

Analysis of the Training Paths for Foreign-Related Legal Talents: From the Perspective of International Humanitarian Law Moot Court

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Abstract

The Department of International Law of China Foreign Affairs University has established a relatively effective moot court training model and system in the long-term practice of the excellent foreign-related legal talent training project. As one of the distinctive and influential competitions, the International Humanitarian Law (IHL) Moot Court has been proven to be an effective education method for cultivating foreign language-savvy, high-quality compound and application-oriented legal talents for international organizations. Based on years of experience, the IHL Moot Court of China Foreign Affairs University emphasizes the ability and potential of the students in English, law, and teamwork when selecting team members, and respects student self-governance and teamwork during preparation and competition. There is a relatively mature moot court talent training model in the IHL Moot Court.

Keywords

Moot Court, International Humanitarian Law, Foreign-Related Legal Talents, Talent Training

1. Introduction

Moot court, as a training mode, originated from the “moot court” course in American law school (Chen, 2017). The moot court refers to the teaching activities in which students act as judges, prosecutors, lawyers, parties to the case, other litigation participants, etc. under the guidance of teachers, and use the court trials in judicial practice as a reference to simulate the hearing of a certain

case (Wei, 2000). This kind of education method helps to break the barriers of the original curriculum, cultivate problem-oriented thinking, improve practical ability, and improve employment competitiveness (Lu, 2021). After long-term observation, the moot court competition has a very good effect on improving students' foreign language ability, legal knowledge and comprehensive ability. Moreover, the moot court competition is a bridge between theory and practice. It can not only improve the application ability of the mooters to the sources of international law, such as treaties, customs, general legal principles and so on, but also improve their ability to think about and solve legal problems in academic. The following sections will share my experience over the years as the coach of the Red Cross IHL Moot Court competition, especially the selection criteria and basic principles.

2. Process and Characteristics of IHL Competition

IHL competition (English) is an international moot court competition hosted by the International Committee of the Red Cross (*International Law Students Association, 2022*). It aims to promote international humanitarian law in various countries and regions (Zhang, 2011). It is one of the most influential international law moot court competitions in the world. Over the past 15 years, from the initial 8 teams to 57 teams participating this year, the IHL competition has become a flagship event for promoting international humanitarian law in China and has been recognized by more and more students, scholars and legal practitioners (ICRC, 2021a). The cases for the competition are drafted by legal experts from the International Committee of the Red Cross, and the judges of the competition are composed of national and regional international law experts, including senior judges and prosecutors from international judicial institutions such as the International Tribunal for the Former Yugoslavia (Zhang, 2020). The IHL competition is one of the key moot court competitions of the International Law Department of China Foreign Affairs University. Every year, many students actively sign up for the competition. The students are mainly from the International Law Department, and occasionally students from the Diplomatic Department and the English Department also sign up. Since the participation of the first IHL Moot Court, the team at our school has won the top three places in domestic round many times and represented the Chinese competition area to Hong Kong to participate in international round in the Asia-Pacific region.

Every year, the organizer will officially announce the competition questions around September, and the competition will be held in the middle and late November or early December of that year, which lasts about 3 months. The China Foreign Affairs University team usually recruits members two months in advance, conducts preliminary basic training, and officially enters the preparation stage after the competition questions are announced. Team members are generally recruited from the second and third-year undergraduates, and occasionally graduate students join the team. According to Article 6 of the competition rules,

team members can be divided into two groups, a total of 2 oralists and an unlimited number of researchers. In addition, we also have student leaders and advisors on the team, generally served by former team members, but these arrangements are not officially required by the competition. Taking the domestic round as an example, the IHL competition is roughly divided into two stages: preparation and main competition. The preparation stage can be subdivided into the memorandum preparation stage and oral pleading preparation stage. In the preparation stage of the memorandum, the main task of the team is to study the case, collect information, and write the memorandum; at the same time, because the coach does not have a comprehensive and in-depth understanding of each team member in the early stage of preparation, another important task at this stage is to identify future oralists and researchers. When preparing for the oral presentation, the main task of the team is to conduct a trial defense simulation based on the ideas and materials prepared in the memorandum preparation stage. In the main competition stage, the organizer will use the submissions submitted by each team as the only basis for scoring, and the top-ranked teams will enter the final round. The final round is divided into two parts: the group stage (general rounds) and the knockout stage (advanced rounds). The competition system of the group stage is that each team will participate in two competitions, and will play the roles of the prosecution and the defense respectively. Then, the comprehensive score will be calculated based on the weighting of the court defense score and the pleading score, and the top 8 teams will enter the knockout round. In the knockout round, a lottery is used to determine the roles to be played by teams. There is only one match in each round, and the winner of the two teams will enter the next round. After the competition in the mainland round, the top three teams will go to Hong Kong, China to participate in the Asia-Pacific region competition. At this time, the best teams in the entire Asia-Pacific region will compete in the same venue for the championship (ICRC, 2021b). Winners from the Asia-Pacific round can go to Geneva, Switzerland to participate in the global final, and teams interested in observing the competition can register by themselves. It is foreseeable that the competition will become more and more difficult and fierce, and the requirements for team members will become higher.

3. Talent Selection Criteria for IHL Competition

Similar to other moot courts such as Jessup, International Criminal Court, CIETAC Cup and WTO moot court, IHL moot court competitions have strict selection criteria for team members. Selecting team members with strong abilities and potential is the first step in preparing for the competition, and this step is vital for achieving good results in the end. Once team members are selected, all subsequent work will be mainly carried out by the team members independently. Therefore, in the whole competition process, “people” (team members) are the core. Generally speaking, the selection of team members should follow

the criteria below:

3.1. Excellent English Ability

IHL competitions are in English. Therefore, excellent English ability is the first criterion for selecting team members (Luo, 2018). During the entire competition process, whether it is the legal research in the preparation stage, the writing of the pleadings, or the court defense in the main competition stage, English is required in all stages (Bu, 2013). Using proficient, fluent and appropriate English during the competition is a very important criterion in the competition assessment. Considering that the preparation time is only 3 months, under normal circumstances, students cannot improve their English significantly very quickly (Luo, 2018). Therefore, students who already have strong English skills when selecting team members undoubtedly have a great advantage.

The assessment of English proficiency mainly includes the following aspects:

1) Literacy

That is, the ability to read English materials and write English pleadings. Whether it is a team member or a researcher, they all need to participate in the research of English materials and the writing of the memorandum in the early stage (Lan, 2012). Without these two basic abilities, it is very likely that you will not be able to participate in the preparations from the beginning.

2) Expression and communication skills

This is mainly reflected in the fact that during the competition, team members need to use English to communicate with the judges (Bu, 2013). If the English expression skills of the oralists in the competition are not good, the first impression of the judges will be that the team will be classified as a low-level team. And excellent team members need to have excellent expressive skills and be able to communicate well with judges.

3) Thinking ability

Good English thinking ability can enable the team members to better understand the judge's information and form a more appropriate response in tense court debates. English thinking ability is often based on the good ability of listening, speaking, reading and writing, so it is a more advanced language ability. If a student shows good English thinking ability in the interview, it can basically be determined that he has good potential to be a good mooter.

Therefore, when selecting team members, the most important thing is to effectively identify the English ability and the potential of different interviewees. During the interview, the coach or former team members will generally make a selection and judgment through listening tests, writing tests and question-and-answer communication.

3.2. Excellent Legal Analysis Ability and Logical Ability

Legal analysis ability and logical ability are one of the basic abilities of the legal profession and one of the basic abilities necessary for moot courts (Yang, 2002).

If English proficiency is the basic element for a team to enter the mid-to-high level, then excellent legal analysis ability and logical ability are the keys to advancing to the top level.

On the one hand, as the second half of the competition progressed, teams with poor English proficiency had already been eliminated. Especially for the top eight teams, their English proficiency is generally at a relatively high level. And unless the English ability is particularly outstanding, there will not be a big gap in the judges' scores.

On the other hand, the IHL competition is a professional legal competition, involving the research of legal materials, analysis of legal rules, demonstration of legal logic, deliberation of evidence chains, and formation of legal thinking. Therefore, the deeper the legal foundation and the more mature the legal thinking, the more likely it is to convince and impress the judges in the later stage. Although the formation of legal ability is not a one-day effort, moot court is an excellent way to exercise legal ability (Yang, 2020). Different from the improvement speed of language ability, the author has indeed seen many students go all out to the end after participating in the moot court, and their legal ability has made a qualitative leap.

Therefore, when selecting team members, the coach will pay more attention to whether the interview students have good logical reasoning ability, dialectical thinking and creativity.

3.3. High Teamwork Spirit and Sense of Responsibility

IHL competition is a continuous process full of challenges. Due to the large amount of work, tight timeline, and high pressure, all team members are required to cooperate sincerely to achieve the best result. From the author's experience, there has never been a precedent where two teammates can complete all the preparation work. Therefore, only students with a high degree of teamwork spirit and a sense of responsibility should be selected for the team. Usually, this requirement will be listed in the recruitment requirements during selection, and it will also be specifically emphasized or tested during the interview. In the interview, the coach could ask "if in the end you are selected as a researcher, what contribution can you make? And how to do it?". Through these questions, the students involved in the interview will realize the importance of team spirit and a sense of responsibility. But in fact, teamwork spirit and sense of responsibility are difficult to show through written tests or interviews, so it is more likely to be continuously inspected through follow-up specific work assignments, such as the degree of participation in each discussion of the legal research, the degree of completion of assigned tasks. Through gradual elimination, team members with real team spirit and a sense of responsibility can be selected.

3.4. Learning Ability

95% of the knowledge used in the moot court needs to be acquired through new learning. Whether team members have this kind of knowledge acquisition ability

and internal drive is to some extent more important than their original knowledge. In order to tell a case story well in the competition, it is necessary to analyze the details of the case and demonstrate it in conjunction with relevant laws or practices. Without a strong desire to learn and the ability to keep learning, it is difficult to achieve this task. Therefore, when selecting team members, the coach usually asks the candidates to try to solve a difficult problem in a short period of time, so as to judge whether they have good learning potential.

The above are some of the most important considerations in the team member selection process. In addition, aspects such as the candidates' ability to express themselves in public, on-the-spot response, emotional management, personal characteristics, and time guarantee for preparing for the competition will be taken into comprehensive consideration.

4. Basic Principles of IHL Competition

The IHL competition is complex, systematic and collaborative. Although the competition questions change every year, and the focus and methods of preparation also change accordingly, there are always some basic principles running through it. These basic principles are critical guidelines for preparations for the competition.

4.1. Principles of Student Self-Governance

The author believes that the moot court competition is ultimately a competition for students. Therefore, on the issue of "who is the leader" in the preparation stage of the IHL competition, the structure should be based on students and supplemented by coaches, and the principle of student self-governance should be followed (Lu, 2021). This is also one of the important lessons that the author has gained as an IHL competition coach in the past 8 years. Giving full play to the subjective initiative of students and forming a self-governing preparation team is a way to maximize the enthusiasm of students and facilitate the inheritance of the team. In the process of preparing for the competition and the during the competition, almost all tasks can be finished by the students themselves, except for appointing and dismissing team members, psychological counseling, and occasionally hosting meetings.

The specific implications of the principle of student self-governance are:

1) Team member selection

When selecting new team members, in addition to the participation of coaches, previous team members (especially the oralists) should participate in the selection of new team members. The previous team members participated in the whole process of preparation and competition. They often know better than the coach what abilities and characteristics a team member should possess in order to be competent for the competition.

2) Drafting of memorandum

After forming a new team, the coach should treat all new team members equally, and should not presuppose which team members are better. Although

some team members may perform better during the pre-interview process, it is obviously impossible to show all the abilities of a team member in a short period of time. The final judgment of the team member's ability is gradually formed from subsequent work, tests or examinations. In this case, whether it is reading materials, analyzing cases or group discussions, it should be carried out by students themselves (Bu, 2013). During this process, the students' learning ability, organizational ability, communication ability and leadership ability will be gradually reflected, which also provides a sufficient basis for the selection of future oralists and researchers.

3) Training oralists

After the memorandums are submitted, the preparation for the competition will enter the stage of court defense preparation, that is, from written training to oral training. The results of the pleadings determine whether the team can enter the preliminary round, but the results can only affect the first round; after entering the knockout round, the court defense performance will be decisive. Before preparing for the oral pleadings, the oralists have already been determined. Therefore, the team members with leadership ability will be fully responsible for the preparations for the oral submissions. They not only need to organize team members to conduct group discussions but also coordinate the analysis and resolution of all problems. For researchers, it is also necessary to adjust their mentality so that they can do their best to complete team tasks and conduct outstanding research.

4) Actual competition

Every year, the organizers co-host the competition with a specific university, which means that the teams may travel to different places every year. During the competition, students need to book their own transportation and accommodation, arrange their work and rest, and prepare for unexpected problems during the competition.

The author found that the more the coach supervises, the lower the students' subjective initiative; the less the coach supervises, the higher the students' subjective initiative. But it is worth noting that in the early stage when new team members are completely unfamiliar with the rules, the coach still needs to lead the team into the state first, and then slowly fade out of the specific operation work. The principle of student self-governance is undoubtedly better than the principle of teacher leadership.

4.2. Principles of Teamwork

The IHL competition requires the team to have a high degree of teamwork. Everyone contributes to the fire, and team members can help each other to achieve better results (Verhoeven, 2015). Similar to the driving of a car, the oralists are at the front of the car, which is the command center of the team's operation and take the lead. Some researchers are engines, constantly collecting data to provide fuel for the team to move forward; some are carriages, loaded with various resources to provide logistical support for the team; some are wheels, responsible

for exploring roads and pits, reducing friction with the direction of progress. This car needs to run fast and travel far, and it can only be achieved with the cooperation of all team members. It can be said that the principle of teamwork is the basic principle that needs to be emphasized and implemented in the selection, preparation and actual competition stages (Zhang, 2011).

However, objectively speaking, it is full of challenges to form a sincere and cooperative relationship in the team, and there are often various factors that affect this cooperative relationship.

1) Emotional gap

In the early stages of team formation, almost all team members expect to become oralists, but the number of oralists is limited to only two. After the oralists are determined, some unselected team members, especially those with outstanding abilities, may not want to be researchers, or they will be passive in their work or quit altogether. At this time, the coach needs to intervene in time to provide appropriate psychological counseling for these team members. For these outstanding team members, if they can give full play to their energy, it will be of great help to the team's preparations.

2) Unfair or unreasonable division of work

Most of the team members participate in the moot court competition for the first time. In the early stage of preparation for the competition, due to unfamiliarity with each other or poor organization and coordination skills of the team members, there can be an unfair division of work, which causes some team members to feel dissatisfied, in the end affecting the teamwork. In these situations, firstly, the teams should understand and take care of each other; secondly, the coach should intervene in time to assist in adjusting the division of work, to eliminate the barriers between the team members to the greatest extent, and to give full play to the role of each team member.

3) The preparation time is not guaranteed

Some team members have signed up for multiple moot court competitions, or have too many other club activities and learning tasks, so that they cannot concentrate on preparing for the competition. Under normal circumstances, coaches need to understand the true mental state of these team members. If they really cannot concentrate on preparing for the competition, the best way is to ask these team members to withdraw from the competition, so as not to affect the normal operation of the team.

In addition, there will be various situations that may affect teamwork during the preparation process. The coach should first give the team a reasonable time to deal with it by themselves, but when necessary, they should also intervene in time to assist in handling it in a timely manner to optimize the benefits of the team.

4.3. Principle of Storytelling

In the IHL competition, it is not only necessary to show rigorous legal arguments and extensive research, but also to tell stories well from different stand-

points. The story should be told smoothly and vividly.

1) The principle of storytelling is rooted in the characteristics of the competition setting

In the IHL competition, the prosecution and the defense debate around the case set by the organizer. This case is fictitious and changes every year, but in order to allow both the prosecution and the defense to have room to argue, many key plots will be set relatively vague and flexible. Therefore, the prosecution will have the prosecution's story, and the defense will have the defense's story.

2) A complete story is often a logical and self-consistent closed loop

A successful argument needs to face the intricacies of the case, the complexity of the legal basis, and the ever-changing thinking. If you only focus on a certain plot, a certain legal basis or a certain line of thought, then you will be confined to your own thoughts. Moreover, different judges have different perspectives and ask different questions. Only by combining all facts beneficial to one's own argument into a complete story, can the arguments of an oralist be self-consistent and meet the expectations of different judges.

3) Moot court needs the performance of the oralists

Reasoning and presenting evidence are rigid and dry. For some judges who are familiar with international law, reasoning and justification sometimes can no longer stir their nerves. They may be more willing to see the team members' understanding of a certain case and the corresponding explanation. Taking the case as the starting point and "storytelling" the arguments will make arguments lively and interesting instead of blunt and boring. The moot court is not a real battle in court. Appropriately adding lively and interesting demonstrations and performances may make the oral arguments better and impress the judges more easily.

So how can an oralist tell the story well? The author believes that the most important thing is to find a "smooth and self-consistent" train of thought after exhaustive case analysis and legal analysis. According to this train of thought, you can combine favorable plots and legal basis to make a clear storyline. This storyline can be strengthened by constantly asking questions and repeatedly practicing.

4.4. Principle of Judge Priority

The principle of judge priority refers to how to respond to the judge's questions. The principle of judge priority is closely related to the procedural setting of moot court competitions:

First, the assessment of the IHL competition is mainly divided into two parts: written memorandum and oral pleading. The scores of these two parts determine whether the team can advance and what ranking it will get. Both written memorandum and oral pleading are scored by the judge. Therefore, the judge's impression and evaluation of the written memorandum and oral pleading are very important to the team's score (Li, 2015).

Second, although there are prosecution and defense in the moot court, the essence of the competition is not the confrontation between the two parties, but the question and answer with the judge (Verhoeven, 2015). According to the rules of the competition, each team will only get the first round of the opponent's written memorandum about a week before the competition, so in most of the preparation time for the competition, the team cannot target the unknown "future opponent". On the other hand, during the oral pleading stage, the team spends most of its time communicating with the judges and answering the questions raised by the judges. Although there will be arrangements for the other party's pleadings and court defenses, these preparations are at most reflected in the rebuttal and sur-rebuttal sessions with extremely limited time. According to the author's experience, the time for mutual confrontation is generally no more than 5 minutes, and often 3 minutes or even less.

Below are several aspects the team can work on to meet the judge's expectations and improve the capacity of mooters:

1) Look at the problem from the perspective of the judge, and better understand the judge's thinking

Generally speaking, when a team prepares for the competition, it will inevitably construct ideas and analyze problems from the standpoints of both the prosecution and the defense. But at the same time, team members must also learn to look at problems from the perspective of a judge, so as to find out whether there are loopholes or problems in their own logic, basis or thinking. Adding the judge's perspective will help the team to jump out of some thinking shackles and make the pre-match preparation more comprehensive and sufficient.

2) Make a question list

This is also very important for competition preparation. A good team should have a comprehensive and flexible list of questions. Each judge will ask different questions during the oral submission and score according to team members' reactions, especially in the knockout stage, which is the only basis for scoring. During the preparation stage, team members compile the question list from the standpoint of the judges, making the preparation more efficient.

3) Invite mock judges and conduct more mock training

The team usually invites excellent professionals in the field of international humanitarian law for mock training. In addition, students will be encouraged to invite different teachers, experts and students outside the team to serve as judges, striving to diversify the composition of judges and diversify the types of questions accordingly. This is of great help for the team to adapt to the rhythm of the oral pleading and correct the possible problems. Arguably, the more you simulate, the better.

Entering the actual competition stage, there may be many unexpected emergencies. At that time, the team needs to adjust and solve difficulties by themselves, and the coach will play the role of a bystander and give timely advice. One minute on stage, ten years off stage. If the IHL competition team can implement the above basic principles to prepare for the competition, it will lay a good

foundation for the main competition stage.

5. Conclusion

The IHL competition is the most authoritative moot court competition in the field of international humanitarian law. Every year, outstanding teams from famous universities around the world gather together to compete in the same venue. Participating in the IHL competition can train students' English abilities, professional skills and international vision. When selecting team members, the following abilities or potentials need to be considered: 1) excellent English ability; 2) excellent legal logic and analysis ability; 3) high teamwork spirit and sense of responsibility; and 4) learning ability. These are the basic standards for selecting team members, and it is also the prerequisite for the smooth preparation of the competition. In years of competition preparation and competition experience, the author summed up several basic principles that may have a positive impact on competition preparation, such as the principle of student self-governance, the principle of teamwork, the principle of storytelling, and the principle of judge priority. But these principles are not static, and coaches and team members need to adjust flexibly according to specific circumstances. Moot court training has become a mature model of talent training in the Department of International Law of China Foreign Affairs University. Over the years, it has achieved excellent results. Every year, a group of outstanding students who are proficient in English, good at negotiation and debate, strong in learning ability, team spirit and sense of responsibility are cultivated. It provides a steady stream of outstanding foreign-related legal talents.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Bu, L. (2013). A Brief Discussion on the Promotion of International Law Teaching by Moot Court Competition. *Citizen and Law*, No. 5, 58-60. (In Chinese)
- Chen, Y. Y. (2017). *Law Practical Training Course* (p. 145). Economic Management Press. (In Chinese)
- ICRC (2021a). *China: 15 Years of Moot Court Competition*. (In Chinese)
<https://www.icrc.org/zh/document/china-ihl-moot-court-15-years-documentary>
- ICRC (2021b). *The 15th Red Cross International Humanitarian Law Moot Court Competition: The List of Qualified Teams Is Released*. (In Chinese)
<https://www.icrc.org/zh/document/china-national-round-announcement-2021>
- International Law Students Association (2022). *Description: International Humanitarian Law Moot Court Competition*.
<https://ilsauns.org/ihl/#:~:text=The%20International%20Committee%20of%20the%20Red%20Cross%20%28ICRC%29,a%20practical%20setting%20of%20a%20war%20crimes%20tribunal>

- Lan, H. (2012). Establishment of the International Law Moot Court Course Combining Competition: Necessity, Function and Feasibility. *China Legal Education Research*, No. 3, 53-64, 186. (In Chinese)
- Li, Q. (2015). *Expert Tips: Practical Suggestions for the Red Cross Moot Court Competition*. (In Chinese) <https://www.icrc.org/zh/document/china-moot-court-tips-li-qiang>
- Lu, K. Y. (2021). Exploration on the Improvement of Moot Court Teaching Quality. *Education Forum*, No. 27, 129-132. (In Chinese)
- Luo, G. Q. (2018). The Stages, Methods and Skills of International Moot Court Competition Training. *People-Rule of Law*, No. 16, 89-95. (In Chinese)
- Verhoeven, S. I. (2015). *Entering a Moot Court on Humanitarian Law-Practical Tips*. (In Chinese) <https://www.icrc.org/zh/document/china-moot-court-xiamen-sten-speech>
- Wei, Q. Y. (2000). Moot Court and Its Teaching Significance. *Journal of Northwest Normal University (Social Sciences)*, No. 1, 103-106. (In Chinese)
- Yang, H., & Zhang, W. L. (2020). Exploration and Research on Practical Teaching of Moot Court. *Education Forum*, No. 32, 218-220. (In Chinese)
- Yang, X. X. (2002). *Law Education and Clinical Teaching Method* (p. 68). Law Press. (In Chinese)
- Zhang, H. (2020). *An Excited Experience, about the ICRC and IHL Moot Court Competition*. (In Chinese) <https://zhuanlan.zhihu.com/p/273759661>
- Zhang, L. Y., & Shang, K. (2011). Complaint Writing and Court Debate in International Moot Court Competition. *China Legal Education Research*, No. 3, 136-158, 196. (In Chinese)