



**INDIAN SCHOOL BAHRAIN
MODEL UNITED NATIONS CONFERENCE**

**INTERNATIONAL COURT OF JUSTICE
HANDBOOK**

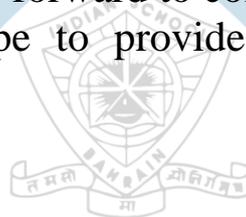
THE INDIAN SCHOOL BAHRAIN

MODEL UNITED NATIONS SECRETARIAT

Over the past year, our secretariat has been working hard to organize what will become the most exhilarating and stimulating ISBMUN conference yet. We invite you to join us in exploring the excitement of international relations through Model United Nations. With the increase of international communication and globalization, it is important for high school students to be aware of contemporary world events. Model UN creates an environment in which delegates learn through participation, gaining experience in international relations, decision-making, and oratory.

The ISBMUN organizing team would like to express our heartfelt gratitude to the Executive Committee, the Principal, Mr. V.R.Palaniswamy, and the Vice-Principal (Senior Section), Mr. Anand R Nair, who gave life to this long-time vision. The teaching faculty has been an amazing pillar of support. From supporting us to giving us advice, they have been very encouraging and understanding. Thank you, Teachers! We extend our heartfelt thanks to the faculty, administrative staff and everyone else who made this event possible

This guide will help you get a broader aspect to all the rules and procedures of our conference. The Secretariat looks forward to communicating with you before and during the conference. We hope to provide students with an exciting and memorable experience.



THE SECRETARIAT

INTRODUCTION

The International Court of Justice is the principal judicial organ of the United Nations. ICJ stands and aims for protecting and fighting for justice. The International Court of Justice's role is to settle, in accordance with international law, legal disputes submitted to it by various countries and to give advisory opinions on legal questions referred to it by authorized United Nations councils and other specialized agencies. As such, you will be researching and writing memorandums on cases about current crimes of concern to the various nations. The ICJ committee is very challenging, requires a high level of engagement and participation, and is a bit different from simulations that delegates have been involved in before. The ICJ Committee works on different rules of procedures than other committees.

The Counsel will present full oral arguments in both cases to the Court and Justices will deliberate and reach a decision based on what they have heard. The position papers required take the form of memorandums. It is crucial that delegates get into contact with each other before the conference because there will be a lot of things you guys will need to prepare. The ICJ will offer simulation and an insight into the operation of International Court of Justice. Lots of work will be required but we promise an exciting experience.

All members of the Court and the Advocates hold the responsibility to show utmost respect to each other and shall act accordingly. One on one discussion during the sessions is strictly prohibited, with the exception of communication through note passing. Written notes are the only means of communication between the members of the Court when they are not recognized to speak. The President of the Court will immediately call to order any member of the Court who fails to comply with this rule.

We would like to wish you the best of luck in your preparation and congratulate you on being appointed to the ISBMUN ICJ committee. Should there arise any questions do not hesitate to contact us.



ROLES

Presidents

The Presidents of the ICJ act as the Judges of the trial. They lead the discussion and debate of the court and make sure that all procedures of the trial follow the Rules and Procedure of the Court. This moderation duty will be the same as a Chair's in another Committee.

Their task is to prepare the case that will be discussed. They will also write up the study guides, collect the evidence and stay in contact with all members of the court and all parties involved in the case. They will neither interfere in any substantive debate nor vote on the Court's decision. In case of a tie, the Presidents hold the presiding judgement of the Verdict.

Counsel

In the ICJ, the Counsels are teams of 2 advocates and are divided into two categories: The Plaintiff and the Defence.

In ICJ, the Plaintiff represents the country that has prepared the case (prosecution), and the Defence represents the country that is being tried.

The Plaintiff: Their main role is to prepare a case that has sufficient evidence to fulfil the burden of proof. During the simulation, the Prosecutors will deliver arguments and present evidence to establish the criminal liability of the accused.

The Defence: Their main role is to create a doubt or evidence against the submitter of the case. During the simulation, the Defence Counsel will deliver arguments and present evidence to defend the accused.

Both the Plaintiff and the Defence are required to deliver opening and closing statements. All Advocates are equally responsible for preparing arguments that they will deliver in Court prior to the Conference. Each of the Plaintiff and Defence teams will submit one memorandum in place of position papers.

In both cases, the Plaintiff and the Defence should have researched and read enough about the case to bring the verdict into its own favour. Do not flood the court with unnecessary data; provide the judges with all the information of relevance for the particular case, but try to be precise.

Justice

A Justice's role in the ICJ is vital to the trials. Justices get to examine and assess the case and, eventually, are expected to bring upon an agreeable verdict to the courts. During the simulation, the Judges will hear the cases presented before them and will deliberate to reach a decision on each case at hand. They must be able to accurately assess the contents of the case and must come with questions that may bring more clarity to the case. Judges need to evaluate all aspects of a given case objectively and in an impartial manner.

Witness

Witnesses play a major role in ICJ as well. Their testimonies are taken carefully into consideration and must, therefore, be prepared well by the Advocates of the Courts. During the phase of research and writing the memorandum, the teams of the Advocates should consider who they wish to call to the stand as their Witness. Prior to the conference, each pair will have to prepare a series of questions. They will also be given the contact information of the person that will represent the Witness during trial, so that they can prepare them for testimony.

Registrar

The Registrar is responsible for recording the summaries discussed in court and collecting evidence from the Advocates.



GENERAL PROCEDURE

Phase One — Convening of Court (about 15-20 minutes)

The session of Court will be opened in this phase. Introductions take place, and then everyone present is required to take oaths. The Advocates and the Witnesses shall declare the oath as, “I solemnly swear that I will tell the truth, the whole truth and nothing but the truth.” The Justices must make the following solemn undertaking: “I solemnly undertake that I will perform my duties and exercise my powers as a judge of the International Criminal Court honourably, faithfully, impartially and conscientiously.”

Phase Two — Opening Statements (about 15-20 minutes each)

In this phase, the submitter of the case or the Plaintiff begins with its speech followed by the Defence. The advocates are required to introduce their arguments and provide a preview of the case that they have prepared and the corresponding laws. It is also recommended that advocates lay out their entire case at this phase to strategically, so as to persuade the Justices. The Opening Statement does not need to be delivered by only one member of the team, so the two Advocates may each present a part of their claims and their opening statement can be divided. The time allocated for each party is set by the President. No electronic devices may be used during this phase.

Phase Three — Stipulations (about 10-15 minutes each)

Stipulations are facts about the case that are agreed upon before the trial. Both sides of the advocates are required to come up with a list of Stipulations to be presented at the court. When the Stipulations are read, the opposition counsel is expected to state, “so stipulated” when the facts are true and verifiable or object to the Stipulation if the statement may be contradicted or undetermined.

Phase Four — Evidence & Witnesses (about 60-90 minutes each)

At this phase, advocates from both sides are to present their prepared Evidence & Witnesses. Each of the claims the Advocates makes should be supported by evidence, such as newspaper, articles, multilateral or bilateral treaties, reports, maps, charts, resolutions or anything that helps the Advocates prove their arguments. Also, witnesses are to be addressed at this point. Witnesses will first be examined by the Justices to be marked as Expert/Intermediate/Weak in the absence of Advocates. Then, the Advocates will perform a Direct/Cross Examination of the Witness

Phase Five — Deliberations (about 20-30 minutes)

At this phase, the Advocates will be asked to leave the room while the Justices will examine the case throughout. The Justices will examine every piece of evidence entered into the trial and discuss the important questions to the case. Length of the Judges' deliberation will be determined and announced by the President. Justices will be asked to come up with questions to the Advocates at this phase and the questions must ask about matters that are essential to the verdict of the case.

Phase Six — Questioning (about 20-30 minutes)

In this phase, the Justices will have the chance to ask questions that they have prepared for the advocates. In order to ask questions, the Justices shall be recognized by the President first. The Justices may question any side they prefer; however, they may only pose one question at a time. One Advocate from each side shall answer the question of a Justice. Intervention from the other Advocates will not be allowed. However, the parties are free to decide which Advocate will answer any given question. The Advocates shall answer the questions, stand upon the stand and seek for the permission directed by the President to leave the stage.

Phase Seven — Closing Arguments (about 20-25 minutes each)

Both sides of the Advocates are to present a closing speech regarding the case. In this phase, Advocates are required to cover everything that was brought up in the court and must explain why the court should rule in their favour. Advocates can use the time to draw graphs on whiteboards, or any prepared means by them to persuade the Justices.

Phase Eight — Deliberations & Judgement (about 20-30 minutes)

At this phase, the Advocates will be asked to leave the room and Justices will discuss the whole case including the claims made by the Advocates, their evidence, the closing arguments and the questions answered in Phase Six. Then, they'll be asked to come up with the Judgement.



RULES OF PROCEDURE

Direct/Cross Examination

Witness Examinations are divided into two (sometimes three) sections: Direct, Cross, and Re-Direct (depends on the President's ruling). Introducing a Witness takes place by asking the President of the Court: "May the Plaintiff (or Defence) introduce a Witness to the court?" After the President summons the Witness and evaluates him/her, the Advocate who introduced the Witness will then be asked to start his/her Direct examination, followed by Cross Examination by the Opposing Counsel.

Direct Examination: This section is when the Advocate, who is introducing the Witness, asks direct questions and not leading questions (leading questions can be subject to objections). Most Advocates can start off by asking the Witness to introduce himself and his/her relevance to an incident or to the case — the introduction can be prepared beforehand in a statement called an Affidavit.

Cross Examination: This is when the Opposing Counsel, who has not introduced the Witness, asks leading questions. Leading questions are questions that can be answered by a "yes" or "no." During the Cross Examination, the purpose of the Opposing Counsel is to weaken the case of the other Counsel. A strong cross-examination can force contradictions, expressions of doubts or even complete elimination of a witness's prior carefully rehearsed testimony. On the other hand, repetition of a witness's story, passionately defended, can strengthen his/her credibility.

Witness Impeachment: When the counsel has shown a major contradiction or proved that the witness is not apt for testifying for emotional issues or biased viewpoints, the opposing counsel can bring it up during his/her closing argument. Impeachment is not something that is part of the procedural rules. However, when an advocate has shown sufficiently that the witness has contradicted himself or is inapt for testimony, he/she may bring it up during the closing argument.

Opening & Closing Speeches

Opening and Closing speeches are the most important speeches during the trials. They can often become the main determinants of the outcome of the trial. Therefore, all Advocates should take this part very seriously and make ample preparations.



Opening Speech: This should be prepared before the case. During the Opening Speech, the Advocate must first make a narrative. It is important to establish the storyline of the case to persuade the Justices. Then, tell the Court exactly what your case will be like. Tell them exactly what will your team do and what exactly will happen and how the court should rule in your favour. Tell them what kinds of evidences will be presented and ask for the verdict at the end of the speech. This part is in a way making a promise.

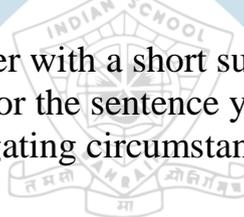
Closing Speech: During the Closing Speech, the Advocates must restate the arguments of their case. Summarize everything that happened in the trial and tell the Justices that you have kept your promise that was mentioned in the opening speech. Summarize every detail of the trial that favours your case and mention every witness statement that may help your case. In the end, the Defence must state that the Plaintiff has not fulfilled the burden of proof while the Plaintiff must state and prove that he/she has fulfilled the burden of proof. At the end of the speech, ask for the verdict in favour of your case.

Memorandum

Memorandum is a document containing the case summary, arguments, and request for verdict. Each pair of the advocates must prepare and submit a memorandum, which is basically a summary of their case prior to the conference. Most memorandums are a page to two pages long and contain a brief summary, arguments, witness list, and the verdict that they want. All parts of each memorandum must be compiled and contained in a single file. Advocates are required to make at least four physical copies of Memorandums.

The memorandum is basically a position paper from any other council. Each team of the advocates has to prepare one memorandum. The memorandum should be brief, concise and contain all the key elements of your defence strategy or line of the Prosecution. You should divide your memorandum into parts for each team member.

1. In the first part of the memorandum, write an introduction to the case, describe the situation in which the crime took place, and establish the basic direction of your case.
2. In the second part, establish the legal basis for your position. State the relevant provisions, as can be found in the summary of your case. Cite evidence you find in the materials that support your position.
3. In the third part, conclude your paper with a short summary of your main arguments. Sum up your view of the case and request for the sentence you would like the judges to pass. Draw attention to aggravating or mitigating circumstances that might influence the sentence.



Evidence Packet

An evidence packet is essentially a compilation of all the evidence the advocacy plans to use to support its legal arguments. In the form of a document containing all the pieces of evidence, the evidence packet must contain a table of contents and must have every page numbered. Each piece of evidence must be listed in exhibits (i.e., Exhibit A, Exhibit B, if it happens to be too long) and have the following citations:

- Title
- Author
- Medium (Website/Book/etc.)
- Date

Evidence packets without these citations will be struck out by the Presidents. Thus it is essential that advocates stick to this format while submitting evidence. It is also essential to keep evidence in its original format without altering it or retyping it. Evidence generally consists of objects of any kind relevant to the case, such as papers, documents or books. Also, advocates can mention the date of the evidence so that it is more organised.

Stipulations

Stipulations are facts about the case that each team has to prepare before the conference in writing and have to be compiled and submitted to the court on the day of the conference to be read out to the court. The stipulations have to be prepared from the timeline of the case. Any stipulation outside from the timeline will be rejected by the presidents and will not be considered.



LEGAL TERMS

Plaintiff:

The Party who initiates a lawsuit by filing a complaint with the clerk of the court against the accused(s) demanding damages, performance and/or court determination of rights.

Defence Attorney:

The attorney representing the accused in a lawsuit or criminal prosecution.

Impeach:

Testimony of a witness by proving that he/she has not told the truth or has been inconsistent, by introducing contrary evidence, including statements made outside of the courtroom in depositions or in statements of the witness heard by another.

Burden of Proof:

The requirement that the plaintiff (the party bringing a civil lawsuit) show by a “weight of evidence” that all the facts necessary to win a judgment are presented and are probably true. It is the burden of the proof of the plaintiff’s that is heavier as they have presented the case. However, the burden of proof is not always on the plaintiff. In some issues it may shift to the defendant if he/she raises a factual issue in defence, such as a claim that he/she was not the registered owner of the car that hit the plaintiff, so the defendant has the burden to prove that defence.

Beyond a reasonable doubt:

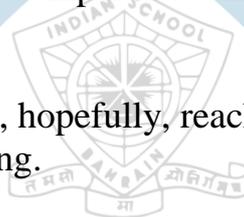
Part of jury instructions in all ICJ trials, in which the jurors are told that they can only find the defendant guilty if they are convinced “beyond a reasonable doubt” of the country’s guilt.

Direct Evidence:

Real, tangible or clear evidence of a fact, incident or thing that requires no thinking or consideration to prove its existence, as compared to circumstantial evidence.

Deliberation:

The act of considering, discussing and, hopefully, reaching a conclusion, such as a jury’s discussions, voting and decision-making.



Weight of Evidence:

The strength, value and believability of evidence presented on a factual issue by one side as compared to evidence introduced by the other side.

Verdict:

The decision of a jury after a trial, which must be accepted by the presidents to be final.

Stipulation: An agreement, usually on a procedural matter, between the advocates of the two sides in a legal action. Some stipulations are oral, but the court often requires that the stipulation be put in writing.

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OBJECTIONS

Objections must be raised as soon as the witness or opposing counsel has violated the Rules & Procedure. However, a counsel may not object to his own witness during Direct Examination. Objections must only be raised when the opposing counsel or witness has violated the Rules of Procedure and must not be misused in any other way. When the Rules of Procedure has been violated, the Counsel should simply stand and raise an objection: “Objection, Hearsay.” Then, the President may ask how the Opposing Counsel or witness has violated the Rules of Procedure and ask the opposing counsel for a reply. Direct conversations between opposing counsels are not to take place in the court. The President may either sustain the objection, in which case the justices will be asked not to consider the points that were made in violation of the Rules of Procedure, or he/she may overrule the objection. Objections may interrupt the speaker. There are several grounds for an objection:

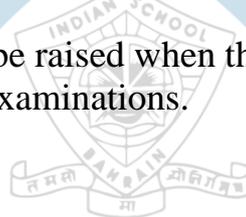
Hearsay: Questions to the Witness shall be related to the Witness’ own experience only. Advocates can interrupt the speaker to raise a Hearsay Objection when the speaker directly quotes another person not verifiable or represented in court. If one of the parties of the case asks hearsay questions to a Witness, the other party has the right to raise an objection. The decision of accepting the objection will be up to the President, who will respond either “sustained” or “overruled.”

Leading Question: This objection may be used when the Advocate, who introduced the witness, is asking a Leading Question during Direct Examination. The opposing counsel, then, may interrupt the question and raise an objection to the President of the court.

Speculation: The counsels may raise this objection when the witness is being asked to predict an unknown outcome.

Irrelevant: If either the opposing counsel or the witness is asking or testifying something irrelevant to the case at hand, the advocate may raise an objection.

Badgering: Badgering objection may be raised when the advocates are intimidating or bullying the witness usually in cross examinations.



Argumentative: This objection may be raised when the advocate is asking questions that deal with the argument of the case rather than a question that can be answered by the witness. It does not apply when the advocate is asking a good question that's relevant and supportive of the trial.

Asked and Answered: An advocate may not ask a question that has already been asked and answered by the witness.

Beyond the Scope: This objection may be raised when an advocate is asking for an answer that is beyond the scope of knowledge of the witness or the witness is asked to testify on a subject or a narrative that is beyond the scope of his/her knowledge.

Characterization: This objection may be raised when the advocate is characterizing a person or a situation in his/her words while asking a question during direct or cross examination.

Lack of Foundation: This objection may be used when the opposing party is trying to enter evidence without context and when there is no reason for the evidence.

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