said court will prevail over other tribunal's decisions. This is because each institution has a different mandate, jurisdiction, and competence. If after you research it is clear that the same tribunal has not rendered a decision that is applicable to your case, then decisions from other tribunals can be resorted to.

Furthermore, you need to avoid bald citations when extra notes are required. There are three situations which would make this factor relevant: **(1)** a tribunal's decision, which was rendered after a long litigation process which involves judges, different stages of trial, or even other parties. Because of this factor, a tribunal decision may sometimes be complicated and hard to understand. Therefore, you have to be extra careful when using it, and add the complete source in your footnotes; this would also apply for **(2)** a dissenting opinion in a tribunal's decision; and **(3)** other considerations in a tribunal's decision which was not contended in the memorandum.

## Chapter VIII

### Pleading

*Fajri Matahati Muhammadiyah, Muhammad Ryandaru  
Danisworo*

---

Equally crucial to the memoranda is the presentation phase of every moot competition (more commonly referred to as the “oral pleading” or “pleading.”) Most often, it is a decisive act that brings victory in a moot court competition. The pleading phase refers to the verbal presentation that is based on your memoranda. Depending on the forum, the pleading is done either in front of arbitrators or judges. Throughout your pleading, the adjudicators will intercept and ask questions in regards to the submission. In an ideal setting, adjudicators in the competition would have already read your memoranda. However, it is not rare that the adjudicators have not done so. Therefore, the pleading phase exists as another opportunity to show your case, especially when one finds more information and arguments to present in the period following the memoranda submission.

#### I. Basics of Pleading

With pleading, it refers to the chance of *presenting* your memoranda, and not *reading straight off* your memoranda. The pleading phase is where the adjudicators wish to listen to your deep understanding of the memoranda and how you “sell” your arguments. In “selling” the content of the memoranda, *persuasion* is

the key. There are several aspects in persuasiveness, namely clarity, application of law, structure, and manner.

## II. Clarity

Clarity pertains to the question of whether the adjudicators can clearly listen and understand your pleadings. This typically refers to your voice, pace, intonation, and choice of language.

### 1. Voice

In your pleading, your voice must always be firm and loud to convey conviction and confidence to the adjudicators, therefore making your presentation more convincing. Moreover, paying attention to the enunciation of your words might help you to do this. For example, opening your mouth wide enough is a start to ensure clear articulation. In short: *do not mumble*. Some individuals may be used to having a small voice; however, it is paramount to try to sound louder. Training to sound louder can be done through numerous methods, such as practicing to speak in front of a mirror, or watching the videos of speeches given by established public speakers, such as Barack Obama. The voice of great public speakers is loud and firm. People would be motivated to listen, and it will catch the listener's attention.

### 2. Pace

Your pace must neither be too fast nor too slow. Go too fast, and you will risk making it difficult for the

adjudicators to listen to; go too slow, and you will risk wasting time and frustrating the adjudicators. To have good pacing of your speech, it is essential to remain relaxed and composed. Composure comes from a relaxed state of mind, and to achieve that, one must be in control of his or her nerves.

To achieve the ideal pace in your speech, it would help significantly to ask several people to listen to your pleadings and tell you how fast or slow your speech is. What you may personally feel to be the ideal pace may not be so in the eyes of others. Pausing between sentences is also important. This gives room for the adjudicators to digest the substance of your pleadings, and for the oralists to breathe. Breathing will be incredibly helpful since it will indirectly affect your composure as it regulates your heartbeat.

### 3. Intonation

Regulating your intonation serves three purposes. First, to keep your pleadings from becoming too monotonous (read: boring) and therefore difficult to follow. The adjudicators are not there to listen to a listless, disinteresting presentation; they need to feel engaged. However, this should not lead to an overly-dramatic pleading. You are there for a legal, and not theatrical, presentation. Second, to emphasize your important points. If used too liberally, emphasis by intonation can backfire; if every point is emphasized, then none of them is that important. Third, to set the atmosphere of your pleadings. Depending on what mood you are aiming for, intonation can help create an

amicable, friendly air, or a more forceful, confrontational one. This again depends on your adjudicators, and sometimes on your opposing counsels. For example, if you can sense that your adjudicators generally dislike your opposing counsel's aggressive pleading, you can use that to your advantage and set a more amicable atmosphere.

#### 4. Language

A general rule of thumb in oral pleading sessions is that your language should not be too casual. Keep language used on the professional level, and keep in mind that your points would be much easier to digest if it was delivered using simple terms. Similar to intonation, language usage also helps set the atmosphere. For example, more casual language usage can help build a more amicable atmosphere, while more professional and formal language usage may contribute to a more objective feel to your pleading. In court simulation competitions such as the Philip C. Jessup International Moot and the International Humanitarian Law Moot, a more formal nuance is required. As for arbitration, it seems to be more relaxed.

#### **Application of Law**

Quite similar to the memoranda phase, all of your legal arguments should be made with the appropriate legal basis and made in correspondence to the existing set of facts. However, different from said phase, there is the challenge of time restraint that requires the oralists to master the application of the law in selling their legal

arguments. Whether the law has been properly applied will be apparent throughout the pleading by the following criteria:

### 1. Appropriate Legal Basis and Interpretation

The adjudicators will test the legal strength of your arguments. Typically, this pertains to whether your legal basis is necessary to be used against the available facts of the moot problem. During oral pleadings, it would be wise to limit the arguments to those that you and team consider being the strongest. This is under the consideration of time limitation for every pleading session. A risky legal basis might confuse the adjudicators and cost you a long time to explain why a far-stretch argument works. This does not mean that you do not take an out-of-the-box argument. You need to have multiple arguments in your arsenal, but it may be best to choose the more important and simplest ones first.

### 2. Authority of Sources

Another point of determining whether your claims should be favored for depends on the weight of the legal basis. A good point would be to bring up a legal basis that is applicable in the current situation, i.e., the relevant treaties or the parties' binding agreement. In addition to the laws, any references made to case laws or scholars should also be of those that are highly regarded. Reliance on a case law in the 1950s that has since been discredited might not be well received by your adjudicators. Similarly, basing the arguments on scholars

is also common practice for so long as the scholar has some credit to their name and, most importantly, some merit in their argument.

Choosing which legal basis to bring in your pleading is crucial. Not all legal bases you have inserted in your memoranda needs to be mentioned during the oral pleadings. You do not want to waste time arguing the weight or applicability of your legal grounds, unless it is very essential to do so depending on your case. Remember that some cases are made in such a way that the applicability of certain legal grounds are at the heart of the arguments.

### 3. Interpretation of the Law

There are different methods and sources from which to interpret the law. Different fields may require different techniques. Eitherways, it is essential to learn these methods and practice how they are applied. Too often do law students (or sometimes even graduates!) just quote a section of a statute and interpret it based on their own whims. That suggests that the only difference between a law student and a non-law student is memorization of the law. True lawyers would first and foremost know how to interpret and apply the law.

Be well acquainted with scholarly works and case laws not just to find good points, but also to see how the scholars and judges interpret and analyze the law in context of their respective cases. Not only is this good to build your own case, but also to see the errors in the opponent's case. Remember that bad cases are not only

those with insufficient legal basis, but also (perhaps more importantly) those with misinterpreted legal basis!

#### 4. Interpreting Facts with the Law

There is no use to have perfect mastery of the law if you fail to apply it to the case at hand. Make sure you memorize the moot problem, that is a first step. Second, more importantly, you must master the moot problem. You must know the legal implication of every single word there. You must be able to identify which parts of the moot problem is ambiguous (usually deliberately so, because the makers of moot problems want room for debate), then **(a)** know multiple different ways to make an inference, and **(b)** learn how to defend and refute these different ways. Hot debates happen not only in how to interpret the law, but also how to interpret what happened in the facts.

### **Structure**

The challenge of researching and crafting the most persuasive legal argument possible is one thing. Another problem is how these arguments can be arranged as efficient or systematic as possible.

Having a clear structure when presenting your legal arguments will go a long way in terms of “selling” your case. This allows the adjudicators to follow your stance and support arguments easily. While there is no one-fixed structure for pleading, the most common pleading scripts typically follows the sequence of Introduction–Sign Posting–Arguments–Conclusion.

## **Manner**

The packaging of your presentation is what is normally referred to as “manner.” This includes the style and fashion of your pleading, such as your composure, hand gestures, eye contact (remember that you have multiple judges), and the way you stand or sit during the presentation. Proper manner can compensate for your lousy argument, but good arguments cannot compensate for a bad manner. This is just how nature works in any moot competition setting. Appealing to the adjudicator’s bias or *ethos* will help you score those extra points.

An important part of manners is to understand and be aware of your audience. Pleadings are not only about you conveying a message, but also about the judges accepting that message. While maintaining composure as explained above, try to make your speech generally as a “two way conversation,” as if you are conversing with the judges. You must try your best to see whether the judges have trouble understanding your speech, or require more explanation, because sometimes they do not ask but you can tell from their facial expression.

Good manner means to: act professional, show a lawyer-like grace (the adjudicators will want you to actually *act your role* as a lawyer, not a law student pretending to be one), be polite, do not move around too much, keep your back straight (especially if you speak from a podium), do not make too many hand gestures or expressive expressions that show you are desperate, annoyed, or confused. The basic idea here is that you

want the adjudicators to feel comfortable in listening to your *pitch* and being likeable will most definitely push them to *buy* your arguments.

### **III. Questions During Pleading**

As mentioned previously, your pleading will more likely be interrupted with questions from your adjudicators. Every bench will differ in terms of the types of questions, number, and attitude from your adjudicators. This is done not to *destroy* your performance, but rather to assess your understanding. More often than not, questions may also signify that the adjudicators are interested in what you are presenting. This section will be divided into two in discussing the most common types of questions and how you can handle them during pleading.

#### **Types of Questions**

##### **1. Basic Questions**

The adjudicators will always ask this type of question as it pertains to your basic knowledge on the facts of the case and the relevant legal basis. In an arbitration setting, the bench may even ask which page of the moot problem a fact is located in. In public moot competitions, it is common for the judges to ask for basic principles of international law or the weight of certain custom. In most instances, these questions are as simple as asking for a definition of something or the elements of something.

Be careful, because sometimes you have trained so much in advanced matters that you overlook the very basic stuff. For example, we have had mooters arguing a very complex international criminal law case while elaborating really sophisticated legal principles. However, when asked a very basic international law 101 questions such as, “What is the difference between ‘signatory’ and ‘ratification’?”, the mooter could not answer.

## 2. Testing your Legal Basis

When you mention a case law or cite an article from another treaty, the judges will ask you about it to test whether you understand and use the legal basis correctly. The questions would vary from, “Is that case law binding to the ICC? Is that convention binding for the Parties?” to “What’s the background of that case and what were the charges?” Other possible questions could also center on identifying the facts and law within a case law that you have brought up, such as the dissenting opinion of the judges or about the degree of relevancy of the case.

## 3. Clarifications

Sometimes, the judges will only recap your statement, and ask whether that is what you are claiming. Notes: This will most likely mean that you are not making it easy for them to understand, and that is why they want to make sure that they are on the same page as you are; or they were not listening so they can only ask for clarifications instead of actually asking about the

merits of the case. In this case, you should only answer yes or no rather than re-explaining your entire argument.

#### 4. Trick Questions

These kinds of questions would typically distract you from your main argument and flow. Adjudicators asking these questions might either be testing to see whether you can stand your ground and not fall into a panic. The reason for this is because they might be following a line of argument of yours not gripping enough and which that allowed their mind to wander off. Here, you must to bring them back to your main case and remind them of your stance. Do not be intimidated by these kinds of questions!

In some instances, the adjudicator may ask you some random meaningless questions but in a manner which makes it seem very strong. Like, for example, they shout at you, “Are you hiding behind the law?” The truth is that this question means nothing, but if you panic you may get confused and end up wasting precious time going in circles. This was a real situation faced by one of our mooters, who retaliated with a good comeback: “No, it is the law that presents itself in our defense!”

In other instances, the adjudicators might ask irrelevant things to your case or maybe twist parts of the facts or any other thing that might distract you. The key here is to first stay calm, because it is very likely that these type of questions are things you can deal with as long as you do not panic.

## 5. Hypothetical Questions

In some instances, the adjudicators will ask you questions that are not based on the facts of the case but would, in a way, mimic the logic you are proposing to them. Usually, this type of question starts with “what if” or “let’s say.” If what they are suggesting is true, but it disfavors you, you stand your ground! This kind of question is not meant to trick you—use it to further your point and at the same time, it will show the adjudicators that you have mastered your argument.

First, you should notice if a judge is giving a hypothetical question. Some teams have dismissed and refused to answer the questions because “that is not the case at hand,” which shows how much the team does not understand the nature of a “hypothetical question.” Second, the answer to a hypothetical question has two parts. The main part is to answer the question directly with the hypothetical scenario in mind, so you should not consider the actual case (to the extent which the hypothetical scenario is concerned). It is important to start with, “In that hypothetical situation” or “Hypothetically speaking” to show that you understand the nature of the question. The next part is to relate that answer to the actual case, where you would say whether that answer is applicable in the actual case or not. In some cases the conclusion would be the same, in other cases there may be a different conclusion. This depends on each question, so you must think quickly on your feet.

## 6. Conflicting Concepts

As you are aware, the law is not always clear cut, and there tends to be conflicting views to settle one basis. Adjudicators will ask you to compare between the contradictory views in order to assess your understanding of the application of the law to the facts. For example, in public international law, there are conflicting concepts such as the subjective territorial principle v. objective territorial principle, *nullum crimen sine iure* v. *sine lege*, proportionality v. military necessity, among others. This is why you should not only know the legal principles or concepts, but also master overarching theories and how each of these stand before each other.

## 7. Direct Response

These kinds of questions will typically be common for when you are pleading as the Respondent. It is when the adjudicators ask you to respond to a claim or argument of your opponents directly. Usually, this type of question starts with, “Counsel, the opposing party stated that [...]. How do you return to this?” or “How do you respond to the opposing counsel’s allegation that your client has [...]?”

Answer these question by first making sure you have grasped the question properly. Especially on adjudicators asking you to respond to an opposing counsel’s argument, you should by default have already prepared your speech to contain refutations towards them anyways (a bit more in the tips section in Sub-Chapter III below).

## **Handling Questions**

In answering questions, you should always be respectful and try to answer their questions directly. Not only would it be for the interest of time, but no adjudicator will also appreciate having a lengthy answer to a yes-or-no question. The following are several notes that might help you address the adjudicators during your pleading:

1. Thank the adjudicators for asking you a question. This normally shows that you are respecting their questions and will gladly assist them in clarifying or addressing their doubt. However, make sure you do not repeat the same thanking phrase over and over again as it would sound too robotic. Prepare multiple ways to thank the judges, such as “thank you” or “many thanks” or “we really appreciate the question” or “we understand your concern.” However, be careful not to blurt out informal and inappropriate phrases, such as “awesome” (true story).
2. Make sure you pay attention to the question. Do not hesitate to ask the judge to rephrase their question in the case that you are unclear. You can also rephrase the question yourself and ask whether you understood correctly. However, refrain from doing this too much throughout your pleading.

3. Answering hypothetical questions should always end by comparing it to the current case. You can start by directly addressing the hypothetical scenario, highlighting how it may be the same or precisely different from the matter at hand, and concluding it in a way that would favor your stance.

### **Tips and Tricks**

1. Smile, but do not be creepy. Practice and get feedback!
2. Adjudicators appreciate oralists that are concise and clear throughout the pleading. Do not take “detours” when explaining difficult concepts. You should be aware of which points need more elaboration or explanation than others. Breakdown your arguments into milestones of things that need to be proven one at a time before the main point can be understood, and try explaining it to someone else to see if they understand it.
3. Especially when you are on the responding side, always be responsive towards the case of the Applicant. This brings the important point of paying attention attentively to when they are pleading their case. Partly this is because your opponent might bring a different argument than the one presented in their memoranda. More importantly, however, the case brought by the

opposing team heavily affects your case because the whole point of your job as a respondent is to refute.

4. Emphasis on certain key phrases goes a long way in asserting your point. It is important to not just substantively provide refutations but also to highlight it to the judges. Meaning, you should use phrases such as, “The Prosecutor said...”, “The Applicant said...”, or “While Claimant argued that...”. This is to show the judges that you are aware of the opponent’s case and are able to follow the dynamic of the debate. Additionally, a successful refutation would bring your case up and your opponents down. We have had mooters winning do to their advantage in refutation, and mooters losing because of their failure to refute. However, make sure to be respectful. Do not use strong words like “stupid” or “ridiculous” or “nonsensical.” Rather, use more dignified words such as “incorrect” or “misunderstood” or “mistaken.”
5. Be careful with your choice of words because you need to persuade the judges to take your side. Your pleading should not be *lecturing* the judges in a way that assumes that they are stupid and clueless, but as if *reminding* them what is going on, why it is wrong, following it with the explanation why this certain stance is the one that should be taken, and this is what you are compelling.

6. Refer to yourself as “the Prosecution” or the “Victims Counsel” or “the Defense Counsel.” Don’t say “I” because it is not formal. You can say “the Prosecution” or “we” because you are speaking on behalf of the Office of the Prosecutor (although it is not preferable to use “we”).
7. Keep an interactive communication with the adjudicators. Not necessarily meaning that you are having a two way conversation all the time, as this happens only when they ask you questions. Rather, it means that your body gesture and intonation is tailored in such a way that it invites engagement. Be sure that you are not merely reading off your script and also to alternate your eye contact between all the present adjudicators.
8. Memorize the paragraphs of the moot case. Which facts are contained in which sections? Sometimes, the judges will ask this. Instead of wasting time flipping through the pages of the moot problem, you can answer this directly without having to think in a split second. This might seem difficult at first, but it might happen naturally after dealing with the same case for months.
9. Three-second rule. When a judge asks you something you are not prepared for or is a bit

difficult to answer, make sure before you answer, pause for a short three seconds and then begin to speak. This three-second rule will allow you to formulate your answer. And so, your response to the question will not seem messy and uncoordinated.

10. Maintain your spirit throughout your pleading and rebuttal. Do not be energetic at the beginning and hopeless at the end. Even if you are bombarded with intimidating questions, do not take it personally. Just keep on going. Forget any mistakes you have made, stay confident! It is normal to be nervous, but there is no need to make it visible to others!
11. Do not show any hesitation. Do not say “*uhm*”, “*ugh*”, “*eh.*” Do not mumble words (it’s hideous). If you say something wrong, politely say, “My apologies, if I may rephrase” and start over.
12. Remember to always ensure the interaction of your analysis of facts with legal basis. Your pleading must be a balance between the two. Lack of legal basis will make your pleading less persuasive, and too many theories will make you seem so detached from the case at hand.
13. The “Rule of Thumb”: sometimes judges can ask you questions that will make you lose focus and forget where you were. One tip is to always put

your left thumb (or if you are a lefty, then right thumb) on the point on your paper where you are explaining. If the judge asks something, you can keep your thumb there, so when you return to your paper, then you will find yourself back on where you left off.

14. Make a pleading that would, without questions, use a maximum 50% of the allotted time. Be ready to use the remainder of your time to answer questions!
15. While waiting for your turn, make sure you do not make noise. This would disrupt the proceedings, and nobody will appreciate you for this. If you need to communicate with your partner, do so in writing. Using Post-Its can be effective. Team members need to practice effective written communication.
16. If you suddenly blank out during your pleading, the first thing to do is to take a deep breath and calm down. Tell yourself that you know what you should be saying, because you do! You have prepared for so long, it is impossible that you don't know what you're saying. You are just blank out, and need to be yanked back into your feet. Being calm, and realizing that this can happen to anyone, is the key to everything. Then, there are a few steps you can take. First, regroup. Perhaps by now you remember what to say. Second, if not, then you can offer the judges if

they have anything to ask. It is a bold move, but it helps yank you out of your blank out. Third, look at your notes, pick a random point somewhere in the upper-middle, and start reading. Very likely not the point you were supposed to be explaining, but this is an emergency. This will definitely bring you somewhere.

17. Like mentioned in Chapter III of this guidebook, it is important to make sure you have your emotions in check before the round starts. If nearing a nervous breakdown, go to the bathroom, cry as you want and let it all out. However, make sure you do not hurt anyone or destroy anything (physically), and get back in time. You must also know your partner or co-counsel well enough, and make sure you can identify if they are about to have a breakdown. When you see it in their eyes, ask if they are okay and trust their eyes and body gesture more than the words they say on this. If you see that they are not okay, you must assess the situation and see if some encouragement (or, if appropriate between the two of you, a hug) might help. If it doesn't work, or if you think it won't work, tell them to go to the bathroom (or take them there if possible), and make sure they get back in time.

## **Tips for Rebuttals and Sur-Rebuttals:**

1. Be creative, but do not exaggerate. Judges do not believe in ridiculous arguments.
2. Do not bring up new points in your rebuttals. Use your time only to tear apart the opposing counsel's arguments.
3. When you are giving sur-rebuttals, you should base it on the opponent's rebuttals. They just refuted you, so you should answer! If you have time, you can also try to slip in that the opponent instead committed the same mistake that they accused you of making.
4. You do not need to argue on everything the opposing counsel said in their main pleading. Just pick their weakest claim, and use it as your strength. This is because when you argue on tons of stuff in the rebuttals, you tend only to cover the "surface"—thus, not that convincing. But when you are focusing on one or two or three arguments, you will have the chance to elaborate on them properly and be able to better persuade the judges to take your side.
5. Never underestimate rebuttals and sur-rebuttals. Give them justice in training. Very often, a moot court match is like a dynamic ping-pong where everyone tries to argue and refute each other. Failing to do a good rebuttal or sur-rebuttal is

like “dropping the ball,” and we have had real cases of mooters losing a match entirely because of this. Likewise, we have had cases of mooters winning a match entirely due to a good sur-rebuttal.

## **Chapter IX**

### **Managerial Affairs**

*Albertus Aldio Primaldi*

---

Aside from handling the moot problem, team members also have to handle financial and administrative issues to enable them to compete in their respective competitions. Ideally, an individual outside of the already chosen team members should be delegated to handle this unique task. This can be handled by a coach, faculty advisor, or even manager. In several universities similar to how CIMC operates at UGM, the role of the Manager is introduced in the team to handle these affairs.

In return for their service, the Manager will be acknowledged as one of the team members and thus qualified to receive a certificate despite their non-participation in the memoranda drafting and the oral pleadings during the day of the competition. This is a good incentive in universities that require an international or mooted exposure for their students in order to graduate. However, in case that none of the role of a coach, faculty advisor, and/or manager is available in your team composition, then these affairs will have to be equally distributed among the team members.

Having the responsibility to handle the managerial affairs can be a daunting task as administrative affairs are multidimensional as monetary, although primary, is not the only issue. We will discuss all of this in turn.

## **I. Monetary Matters**

### **Budget Projection**

Visualising your future expense in the form of a budget sheet will be the first step. A detailed budget is essential for successful fundraising as well as the financial management in your team. All necessities have to be taken into account. Some sponsors will be more likely to provide sponsorships if they know what the money is being used for. Thus, the budget should include an explanation of its allocation to specific items or sums.

Your budget should at least consider the following things:

- Return Flight Ticket
- Meals
- Transportation Cost
- Visa Application
- Travel Insurance
- Publication and Promotional Costs
- Registration Fee of the Competition

### **Sponsorship Strategy**

Now that you have projected your team budget in the form of a proposal, you will need to prepare your sponsorship plan. To do this, you need to identify the companies or institutions that your team wants to target. A moot court or moot arbitration is a legal-related

training program. Therefore, types of affiliation that would be able to benefit from the visibility that the competition offers includes, but not limited to, law firms, arbitral institutions, and legal training centers.

Please also keep in mind that nowadays, every company is bound with a corporate social responsibility (also known as CSR) policy. The policy integrates social and environmental concerns as one of their business operations. Giving financial endorsement in the form of sponsorships to universities is one approach that companies are familiar with. This means you can always try to apply sponsorship to the companies by appealing to their CSR policies.

Crowdfunding is also a viable method to attract financial endorsement. Crowdfunding is a way to gather capital injection by tapping into the collective efforts of a large pool of individuals—primarily online via social media and crowdfunding platforms—and leverage their network for greater reach and exposure. However, since your team is under the banner of your university, please consult with your university's policy and approval, for that matter, before you proceed with crowdfunding.

## **II. Administrative Matters**

### **Planning of the Trip**

As mentioned above, money is not the only issue in managerial affairs. If your competition is located outside your university city (which is the most common case)

then the Manager will be responsible for the necessities required for the smooth execution of the entire trip.

### 1. Visa Administration

As a starter, visa administration. If the destination of your competition is located outside your home country and it is not within the list of first world countries, chances are you have to apply for a visa. It is strongly advised that you do not underestimate the amount of time needed to invest in administering for visa application. The first thing that you have to ensure is that the passports of all of your team members should be valid within six months of the date of your entry. If they are less than six months, passports would need to be renewed prior to applying for your visa. Please note that the six-month period might be subject to change, depending on the policy of each country. This is all the more reason why you have to start preparing your visa application early.

### 2. Trip Scheduling

Sometimes, the schedule of the moot competition is just frustratingly designed to coincide perfectly with your mid-term or semester exams. The fact that you are reading this chapter might mean that your university has allowed you to participate in your moot competition despite your scheduling clashes with the exams. If that is the case, consider your team blessed, taking into account the fact that some universities have practiced very strict regulations regarding this matter. If you find yourself in this position, not only is your team required to apply for class exemptions during the period of the moot

competition, but also to apply for the re-sit exams. Although the bureaucracy to attend to these matters depends on your own university's policy, it is strongly encouraged to start early planning for these administrative hurdles no matter your circumstance.

### 3. Mitigating Disasters

Based on experience, in order to become a good manager, you have to become a good fortune (or disaster) teller. This is because as a manager, you have to be able to predict and anticipate the possibility of any unexpected occurrence during the trip. What will happen if anyone loses a suitcase? Who should you call if there are any medical emergencies? What if your AirBnB host scams you and you lose your accommodation? There are numerous ways in which your trip can go wrong, and some things leading to these unfortunate circumstances could be quite inevitable. However, measures of prevention and instances of Plan Bs can go a long way. Contemplate any likely events with all team members and come up with solutions for each one. This is including, but not limited to, listing all emergency contacts and engaging with health and travel insurance.

### **Senior Contacts**

Chances are your team is not the first delegation to participate in the competition and therefore you may have seniors and alumni that have competed in previous years. Take the opportunity to reach out to them regarding sponsorship possibilities as they are most likely to have a bigger network of people they know and

can offer you the help you need. You can also reach out to them for consultation your team can do with them in respect of not just the moot problem, but also about the competition as a whole. However, it is important to approach your seniors mindfully and with the consideration that they are most likely dealing with their own tight and busy schedules.

## **Chapter X**

### **Unwritten Rules**

*Muhammad Awfa*

---

This section will address several issues that are highly important, yet have never been exactly called “rules” of mooting. They are not very rigid and imperative but would prove very useful during your time training. These rules originate from personal experience, advice from other moot veterans, and stories from coaches. Here are some of the *Unwritten Rules* of mooting:

#### **I. Keep a Stellar Attendance**

Class attendance is equally as important. Sometimes, during the hectic yet fun times spent researching, you wish that you do not have to attend that 7 AM class the next day. Do not ditch your classes. Aside from the obvious reasons, such as the fact you are a student hence your main obligation is to attend mandatory classes or that your parents have paid for your enrolment, you might also need your portion of absence for other matters.

Maybe you are scheduled to practice at a law firm, maybe you need to leave to get your visa done, maybe you need to make a new passport, or maybe you need to print another batch of memoranda because the last one was horribly formatted. Make sure that should you need to take care of important things related to mooting, it

would not put you below the required percentage of class attendance and putting your academic life in jeopardy. At the end of the day, we are still students of our beloved campus.

## **II. Be There for Your Team**

At this point, you already have a sense of how long mooting will take and how dedicated you should be. Therefore, your team members will need your full participation, just like you need theirs. Make sure you come to every practice, send every draft on time, and research the things you were told to study. Do not bail on them.

While it is a reasonable thing to be absent from practices for logical reasons, make sure to keep your team informed in these situations. Do not see this as a way to bail from your responsibilities, as you would not want your teammate to do this to you either. More importantly, do not make up fake stories as an excuse to leave practice.

Picture this; it is D-7 of memoranda submission, and suddenly your team found a fatal error in one of the arguments that the team has prepared beforehand. After hours of brainstorming, one of your teammates suddenly claimed to have a throbbing headache and wants to go take the day off to see the doctor and rest. The team told them to do so, but three hours later you saw a friend's Instagram story featuring your sick teammate with

tickets to a 21:00 showing of Deadpool 2. Doesn't feel great, does it?

### **III. Be Ready to Compromise on (insert aspects of your social life here)**

Due to the time allocated for training, mooting may take you away from your usual Saturday night outings, your late-night café sessions, and your movie premieres. For some teams, the weekend means day-long research sessions, or intense pleading practices. Honestly, after practice sessions, you may even not have the energy to hang out and would choose to hit the hay right away.

But it does not mean that mooting equals to zero social life. You are just required to put mooting as your priority above other stuff that is considered to be “not at the top of your list.” Other activities beyond mooting during these crucial months are still possible. It is just that the frequency of you doing said activities would be significantly less than what you are used to and should be adjusted to your training schedule.

### **IV. Set Aside a Portion of Your Allowance**

Maybe you received a sum of money from the funds your manager has raised, and perhaps you did not. Therefore, it is always a good idea to set aside some parts of your monthly allowance prior to the competition dates because you will never know if you need it. Maybe you will need it for printing your memoranda, or buying

some new fancy-looking pens and notebooks for pleading, or buying souvenirs after the competition. Either way, better be safe than sorry.

## **V. Don't (Proof) Read Your Memoranda After Submission**

Here is a spoiler: there will always be mistakes in your memoranda. Or at least, something you want to correct. Based on experience, there will always be mistakes in the footnotes, text, and formatting. As it is human nature to make mistakes, it does not help you to be aware of such mistakes *after* you no longer have the ability to do anything about it. It does not provide any moral boost for you and your team in going through the next stages of the competition. Your focus should be on the pleading practice sessions after you have submitted your memoranda.

## **VI. Get Your Formal Attire on**

Formal attire is the default dress code during moot court competitions. If you have not already, you should invest in formal attire in compliance with this dress code. Additionally, it helps you get into the character of the agent you are acting as during the oral rounds. Lastly, investing in formal attire may prove extremely useful in future endeavors—internships, official photos, job interviews, and other important events.

On that formal note, especially for the gentlemen out there, learn how to tie a tie! You do not want to spend the morning of your competition dismayed upon realizing that you forgot to ask your dad or a friend beforehand on how to get a tie to look presentable.

## **VII. Be (Sufficiently) Curious About Your Competition**

This is to help you get a sense of your competition. It is equally vital for your team to research on the venues where the competition will take place—be it for national or international rounds. This might even indicate the caliber of the competition.

Some moot court competitions disclose the teams that will be participating, and some do not. But should you get some hints on which universities are competing, you might want to consider dedicating some time to research who your opposing teams could be. This could help prepare your team in anticipating the different pleading styles and the types of arguments that could serve as a tactful and effective response against the opposing teams. Here are some things that you might find out:

1. The team members (probably someone who you know, or someone who you know knows)
  - The coach
  - The university
  
2. Which may lead to:

- Their strategy
- How they frame their arguments based on previous competitions
- How long they have practiced for

However, please also note there have also been cases where finding out the identity of teams you are up against *right before* the oral rounds may elicit fear or anxiety of competing against a past champion or a superstar university moot team. So, before deciding whether you want to give in to this temptation, make sure to still weigh the costs and benefits of looking into other teams and whether that decision is a strategic move for *your* team. Otherwise, you might risk compromising your mental composure and losing focus before even stepping into the courtroom.

### **VIII. Good Impression is a Must**

It is acknowledged that when it comes to the competition, things will get pretty tense. However, this rule does not only entail the impression you make towards the judges, but also other competitors. Be confident. Sell your arguments. You might win the slight edge over the opposing team because you left a better impression on the judges.

### **IX. Thank Those Who Helped**

It is *impossible* to get through mooting without the help of people around us—your team for their hard

work, your coaches for their input, your parents for their support, your friends for always being there, and even your opponents for the competition.

All in all, be thankful. Let those people know how much they mean to you throughout this period. It does not matter if you win or not—mooting is an experience you will never forget. Therefore, do not forget to thank the people who contributed in creating that experience.

## BIBLIOGRAPHY

- Christopher Greenwood, 'Sources of International Law: An Introduction' *United Nations*  
<[https://legal.un.org/avl/pdf/ls/greenwood\\_outline.pdf](https://legal.un.org/avl/pdf/ls/greenwood_outline.pdf)>  
accessed 31 July 2020.
- Columbia Law School Writing Center, 'Organizing a Legal Discussion (IRAC, CRAC, etc.)'  
<[https://web.law.columbia.edu/sites/default/files/microsites/writing-center/files/organizing\\_a\\_legal\\_discussion.pdf](https://web.law.columbia.edu/sites/default/files/microsites/writing-center/files/organizing_a_legal_discussion.pdf)> accessed 31 July 2020.
- David Kennedy, 'The Sources of International Law' (1987) 2 1  
*American University International Law Review* 1.
- Desmon McEwan et al, 'The Effectiveness of Teamwork Training on Teamwork Behaviors and Team Performance: A Systematic Review and Meta-Analysis of Controlled Interventions' (2017) *Plos One Research Article* 1/2017  
<<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0169604>> accessed 31 July 2020.
- Diane B. Kraft, 'CREAC in the Real World' (2015) 63 *Cleveland State Law Review* 567.
- Diego Fernández Arroyo and Makane Moïse Mbengue, 'Public and Private International Law in International Courts and Tribunals: Evidence of an Inescapable Interaction' (2018) 56 *Columbia Journal of Transnational Law* 797.
- Erika de Wet, 'Sources and the Hierarchy of International Law: The Place of Peremptory Norms and Article 103 of the UN Charter within the Sources of International Law' in Samantha Besson and Jean d'Aspremont (eds) *The Oxford Handbook of the Sources of International Law* (Oxford University Press 2018).

- Gerald Lebovitz, 'Cracking the Code to Writing Legal Arguments: From IRAC to CRARC to Combinations in Between' (2010) 82 6 New York State Bar Association Journal 49.
- Janet Walker, *The Vis Book – A Participant's Guide to the Willem C. Vis International Commercial Arbitration Moot*, (Juris Publishing 2008).
- Martti Koskenniemi, 'Hierarchy in International Law: A Sketch' (1997) 8 European Journal of International Law 566.
- Michael Y. Liu et al, *A Guide to the Philip C. Jessup International Law Moot Court Competition*, (Chinese Initiative on International Criminal Justice 2014).
- Robert Beckman and Dagmar Butte, 'Introduction to International Law' *International Law Students' Association* <<https://www.ilsa.org/Jessup/Jessup%20Competitor%20Resources/intlawintro.pdf>> accessed 31 July 2020.
- Julian Lew, 'Does National Court Involvement Undermine the International Arbitration Process?' (2009) 24 American University International Law Review 489.
- Julian Lew et al, *Comparative International Commercial Arbitration* (Kluwer Law International 2003).
- S.I. Strong, 'Research in International Commercial Arbitration: Special Skills, Special Sources' 20 The American Review of Arbitration 119.
- Yves Derains & Eric Schwartz, *A Guide to the ICC Rules of Arbitration* (2<sup>nd</sup> edn Kluwer Law International 2005).

## **CONTRIBUTORS**

### **Authors' Profiles**

#### **Kusuma Raditya**

Kusuma is a fresh graduate student who received his Bachelor of Laws degree from the UGM Faculty of Law in 2020. During his studies, he participated in the 23rd Willem C. Vis Commercial Arbitration Moot in Vienna as a researcher. He also participated in the 2016 Indonesian National Rounds of the International Humanitarian Law Moot as an oralist, where he was awarded Third Best Oralist, and his team snatched the award for Second Best Memorial, and won the title of Champion, enabling them to represent Indonesia in the International Rounds in Hong Kong. He showed his dedication and passion for mooting not only through his participation in various competitions but also through his appointment as the President of CIMC in 2018-2019.

#### **Kukuh Dwi Herlangga**

Kukuh has recently graduated with a Bachelor of Laws degree in 2020. During his time in UGM Faculty of Law, he participated twice in the Willem C. Vis (East) International Commercial Arbitration Moot ('C. Vis'). In his first C. Vis, the team advanced to the quarterfinals, and was regarded as the highest ranking team for the preliminary rounds. In his second C. Vis, the team received Honorable Mention for Best Memorandum for Respondent. He held a position as the Editor-in-Chief for

UGM's *Juris Gentium Law Review* in 2019-2020. He is particularly interested in international commercial and arbitration law, and is currently pursuing a career as a lawyer in this field.

### **Mohamad Ibnu Farabi**

Farabi graduated from UGM Faculty of Law in 2018. During his studies, he actively participated in the Willem C. Vis (East) International Commercial Arbitration Moot and the Asia Cup International Moot Court. He was also active in organizing several moot court related events, such as the Indonesian National Rounds of the Philip C. Jessup International Law Moot Court Competition ('Jessup') as the Coordinator of Event in 2017 and the Vice Administrator in 2018. He was appointed as the Executive Director of the Indonesian Society of International Law in 2018 to increase the participation of students in the practice of international law through the growth of the Indonesian National Rounds of Jessup. He is currently a Junior Legal Officer at Manajemen Pelaksana Program Kartu Prakerja, the Coordinating Ministry for Economic Affairs.

### **Johanna Devi**

Johanna graduated with a Bachelor of Laws degree from UGM in 2019. Since her time in the Faculty of Law, she has been passionate about shipping law and international commercial law. Her passion is evident through her involvement in International Maritime Law Arbitration Moot and Willem C. Vis International Commercial

Arbitration Moot as a researcher, oralist, and coach. She is currently working as a lawyer at a law firm in Jakarta.

### **Albertus Aldio Primaldi**

Aldio graduated *cum laude* in 2017 and holds his Bachelor of Laws degree from UGM. His passion for arbitration is portrayed by his numerous international arbitration moot competition appearances: 2013 Willem C. Vis (East) International Commercial Arbitration Moot in Hong Kong; 2014 Foreign Direct Investment International Arbitration Moot (Malibu); 2015 International Maritime Law Arbitration Moot ('IMLAM') in Melbourne; 2016 Willem C. Vis (West) International Commercial Arbitration Moot in Vienna; and 2017 IMLAM in Singapore. He was entrusted to be the 2017 National Administrator for the Indonesian National Rounds of the Philip C. Jessup International Moot Court. Aldio is currently working as an International Case Counsel of the Asian International Arbitration Centre.

### **Grady Lemuel Ginting**

Grady became a graduate with a Bachelor of Laws degree from UGM in 2020 and has currently started a position at Adnan Kelana Haryanto & Hermanto Law Firm. During his experience as a mooter, he was exposed to both public and private international law. He played the role of oralist in both the 2018 Philip C. Jessup International Moot Court and Willem C. Vis (East) Arbitration Moot ('C. Vis'). As a result, both teams were

able to receive Honorable Mention for Best Memorial and distinguished rankings. Not only did he participate as a delegate, but he also continued showing his interest in mooting by holding a role as one of the coaches for the 2020 Jessup team and the 2020 C. Vis team, and as Vice President of CIMC in the same year.

### **Ibrahim Hanif**

Ibrahim Hanif is a lecturer at UGM's Faculty of Law, working in the International Law Department. He completed his undergraduate program as a Bachelor of Laws in 2015. During his studies, he served his team as an oralist in the 2012 Philip C. Jessup International Moot Court and 2013 of the International Humanitarian Law Moot Court, where UGM became National Champions. His team also achieved the Third Highest Ranked team in the Global Rounds for the 2012 Foreign Direct Investment International Arbitration Moot. He continued his education for his master's degree in Cambridge University where he was awarded as First Class Honors, and currently undergoing the study for PhD degree in Cambridge University.

### **Emilia Jasmine Susanto**

Emilia became a fresh graduate from UGM in 2020 where she received her Bachelor of Laws degree. During her time in university, she participated in international moot court competition as a researcher for Foreign Direct Investment International Arbitration Moot ('FDI') in 2017 where her team ranked Top Five Respondent

Memorial and also managed to achieve the 18th Highest Ranked Team Overall out of 52 teams. She then continued her role in CIMC by being the 2018 Consul for the FDI Federate.

### **Naila Sjarif**

During her time at the Faculty of Law, UGM, Naila performed remarkably well in international moot competitions, as she participated in the Willem C. Vis International Arbitration Moot ('C. Vis'), wherein she was awarded as the Second Best Oralist in the Jakarta C. Vis Pre-Moot. Her passion and interest in arbitration continued to grow as she also competed in the Foreign Direct Investment International Arbitration Moot and was listed as the Top 25 Advocate for her position as an oralist and her team's Respondent Memorial ranked fifth in the Global Rounds. Naila is currently working as a Junior Associate at Budidjaja International Lawyers, where she has been handling and advising clients on matters relating to among others commercial dispute resolution, insolvency, construction, environment, real estate, and aviation.

### **Indira Jauhara Pratiwi**

During her undergraduate studies, Indira has shown her interest in moot court competitions as she has joined several competitions, and experienced different roles in the team. She joined the International Criminal Court Moot Court and the Foreign Direct Investment International Arbitration Moot as a researcher which was

then followed with her role as a researcher and oralist in the International Maritime Law Arbitration Moot ('IMLAM'). She finished off her mooting experience by being Consul for the IMLAM Federate in 2017. After graduating from the Faculty of Law in 2019, Indira worked at the Legal and Global Initiative Expert at UGM where she was responsible for handling legal matters concerning the University's international network and partnership.

### **Abigail Soemarko**

Abigail graduated from UGM's Faculty of Law in 2018. During her time in university, she showed interest and passion in mooting as she has participated in the Philip C. Jessup International Law Moot Court ('Jessup'). Her team's written memorials achieved Second Best Memorial and she individually ranked among the Top 15 Oralists in the 2016 Indonesian National Rounds of Jessup. Abigail also competed in the Foreign Direct Investment International Arbitration Moot. She was listed as the Top 50 Advocate and her team's Respondent Memorial ranked 5th in the 2017 Global Rounds. Currently, Abigail works as a lawyer at TJAJO & Partners and plans to pursue her LL.M. degree at New York University in the near future.

### **Felicity C. Salina**

Felicity graduated from Faculty of Law UGM in 2019 with numerous experiences both in mooting and in legal publication. She pursued her interest in public

international law through participating in the International Criminal Court Moot Court after her prior participation in the Philip C. Jessup International Moot Court for two years in a row. She is highly distinguished for her reprising role as an oralist in all her mooting experience. As an active member of CIMC, she spearheaded UGM's Juris Gentium Law Review as its Editor-in-Chief in 2018-2019. Currently, she is working in the United Nations International Residual Mechanism for Criminal Tribunal as Junior Legal Assistant and International Law Officer at Article 33 Institute.

### **Regina Wangsa**

Regina graduated from UGM Faculty of Law in 2019. During her undergraduate studies, her areas of interest include international criminal law and law of treaties. She participated in the 2016 International Criminal Court Moot Court and her team managed to be one of the semifinalists in the International Rounds. She also took part in the 2017 Philip C. Jessup International Moot Court, finishing as Fourth Highest Ranked Team during the National Rounds and winning Best Exhibition Memorials in the International Rounds. She is currently working at Adnan Kelana Haryanto & Hermanto Law Firm.

### **Nabila F. Oegroseno**

Nabila graduated from UGM Faculty of Law in 2018. Nabila participated in the Philip C. Jessup International Moot Court wherein she was awarded as the Third Best Oralist in the National Rounds two years in a row. She

also competed in the Willem C. Vis International Arbitration Moot where she was awarded Honorable Mention for Best Oralist, and her team was placed first in the Preliminary Rounds, and eventually placed as Top Eight in the Advancing Rounds. Presently, Nabila works at Hadiputranto, Hadinoto & Partners in the Dispute Resolution Practice Group.

### **Fajri Matahati Muhammadin**

Fajri Matahati Muhammadin is a lecturer at the Department of International Law, Faculty of Law UGM, and co-advisor of CIMC. After graduating from UGM Faculty of Law in 2012, Fajri obtained his LL.M from the University of Edinburgh and Ph.D from the International Islamic University of Malaysia. During his mooting days, he was co-founder and first (ad-interim) president of CIMC, and member of the International Humanitarian Law Moot ('IHL') Federate. He was champion of the Jakarta National Rounds of IHL in 2010, semifinalist of the Asia-Pacific IHL in 2011, and won the Best Memorials award for both of those competitions. He continues to actively assist the IHL Federate with their moot court training at UGM.

### **Muhammad Ryandaru Danisworo**

Muhammad Ryandaru graduated from UGM Faculty of Law in 2018. His passion for international law and moot court competitions are evident through his participation in the International Criminal Court Moot Court as an oralist and a researcher, and a coach several consecutive

years in a row. He is currently working as an associate at Hermawan Juniarto & Partners.

### **Muhammad Awfa**

Awfa majored in International Law and graduated from the Faculty of Law, UGM, in 2019. Awfa has participated in the 12th Indonesian National Rounds of the International Humanitarian Law Moot Court where he was awarded as Best Oralist. Awfa has also won the Academic Excellence Awards: Best Overall Performance Prizes from International Law Department during the event of *Dies Natalis* Fakultas Hukum Universitas Gadjah Mada Ke-72. Following his graduation, Awfa scored and has recently completed an internship for the International Humanitarian Law Department in the ICRC Regional Delegation to Indonesia and Timor-Leste.

## **Editors' Profiles**

### **Balqis Nazmi Fauziah**

Balqis is currently in her last year of law school at the Faculty of Law, UGM. She participated in the 2018 International Maritime Law Arbitration Moot in Brisbane as a first year student. Her interest in public international law began to manifest with her role as an oralist and researcher in the 2019 National Rounds of the Philip C. Jessup International Moot Court ('Jessup') where her team became the Third Highest Ranked Team and won Fourth Best Combined Memorials, and coach for the UGM Delegation to the 2020 Jessup team. She is currently a part of the 2020 CIMC's Internal Affairs Division and serves as Editor-in-Chief of UGM's *Juris Gentium Law Review* for 2020-2021.

### **Abdurrahman Faris A.**

Currently working as a researcher in UGM's Center for Law, Technology, RegTech & LegalTech Studies after graduating in 2020, Faris has been active in various activities throughout his university years. He was active in Dewan Mahasiswa Justicia Faculty of Law, UGM, and was later anointed as Deputy Head of Strategic Studies Department. In 2016, he was awarded Best Delegate at Jogja International Model United Nations. He was also appointed as Head Delegate for the 2017 Asia Cup International Moot Court Competition. Later, he became a team member for the 2018 Philip C. Jessup

International Moot Court Competition ('Jessup') and coach for the 2019 UGM Jessup team.

### **Bagoes Carlvito Wisnumurti**

Bagoes is currently a final year law student at the Faculty of Law, UGM. He started his mooting journey in the 2017 International Humanitarian Law Moot Court ('IHL') as a researcher, and returned to join the 2018 IHL team in as an oralist, wherein he attained the title of Best Oralist. He also participated in the 2019 Foreign Direct Investment International Arbitration Moot in Miami the following year.

### **Felicia Komala**

Felicia is currently a fresh graduate student who has received her Bachelor of Laws degree from the Faculty of Law, UGM, in 2020. Her interest in international moot court competitions is evident through her participation in the Willem C. Vis International Commercial Arbitration Moot ('C. Vis') for two years in a row. Earning an Honorable Mention for Best Oralist in her first C. Vis, she returned as a researcher the following year. In 2019, she served as the President for CIMC.

### **M. Farhanza Onyxsyah Rachman**

Farhanza graduated from the Faculty of Law, UGM, with a Bachelor of Laws in 2019. His passion in law ranges from international law, through his participation

in the Philip C. Jessup International Law Moot Court (as an Of-Counsel and Coach), and commercial law (both transactional and dispute resolution), through his participation in the Vis East's Young International Mediation Competition, Universitas Airlangga's Contract Drafting Competition, and Jogja International Model United Nations (as an Arbitrator in the Permanent Court of Arbitration). He continues to pave his career as a Legal Assistant in UMBRA, Jakarta.

### **I Gusti Agung Indiana Rai**

Indiana is a recent law graduate in 2020 and has previously sat as a board member in CIMC's Internal Affairs Division for one year. His experience competing began in his first year of studies as a delegate for the International Criminal Court Moot Court Competition. Having endured the post-mooting syndrome, he returned with the same level of eagerness and ended up participating in the same competition for three consecutive years before graduating.

### **Audrey Kurnianti P.**

Audrey is a final year law student in UGM Faculty of Law. She has participated in the International Humanitarian Law National Rounds in 2018 where she ranked fourth as an oralist and the Foreign Direct Investment International Arbitration Moot ('FDI') Global Rounds where she ranked as the Top 24th Advocate. In 2020, she serves as a coach to the UGM FDI team and the President of CIMC.

## **Gracia Monica**

Monica is currently a final year student in UGM Faculty of Law. She joined CIMC in 2018 following her first moot competing in the International Humanitarian Law Moot Court Competition ('IHL'). The following year, she became Consul for the IHL Federate, under which her team managed to achieve Second Best Memorial. She currently holds the position as Manager for the 2020 UGM team for the Foreign Direct Investment International Arbitration Moot and is in the 2020 CIMC's Internal Affairs Division. She is also working part time as an external researcher at a law firm in Jakarta.