

HUMBOLDTMUN 2025
XIII Edition
International Court of Justice
Handbook



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Welcome letter

“The first requisite of civilization is that of justice”

- Sigmund Freud

Delegates, on behalf of the president, the moderator and the conference officer it is an honor to welcome you all to the XIII edition of the HUMBOLDTMUN and to the International Court of Justice committee.

We are truly grateful to be able to share this experience filled with fulfillment and learnings with all of you. We expect nothing but the utmost respect and dedication from each and every single one of our delegates in this committee, and we are absolutely sure that all of you will live up to the expectations. HUMBOLDTMUN is an opportunity to challenge ourselves, both individually and collectively. It is an opportunity of growth and self development that we are sure will happen and continue to do so in the years to come. We hope you all use this MUN to develop your social, leadership and communication skills throughout these upcoming days.

We know that the role that each and every single one of you will be challenging given the difficulties of this committee, this fills us with excitement to see what all of you have to give.

Our society is in desperate need of strong and brave individuals willing to do what's right. Be those who leave a mark, be those who make a difference, remember to speak up, to listen, to act and to know, just remember to have fun in the process. Without much to say we thank you for choosing to be part of this committee.

Introduction to the committee

The International Court of Justice, the main judicial organ of the United Nations, was formally established in 1945 and is located at the Hague in the Netherlands. Its most important function is to pass judgement upon disputes between sovereign states that are recognised by the UN. This courthouse is mostly concerned with disputes that have to do with land and maritime boundaries, territorial sovereignty, diplomatic relations and the right to asylum, nationality and economic rights.

It is vital to understand that not every international dispute may be taken to the ICJ. This organ may be of service if another committee belonging to the United Nations requests assistance, if it is granted jurisdiction by some treaty or convention or if the participants have already agreed to mandatory jurisdiction with the UN secretary general, among other cases.

During the judicial procedure, both the plaintiff and defendant countries present oral and written evidence to support their cases. Witnesses may also be called upon in order to introduce new and relevant information. After the group of highly qualified judges has carefully analysed every detail of evidence such as the breaking of international conventions, treaties and law, they deliberate in secret and finally announce their final verdict and consequences. The case may also be resolved by the withdrawal of the proceeding by the demanding state or by some mutual agreement found between both parties.

PROTOCOL:

The purpose of this section of the Handbook is to ensure that the judges and both advocate countries are aware of the procedures and the protocol of the present simulation of the International Court of Justice. It is essential that all participants have a good understanding of the following information, as this will ensure productivity and fluency within the discussion.

1. Members of the committee:

A. The Chair

The Chair is formed by the president, moderator and conference officer. Together, they are responsible for keeping order, facilitating the debate, guiding participants and tracking the time, among other tasks.

B. The Lawyers

Advocates play a crucial role in this model. Both the plaintiff and defendant team are responsible for gathering evidence, strategising, introducing witnesses and presenting solid arguments that support their cause to the judges and members of court.

Additionally, advocates must hand in a position paper, also known as Memorandum, in which they explain their country's point of view supported by evidence. The Memorandum must also include important

background information that is relevant to the case. It is of the utmost importance that this document is handed in before the debate sessions.

C. The Judges

All thirteen judges are assigned the responsibility of analyzing both parties' arguments and pieces of evidence in a totally objective manner. They are also given the task to ask questions to any lawyers party to better inform themselves on the subject. These proceedings are necessary in order to deliver a just verdict at the end.

It is important to keep in mind that judges must remain impartial and base their decisions strictly on the merits. This is also why they are not asked to write a position paper. Instead, participants are asked to hand in a document containing the profile of the real judge they represent and a brief description of the context for both cases.

The judges taking part in this simulation of the ICJ are:

- Dire Tladi. (South Africa)
- Iwasawa Yuji. (Japan)
- Juan Manuel Gómez Robledo. (Mexico)
- Leonardo Nemer Caldeira Brant. (Brazil)
- Peter Tomka. (Slovakia)
- Ronny Abraham. (France)
- Sarah H. Cleveland. (USA)
- Xue Hanqin. (China)

2. Motions of procedure:

- a) To open a moderated caucus
- b) To open an unmoderated caucus
- c) To establish order in the agenda
- d) To present opening declarations: Where advocates will briefly present the case and their point of view to the judges.
- e) To present final declarations
- f) To make an extraordinary session of questions
- g) To validate/invalidate evidence/proof
- h) To call a witness
- i) To explain the vote
- j) To close session

3. Points:

- a) Point of parliamentary inquiry: To ask for a clarification of the rules
- b) Point of personal privilege: To ask/request something that only benefits oneself
- c) Point of order: To point out/inform about a misuse or violation of rules

4. Objections:

- a) General: When an action falls under the scope of any of the other objections set in this section.
- b) Hearsay: When a testimony given by a witness isn't what s/he knows but instead about what others have already said. Leaving such testimony as inadmissible in the rules of evidence
- c) Leading question: Question that suggests the answer that will be given by the person being interrogated. Especially if said question can be answered by yes or no
- d) Speculation: Question assumes/theorizes about matters over which there is no certain knowledge
- e) Relevance: That a question imposed is irrelevant for either the case or the testimony being presented.
- f) Badgering: Implies that the question given intercedes for the witness and should be rephrased into a less provocative, aggressive and/or disrespectful way or be avoided.
- g) Immaterial: Evidence that is lacking connection to the facts
- h) Prejudicial: Is attacking the personal integrity of lawyers, Judges, Witnesses and/or other present in the courtroom.
- i) Competence: Implies that the witness is not required to have an answer to the question, given that they are not supposed to be an expert on such matter.

Agenda

The simulation of the International Court of Justice trial will take place over three days. Due to the tight time schedule, a predetermined agenda will be followed to make the most of the occasion.

The **first day** of debate begins with a vote on the topic in which only the advocates are allowed to participate because they have prepared evidence and arguments for both cases in advance. If the result of the vote is a tie, the advocates are given time to defend their preferences and a new vote is taken. In the unusual event that no agreement is reached, the table will choose the topic.

After that, attendance is reviewed and both parties may deliver their opening statements. Opening statements are a crucial part of the trial, because they allow both the plaintiff and defendant team to give the jury a basic description of the case and a general idea of how the trial is going to unfold. An adequate opening statement includes an introduction to the witnesses that will be called in, a list of evidence that will be used and the relationship between both parties. These statements must be as persuasive as possible without the use of arguments, as these will be exchanged later on. Immediately following, judges are given the task to ask questions to both parties.

The initial questions are followed by refutation/rebuttals. In this part of the debate, the plaintiff begins to dispute the arguments of the defense and to support its own position. After that, the defending party is given the opportunity to respond to the plaintiff's statements while defending its position. The process is repeated until the time that the chair agreed with the rest of the committee has finished. This portion of the debate is particularly important because evidence

and viewpoints are presented in a clear and detailed manner. After each session of rebuttals, judges must ask their two questions to the legal teams.

At the end of the day, advocates are asked to leave the courtroom while judges express their opinions and doubts about the case on a speakers list.

On the **second day**, attendance is taken once again and the debate starts with the format of refutation. It is important for the judges to keep focused and take notes, as the debate will be long and intense and they must still ask questions and share a verdict. Each judge must ask two questions after each rebuttal session.

Following the judges' questioning session, it is time for each team of advocates to call their respective two witnesses (who will be played/ represented by one of the Lawyers). Before beginning their testimony, the witnesses must take the following oath: "I solemnly declare upon my honor and conscience that I will tell the truth, the whole truth and nothing but the truth, and that my testimony will be in accordance with my sincere and honest belief".

After having taken the oath, the party that has called in the witness may carry out a questionnaire. After that, the opposing team may conduct a cross-examination of the witness to test his credibility and position. The lawyer asking the questions is required to treat the witness with respect. This process is repeated until every single witness has delivered their testimony.

After the witness phase has concluded, the advocates should exit so that the judges can reflect and comment on the progress of the trial. This session is especially important, as it gives the judges the opportunity to organize their thoughts one last time before rendering a verdict the following day. After this,

the lawyers are asked to enter the room again in order to answer the judge's questions.

The **last day** is all about closing the debate and delivering the verdict. At the start of the day, a brief session of rebuttals is carried out, so that the plaintiff and defendant team may refine their arguments to help their respective cause. Directly after that, each team may present their closing statement, which is their last chance to convince the jury. These statements must include key points in the debate and a clear conclusion regarding each country's innocence or guilt. After that, a last session of questions is carried out and the advocates must leave the room.

Now, the central action of the event takes place: the drafting of the sentence. Judges can move freely within the classroom to convince others of their perspective. Once the guilt or innocence of the defendant has been determined, the judges must gather to develop a document called a "ruling," which names the consequences of this determination. It is crucial that during the elaboration of the ruling, the judges base their decision on the arguments and evidence presented throughout the trial.

The advocates enter the courtroom for the last time, to receive the judges' verdict. This moment marks the end of the trial and shows the dedication and effort all advocates and judges have displayed during the simulation.

Topic A: Dispute over the allegations of genocide against the Rohingya people (Gambia vs. Myanmar).

Background:

In order to carry out a successful debate, it is necessary to have an exceptional understanding of the background of the Rohingya, a mainly muslim ethnic group that has mostly resided in Myanmar for centuries.

Since the Rohingya have inhabited the country since the 12th century, tensions have been high. For instance, they are forced to live in ghetto-like camps that lack all kinds of basic services. This group lives in a very complicated situation, as they cannot leave the Rakhine coast, where they do not have the best quality of life, without the permission of the Myanmar government. It is worth mentioning that the Myanmar government refuses to grant them citizenship and fails to recognize them as an official ethnic group.

However, tensions escalated sharply on August 25, 2017, after the Myanmar forces launched a military campaign in Rakhine. This operation consisted of arresting many Rohingyas without cause; burning fields, farms and mosques; besides physical violence, sexual abuse and killing of members of the ethnic group.

As a result of these actions, more than 742,000 people, half of which were minors, were forced to flee to neighboring Bangladesh. Nowadays, it is estimated that there are nearly one million Rohingya settled in Kupalong and Nayapara, which are some of the largest and most densely populated refugee

camps on the planet. Note that the UN has labeled the Rohingya as “the most persecuted minority in the world”.

Current issue:

This case was filed at the International Court of Justice (ICJ) on November 11 2019 by the Republic of the Gambia, with the support of the 57 members of the Organisation of Islamic Cooperation, accusing Myanmar of failing to fulfill its obligations of preventing and sanctioning any act of genocide against the Rohingya people as agreed on the 1948 Convention on the Prevention and Punishment of Genocide (Genocide Convention).

On January 23rd 2020 the International Court of Justice issued an order in which it required Myanmar to “take all measures within its power” to ensure that its military and any other irregular armed unit would refrain of any act defined in the Genocide Convention, as well as instructing Myanmar to to “take effective measures to prevent the destruction and ensure the preservation of evidence” presented at the ICJ and to report regularly about the measures that have been taken to comply with the order.

The ICJ rejected Myanmar's objections to the Courts jurisdiction in 2022, pointing out that the purpose of the Genocide Convention was and still is the “common interest” of all signatories to avoid and punish any act of genocide, which meant that Gambia was acting within its right when it initiated proceedings against Myanmar.

A joint declaration was filed on November 15 2023 submitted by Canada, France, Germany, the Netherlands, Denmark and the United Kingdom, a second declaration was also filed by the Maldives, mentioning its concerns “over the continued... human rights violations and barbarous assaults against the Rohingya Muslims” and stating the need for “international cooperation in the

quest to prevent and punish genocide”, to which on July 3rd. 2024 the ICJ allowed such interventions to present arguments both orally and in writing at some point throughout the case.

Slovenia also filed a declaration of intervention on the 29th of November 2024, mentioning that the Articles I through VI of the Genocide Convention are in the case and following Slovenia, on the 10th, 16th, 20th of December 2024 The Democratic Republic of Congo, Belgium and Ireland filed declarations of intervention.

The ICJ will consider the parties’ arguments on oral hearings, which will begin in 2025.

Guiding questions:

- What are the legal definitions of genocide and crimes against humanity?
- What evidence has been presented to support or refute the allegations of genocide?
- What actions by Myanmar meet the legal criteria for genocide under the 1948 Genocide Convention?
- How does the reported violence, mass displacement, and destruction of Rohingya villages support claims of genocidal intent?

Information sources:

1. USA for UNHCR The UN Refugee Agency. (22 August 2024). *Rohingya Refugee Crisis explained*. <https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/#RohingyainBangladesh>
2. Independent Investigative Mechanism for Myanmar. (s.f). ICJ- The Gambia v. Myanmar. <https://iimm.un.org/en/icj-gambia-v-myanmar>

Topic B: Dispute over the Status and use of the Waters of the Silala River (Chile v. Bolivia).

Background and Objectives of the Debate:

The dispute over the Silala River is a long-standing legal geopolitical conflict between Chile and Bolivia over the legal status and usage rights of the Silala River, a watercourse originating in Bolivia and flowing into Chile. The core of the conflict revolves around whether the Silala River should be classified as an international watercourse, which would grant both countries the right to use its waters, or if it is an exclusively Bolivian water body, giving Bolivia full sovereignty over its flow and utilization. This case has significant implications for international water law, sovereignty, and transboundary resource management, making it one of the most important water disputes of South America.

The Silala River originates in Bolivian highlands, specifically in the Potosí Department, before flowing into Chile's Antofagasta Region. Bolivia claims that the river's flow has been artificially enhanced through man-made canals built over a century ago and that Chile has unfairly benefited from the diverted waters.

Chile, however, argues that the Silala is a naturally occurring international transboundary river and that it has a legal right to an equitable and reasonable share of its waters, as established by international law.

This dispute has broader implications for international water governance, as it raises fundamental questions about the definition of international watercourses, the rights of upstream and downstream nations, and the role of artificial modifications in determining water usage rights.

This debate seeks to explore the legal, diplomatic, and environmental dimensions of the Silala River dispute, challenging participants to analyze competing claims of sovereignty, shared resource management, and international law.

One of the primary objectives is to examine how internal water law applies to the Silala case, particularly in the context of the 1997 UN Watercourses Convention and other legal precedents governing equitable and reasonable use of shared water resources. The discussion will focus on whether the Silala should be classified as an international river and, if so, what obligations and rights each country has regarding its use.



The debate will also evaluate the impact of artificial infrastructure on transboundary water rights. Bolivia claims that historical engineering interventions have altered the river's natural state, which raises the question of whether human modifications should influence modern legal ruling. Should nations be allowed to claim full sovereignty over waters that have been altered

by artificial means, or should historical modifications be considered irrelevant to determining a river's international status?

Furthermore, this discussion will explore the diplomatic and political consequences of the case. The ICJ's ruling could influence bilateral relations between Chile and Bolivia, potentially fostering cooperation or deepening tensions. It may also set a global precedent for how disputes over transboundary water resources are resolved, particularly in regions where water scarcity and environmental concerns are escalating conflicts.

Ultimately, the debate aims to encourage a comprehensive understanding of international legal frameworks, environmental sustainability, and diplomatic negotiation. Delegates will be tasked with formulating well-reasoned arguments, proposing potential resolutions, and considering the long-term implications of the court's decision on international water governance.

Current issue:

The case was formally brought before the International Court of Justice (ICJ) in 2016 when Chile filed a lawsuit asking the court to declare the Silala River an international watercourse and to affirm Chile's rights to its use. In response, Bolivia presented a counterclaim asserting its sovereignty over the artificially diverted waters and arguing that Chile should compensate Bolivia for its historical use of those waters.

One of the key legal debates in this case revolves around the United Nations Convention on the Law of Non-Navigational Uses of International Watercourses (1997), which provides a legal framework for the shared management of trans out rivers. While both countries have referenced this convention, their interpretation differs significantly.

Additionally, the dispute has led to discussions on the role of hydraulic infrastructure such as canals and artificial variations in deterring water rights. Bolivia argues that the Silala's waters have been diverted due to artificial enhancements and that, without these modifications, the river would not naturally flow into Chile.

Chile, on the other hand, contends that the river's natural hydrology justifies its legal claim to shared usage.

The ICJ ruling in this case will set an important precedent for future disputes over transboundary water resources, particularly in regions where water scarcity is a growing concern. A ruling in favor of Chile would reinforce the principle that natural resources like watercourses should be shared equitably, while a ruling favor of Bolivia could grant upstream countries greater access over water resources within their territory, even when those waters cross borders.

As global water shortages become more pressing, the resolution of this case will have far-reaching consequences beyond Chile and Bolivia, affecting international law and transboundary water governance worldwide.

Additionally, the Silala case is emblematic of the increasing complexity of water diplomacy in an era where scientific, environmental, and legal factors must be balanced to reach sustainable agreements. If not resolved through legal mechanisms such as the ICJ, disputes like this could escalate tensions, disrupt economic activities, and strain regional cooperation.

The ICJ's ruling on this dispute will not only impact Bolivia and Chile but it will also serve as a reference point for future cases of transboundary water conflicts.

As water scarcity becomes a global concern, this case underscores the importance of international legal frameworks in ensuring fair and sustainable resource management.

Guiding questions:

- What are the key legal principles that govern international watercourses, and how many do they apply to the Silala River?
- How do Chile's and Bolivia's arguments align with international legal precedents regarding transboundary waters?
- What impact does the 1997 UN Watercourses Convention have on the legal status of the Silala River?
- What potential diplomatic or legal solutions could be proposed to resolve the dispute amicably?

Information Sources

1. *Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia)*. (s. f.). <https://www.icj-cij.org/case/162>
2. *ICJ Issues Judgment in Chile-Bolivia Silala River Dispute* | ASIL. (s. f.). <https://www.asil.org/ILIB/icj-issues-judgment-chile-bolivia-silala-river-dispute>
3. Cacovic, A. (2024, 17 abril). *The international fight for water rights: the Silala River dispute*. Michigan State International Law Review. <https://www.msuir.org/new-blog/2024/4/17/the-international-fight-for-water-rights-the-silala-river-dispute>
4. *Summary of the Judgment of 1 December 2022* | INTERNATIONAL COURT OF JUSTICE. (s. f.). <https://www.icj-cij.org/node/10628>

