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# ARAB COURT OF JUSTICE

*ON HOW TO FORMAT, ARGUE, AND PRESENT YOUR CASE*

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## OVERVIEW

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### EXPECTATIONS AND PREPARATION

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Preparing for the ACJ may be daunting, as it is rather different from the traditional committee style debate that delegates are used to and train for. However, the Court offers a much more intimate setting, where participants take on dual roles as both a Justice and Advocate.

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#### JUSTICE

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Delegates in the ACJ portray two different roles: Justice and Advocate. As Justice, the delegate will be considered an individual entity, separate from their partner, if they have one. They will hear the case before them with impartiality, considering all the facts and relevant law brought before the Court. Your job as Justice is to rule in the case being presented. This means that you listen to the various arguments made, engage with the concepts in a legal framework, and ask Advocates questions to clarify aspects of their case. During deliberations, Justices are the ones who decide the outcome of the case; whether it was in favor of one party or another, whether the nature of the claim is justified, or whether the case should be dismissed.

There are a great many ways to prepare for your case, but first among them is of course gaining an understanding of the relevant bodies of law that are likely to be presented. As a Justice, you will be hearing and weighing in on complex and differing cases that will be invoking a multitude of precedencies and treaties. As such, it is best to understand the basics of these cases so that the delegate may make informed questions, form their own interpretation of the document, and to be able to weigh the applicability of the document to the case at hand. Similarly, reading through treaties and past decisions by the various supranational courts will allow for the Justices to draft decisions that reflect theories of judicial thought.

Justices are not expected to understand the detailed facts of the cases, or have specialized knowledge of the topic. For the purpose of fostering debate, Justices are supposed to consider the case with a veil of ignorance. The facts, information, legal treaties, and associated case materials that are specifically presented by counsel are all that are to be considered when weighing a decision. This comes into crucial importance later, with both the statements of facts, law, and the compilation of the Advocate's case binders.

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#### ADVOCATE

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As an Advocate, you are responsible for presenting your case to the Justices. In your role as Advocate, you will present your case, try to tear down your opposing counsel's case, and be subjected to questions from the other side and the Justices. Your job is to advocate for your country and your nature of the claim.

To prepare for the Advocate role, be sure to finish your Memorial or Counter-Memorial early. Getting it done on time will ensure that debate will be fruitful, as well as allowing more time to

understand the complexities of the case. Reading the Memorial and practicing speeches for the case will be important as well. If you have a partner, you should coordinate with them in the creation of legal argumentation as well as in how you two wish to divide speaking time so that both partners can have a chance to argue. Case order will be announced at the first day of conference, so delegates should be prepared to argue at any point throughout.

It is important to remember that the delegates will be acting independently for awards purposes when fulfilling the role of Justice, but together when acting as Advocate(s). When being a Justice, the views you represent are your own, and need not be in sync with those of your partner.

Delegates should also be sure to read the [Statute of the Arab Court of Justice](#).

Additionally, delegates may win awards as Advocate(s) despite losing their case, as voting for awards is based on the strength of the argument rather than who wins.

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## ARGUMENT AND PROCESS

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The ACJ does not operate primarily under traditional parliamentary procedure. Instead, delegates will be either presenting their case as Advocates or acting as Justices, both of which have a different set of expectations and rules.

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### TIMELINE

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To begin with Advocate(s), the two arguing parties will alternate between speaking and listening. The Advocate(s) that brought forth the Memorial will be allotted an uninterrupted twenty minutes in order to present their facts and body of law. After which, they will face cross-examination for five minutes from the Defendant—the Advocate arguing for the Counter-Memorial. Lastly, Advocate(s) presenting the Memorial will have a question and answer period from the Justices. This process will then be repeated with the Defendant, or Advocate(s) for the Counter-Memorial, who in addition to presenting facts and their body of law may use the time to refute the previous counsel's case, both facts and law.

Justices meanwhile will diligently listen to the nuances of the case. Taking notes is encouraged. Justices are also advised to prewrite questions as the case develops, as this is another technique to ensure that important distinctions are not missed. During the question and answer period, the Chief Justice will call upon Justices to ask questions to the Advocate(s). Aside from deliberations, the question-and-answer period is the only chance for justices to demonstrate their skills, so it is crucial to form questions that are designed to poke holes in facts of the case, interpretation, or to clarify when necessary. Questions can be combative, and if you find that the case was unconvincing, it is entirely in your purview as a justice to dismantle it as best you can with your questions. The opposite is also true, if you think that the Advocate(s) made some good points, but think that another strain of argument may be beneficial to the case, questions can be framed to push them into embracing that view.

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## DELIBERATIONS

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After both Advocates have presented their arguments, they will be asked to leave the room. Once this occurs, deliberations begin. Justices will be engaged in weighing the case and drafting decisions. This portion of the debate mirrors traditional committee procedure, as the Chief Justice operates more as a typical chair, taking motions for un-moderated caucuses, moderated caucuses, suspensions of the rules, and other procedural motions. Justices will deliberate in the allotted time, with decisions being submitted to the Chief Justice at the end of the allotted time. The Chief Justice may grant an extension to this deadline, though it is important to note that only a paragraph of the Opinion will be read at the Summit Session.

Decisions are composed differently from traditional resolutions, as they typically take paragraph form. Justices are not limited by the need for signatories, and may choose to author decisions independent of the room. Justices may choose to agree with the majority opinion, dissent, or agree but for a different rationale. As part of their Memorial or Counter-Memorial, Advocates will include a nature of the claim wherein they specifically outline the remedies or actions they wish the Court to mandate if the Court finds in favor of their argument. Justices should know that they are in no way bound to awarding these actions, and may instead take other action or may choose inaction through dismissing a case or not siding with either party.

Justices are **NOT** allowed to discuss any deliberations with the parties who argued the case at any time during the conference. Decisions will be announced and read at the Summit Session, at which point the parties will learn of whether or not they succeeded in winning the case.

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## MEMORIAL AND COUNTER MEMORIAL

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The Memorial or Counter-Memorial is the sum of all your case materials, compiled in your binder, to be presented and argued before the ACJ. The Memorial or Counter-Memorial will be written and compiled well before the Court trial date. The National Council and the Chief Justice will send out the case descriptions and role assignments. The Chief Justice will then be responsible for ensuring that the timetable will be followed. The ACJ, unlike other roles at conferences, requires significant work to be submitted prior to arrival. Failure to meet the deadlines of the ACJ will result in a poor debate atmosphere and possible sanctions.

The reason that the submission deadlines must be stringent is that after the Memorial is completed, it will be provided to the opposing Advocate(s), who will use the memorial to draft their response, the Counter-Memorial. Without sufficient time to examine the Memorial, the Counter-Memorial will be lacking and the opposing Advocate(s) will be less prepared.

Further responses are allowed after the Counter-Memorial is submitted, with the possibility that both parties will be able to submit additional documents; however, without commitment by both sides to following the guidelines, this will be unlikely, as it is important to ensure equal preparation time for both parties.

Guides for both the Memorial and Counter-Memorial are provided among the Court documents on the National Council's website.

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## BINDERS

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Delegates are no doubt used to the compilation of research material for usage in conference. It is a useful tactic to organize thoughts and ensure that the sources necessary to debate properly are easily available. In the ACJ, binders are mandatory and will be examined by the room.

The binders for the ACJ are where all evidence is to be provided to the court. A well-made binder should contain multiple reports, news stories, treaties, and of course a copy of either the Memorial or Counter-Memorial.

It is important to be comprehensive and organized in the compilation of your binder, as **ONLY** the information included within is to be considered by the Court. If a delegate offers up any claims or evidence that then is not included in their binders, it will be dismissed by the Court and will adversely affect the strength of the argument.

Similarly, it is important that the binder be well organized for the same reason. If Justices struggle to find a particularly important piece of information or clause, again it may be disregarded.

The best practice for the binders is to create a table of contents and sections corresponding to the parts of the case (statement of facts, relevant law, etc.). This way, information is easily found, allowing justices to find the information necessary to answer questions that may be raised once the Advocates have left the room. Advocates should feel free to highlight important sections in articles to draw attention to the passages.

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## MEMORIAL

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### STATEMENT OF FACTS

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Often times, with the nature of the cases that come before the ACJ, it can be tough to find a great deal of unambiguously credible sources. Sometimes, even finding any detailed reports can be difficult. This makes research problematic and can lead to conflicting narratives between the two sides in a case, where facts become an area of contention within the case itself. This is both to be expected and desired in an ACJ case. The framing of an issue is as equally important as the law to be considered. In order to improve one's chances to win the case, the judges must be convinced that the narrative that is provided is the one that is the truest.

What is important then is to offer a believable, consistent narrative (in addition to being as thorough as possible). Justices are only exposed to the information that the two sides present, and thus will have to rely more or less on the facts provided by one side or the other. That is why Advocates should seek to maximize believability, searching for the stories that best support their

desired outcome. Anticipating the likely framing by the opposing side and seeking to undermine it through what information is included is another viable strategy.

The Statement of Facts section will be written in paragraph form. Delegates are to write as representatives of the state and for the Court, but are free to interpret facts, relate it to their suit, be forceful and condemning toward the opposing Advocate(s), and even espouse their bias provided that it is at least partially supported by evidence. Delegates do not need to include every statistic or reference each article in this section, so long as those materials are included in the binder. However, delegates must include footnotes to help direct the Justices in finding information from the Statement of Facts that are important to the case.

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## BODY OF LAW

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The Body of Law provided by both counsels is the crux of the argument, to be included in the section entitled “Legal Grounds on Which the Claim is Based,” and its strength will decide the case. This section involves combing through treaties, past arguments, and deciding on precedents. It is often the longest and most taxing portion of preparing for the ACJ.

In order to be effective in this section, both sides of the case must take into consideration many factors. First and foremost, that focusing on too many veins of argument will weaken the case. Working around a theme or central precedent or body of law and including other corroborating arguments produces a stronger overall argument.

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## GETTING THE MOST FROM YOUR BODY OF LAW

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Delegates will create this section by pulling relevant clauses from treaties that directly apply to the case and support their position. They will then outline how they interpret the legal text cited and formulate their argument around the language. There are many ways to format this section, and it is entirely left up to the delegates. Examples are: for each clause, include an accompanying body of text to explain its relevance, to have blocks of clauses that are then argued, or to include all treaty language at the start and then write all legal interpretation, referencing specific clauses or articles when necessary. Any method can be used, as well as other formats—whatever is best believed to convey the point of the argument. It is necessary, though, to include argumentation written by the delegates at some point within this section.

Ensuring the applicability of the treaties is paramount. The treaties chosen should have international standing with multiple parties having entered into force, and preferably entered into customary law. If the two states arguing before the Court are party to the treaty, then this will also suffice. Bilateral agreements between the two states arguing before the court are similarly valuable.

It is not necessarily true that more treaties equate to a stronger case; however, showing that the law one cites is universal is a boon to any argument that Advocates may make. Illustrating the similarities and overlapping languages between statutes and treaties will make it more difficult for the opposing Advocate(s) to dispute the relevancy of the text or the interpretation out forth. If

there are relevant court cases by past Courts in the international community that seems as though it may apply, feel free to include those as well.

Though allowed for by the Arab League Charter, the ACJ is a fictional body. Thus, there is no history of the Court, allowing for the tone of the ACJ to be molded by the participants year to year. The Justices will decide what law will and will not be considered as applying to the Court, and it is then up to the Advocates to convince them to include their particular treaties.

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## COUNTER-MEMORIAL

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### RESPONSE TO OPPONENTS' STATEMENT OF FACTS

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The fight to control the narrative and facts of the case is contentious, and the response to the Memorial's Statement of Facts allows for unfavorable points to be challenged.

Specific facts and statistics can be directly contradicted by figures that are provided in the Counter-Memorial. Attacks on the credibility or impartiality of the reports or news stories are also welcomed.

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### HOW TO USE THEIR STATEMENT OF FACTS TO YOUR ADVANTAGE

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If there are holes in the narrative, gaps, conflicting figures, or editorialization, those too should be exploited in your response. Be sure to comb through the sources provided for the Statement of Facts, so that any weak points are exposed. Other areas to focus on for leverage will be articles dated from long ago, a reporter who has a history of bias, retractions from the paper, the owners of the paper or the government's influence on it, or any other number of issues that may arise relating to ethical journalist practices.

As for the composition, this section also takes paragraph form. Directly challenging the legitimacy of the claims put forth is the best way to successfully persuade the Justices to adopt your Statement of Facts rather than your opposing counsel's. Directly quoting the Memorial, and refuting specific lines, is a possible strategy. Or the Advocate(s) can take a wider approach, in which the overall narrative is challenged rather than specific claims. The best Counter-Memorials will attempt to dismantle both the minutiae and overarching claims. Still, when a particular fact or claim is especially damaging to your case, focusing in on that item to dismiss it as fully as possible is advised.

In a particularly contentious case, Justices may unavoidably have biases when entering the room. While this is directly discouraged, it is also unavoidable. What is important then in a response, or even in the creation of your statement of facts, is that you are still willing to fight against these preconceived views, and if done well enough, the opponent's statement of facts may still be effectively countered, even if they represent the views of the majority of the room.

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### RESPONSE TO OPPONENTS' BODY OF LAW

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The Advocate(s) for the Counter-Memorial has the right to respond to the law included in the Memorial as well. This is a wonderful opportunity to dispel as many of the claims by the side that brought forth the suit. Specifically, this section of the counter memorial should examine the treaties, clauses, and precedents set forth in the memorial, and sow doubts.

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### BENDING THEIR LAW TO TELL YOUR TRUTH

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This can be done in a number of ways. Strategies include offering different interpretations of clauses that the opposing Advocate(s) cited in an attempt to sway Justices into a different mode of thinking. This is perhaps the most frequently used option, and should often be used in conjunction with other methods. When done properly it can be very powerful. Whether choosing to highlight a specific portion of an article that implies a different application of the law or arguing that the text as a whole is improperly referenced, whether through misinterpretation or in non-applicability, this section of the Counter-Memorial is extremely useful.

There is also the option to cite further clauses from the same treaty to spell doubts about the document's relevance to the case at hand or to directly contradict the opposing Advocate's interpretation.

Challenging the relevance of the treaty can be invoked for several other reasons besides its alignment with the case, including anything from: the year the document entered into effect, the presence of superseding treaties, challenging if the document has entered into customary law, if courts in the past have interpreted the document differently, or if the member states of the Arab League or even the representatives of the nations presenting the case are signatories.

Advocates are also encouraged to attack the precedents that are set forth in the opposing Advocate's Body of Law through citing past interpretations, offering their own, or a combination of the two.

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## CLOSING THE CASE

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### THE NATURE OF THE CLAIM

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This is the final section of the Memorial or Counter-Memorial. In it you outline the actions that you wish to see the Court take. The actions should be both realistic and remedial. There is no limit as to how many "asks" can be put forth before the Court, but it is best to ensure that they do not overstep or are unrelated, as Justices will be less likely to consider them. It is important to ensure that the "asks" in this section offer a clear remedy of the situation or else the case will suffer. In some cases, the "ask" may consist of asking the Court to not respond, delay action, or dismiss the case. There is no limit to the type of "ask" advocates may pose.

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### REPLY AND REJOINDER

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These two refer to the additional back and forth that may be allowed by the Chief Justice, if it is deemed pertinent to debate due to outstanding issues. These responses are often smaller, seeking to clarify positions or challenge outstanding issues. Upon receiving the Counter-Memorial, the Advocate(s) for the Memorial may petition the Chief Justice for a chance to reply. After which, a rejoinder will be allowed by the Counter-Memorial counsel.

The reply should deal with issues that were unaddressed in the memorial, whether facts or citation of law, and may directly refute Counter-Memorial claims. Whereas the Rejoinder should focus on responding to the claims put forth in the Reply.

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## OTHER MATTERS OF THE COURT

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### WITNESSES AND EXPERTS

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In addition to the standard Memorial and Counter Memorial presentations, advocates may use a **witness or expert** in their case presentations. Witnesses and experts may only be called with the consent of both parties. Advocates wishing to use a witness or expert should notify the Chief Justice in advance. If an advocate is bringing forth the testimony of an expert, the Chief Justice can determine whether that person's qualifications are valid and credible enough to testify as an expert witness. The validity of other witnesses depends on the context of their testimony. In any event, the Chief Justice should determine whether the testimony of a witness or expert is appropriate and germane.

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### OFFICERS OF THE COURT

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**Officers of the Court** are the Chief Justice, Assistant Chief Justice, and Bailiff of the Court. The Chief Justice's responsibilities are to ensure the docket is presented and to oversee all the components of the Court. The Assistant Chief Justice takes over the duties of the Chief Justice if the Chief Justice so requires. The Bailiff of the Court is responsible for ensuring the sanctity of the Court's procedures, especially during Justice deliberations. No one outside the Court other than a member of the Secretariat or a representative from the National Council may be present for Justice deliberations. More information about Officers of the Court can be found in the Statute of the Arab Court of Justice.

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### OTHER RESOURCES

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Other resources for the Court include an ACJ Guide video and a Memorial example video, both of which are posted on the National Council's [website](#).

In terms of case preparation the National Council has resources on its website, including both a Memorial and Counter-Memorial Template.

If delegates have any remaining questions, they should contact the Chief Justice or the National Council after first checking the [Statute of the Arab Court of Justice](#).