SUSTAINABLE GOVERNANCE: UNVEILING THE INTERSECTION BETWEEN TAX BURDEN, GOOD GOVERNANCE AND PROTECTION OF HUMAN RIGHTS

RULES OF PROCEDURE FOR THE 12TH ALL - KENYAN MOOT COURT COMPETITION, 2024

DATES: 12TH – 15TH MARCH, 2024

VENUE: KENYATTA UNIVERSITY SCHOOL OF LAW, PARKLANDS CAMPUS

1. GENERAL

The 2024 All-Kenyan Moot Court Competition (AKMCC), hereinafter referred to as "the competition", shall be hosted by Kenyatta University School of Law. This year's theme for the competition is: **Sustainable Governance: Unveiling the Intersection Between Tax Burden, Good Governance and Protection of Human Rights**

This budding & highly promising competition is geared towards building and underscoring the pivotal role of scholarly research, analytical and advocacy skills; an invaluable investment for all in the legal profession. We moreover endeavour to create a mentorship relationship between the legal profession and the law students even as we champion the development of Kenyan jurisprudence on matters touching on International Law. The Competition is set to become one of the largest annual events in the Kenyan legal calendar.

The administrative authority of the competition shall vest in the AKMCC Steering Committee composed of representatives from KUSOL, The Office of the Attorney General and Department of Justice and whoever else they may wish to co-opt.

2. ELIGIBILITY FOR PARTICIPATION

Any Kenyan university offering a course leading to the conferment of a degree in law is eligible to participate subject to Rule 4. There are no limits as to the origin of teams in the finals and the competition shall run purely on merit.

3. CATEGORIES OF THE COMPETITION

There shall be two categories of the Competition:

i. The Appellate Category

ii. The Research Paper Category

Each University is allowed to present two teams of three students for the Appellate Category. The third student in the Appellate Category who shall serve as the team's researcher shall take part in a Research Paper Category as specified in rule 8 herein.

Any University with more than one Campus offering law shall be allowed to present ONLY one team to each of the main categories of the Competition.

4. TEAM REGISTRATION

Each Law School shall register with **Ksh 4,000** for each team submitted to the Competition. Payment shall be made to the Competition's Account:

Bank: Co-operative Bank

Account Name: All Kenyan Moot Court

Account Number: 01134274457500

Each team shall be required to present proof of payment upon registration on the competition day. Payment MUST be made within the set timelines.

5. JUDGES

The preliminary rounds shall be adjudged by a set of independent law experts drawn from the Judiciary, the Office of the Attorney General and Department of Justice, the Law Society of Kenya as well as specific law firms. Faculty representatives may be used only in exceptional circumstances to ensure the integrity and transparency of the competition. This shall be done in 6 four-judge bench courtrooms in the preliminaries and 5- judge bench courtrooms in the semis and finals. The final round is expected to be presided over by guest judges alongside law experts.

There will also be a number of separate judges to mark the memorials.

6. HYPOTHETICAL PROBLEM TO BE ARGUED

A hypothetical case will be posed for argument and shall be made available to the participants on the same day as the rules.

7. OFFICIAL SCHEDULE

An official schedule shall be issued and strict adherence shall be ensured failure to which consequences, which may amount to disqualification, shall arise as shall be determined by the Steering Committee.

8. TEAM MEMBER ELIGIBILITY

Only students studying for their first law degree are eligible to participate in the competition. For the purposes of the competition the LLB degree is considered a first law degree.

A team member must be a full-time or part-time student at one of the participating Institutions during the calendar year of the competition.

The following people are not allowed to take part in the Moot Court Competition:

- **Qualified legal practitioners**
- **Judicial officers**
- **Persons already holding a first degree in law (LLB)**

9. TEAM SELECTION

Each participating university is allowed to present ONLY two teams in the Competition. A team shall be composed of **two oralists**, preferably one male and one female and **one researcher who shall be graded on the research done on the theme of the competition (As per the AKMCC Research Rules 2024).** It is strongly advised that gender parity be observed in the selection of team members. Where applicable, a transparent process approved by the responsible authority within the school shall be used in the selection of team members. For the purposes of the competition, notice to one team member shall constitute notice to all team members. The same students who registered at the beginning must participate throughout the competition. A team member who cannot compete due to any supervening circumstances may be substituted with the express permission of the Steering Committee.

10. ASSISTANCE

Any assistance rendered to a team in the preparation of its case, including that from faculty members, shall be limited to a general discussion of issues, suggestions as to research sources and decision making.

Assistance which would interfere with the presentation being substantially the original work of the team members is prohibited.

11. OFFICIAL PROGRAMME

An official programme shall be issued by the steering committee at the start of the Competition, indicating the time and venue of each session.

12. MEMORIALS

Each team must prepare memorials (heads of argument or written pleadings) in support of the case of the applicant as well as the respondent.

12.1 Memorial general format

Each memorial shall be composed of the following:

- **A standard cover page** which must be identical in style and content as Appendix A (to be sent) T**he cover page should not carry any mark that identifies the team, such as the name of university or names of team members, but shall carry the team code issued for the teams.**

- The **memorial paper** shall not exceed 4,000 words (including footnotes if these are used). The word count shall be considered to begin at the submissions on the **Jurisdiction of the Court and Admissibility**.

- **Form and Contents**

The Memorials shall be written in English.

Each memorial shall contain the following sections in the following order:

a. Table of Contents;

b. List of Abbreviations

c. List of Sources (treaties, jurisprudence, literature, etc.);

d. Jurisdiction of the Court and Admissibility;

e. Statement of Relevant Facts;

f. Issues;

g. Summary Arguments;

h. Substantive Arguments;

i. Prayers;

Spacing: The memorial spacing shall be 1.5 lines

Form: The memorial must be typewritten (Palatino Linotype, Font 12)

Margins: Top: 2cm, Bottom: 2cm, Left: 2cm, Right: 2cm

N.B. The organizers are particularly strict about teams meeting the above memorial general format. Any team failing to meet these requirements may be disqualified.

12.2 Submission of Memorials

One (1) copy of the memorials for each side (one for the Applicant and one for the Respondent should be submitted to reach the Steering Committee on or before 9th February, 2024. The memorials and research papers should be sent as attachments to an email message, to the following address: **allkenyanmoot@ku.ac.ke.**

Any team that fails to submit an electronic copy of the memorials to reach the organizers before 9th February, 2024 deadline will be disqualified.

Each team is required to submit six (6) hard copies of each memorial separately to the organizers when they register in KUSOL on 12th March, 2024. Each Memorial shall be bound by a cover: The Memorials for the **Applicant** by a **green** cover, the Memorials for the Respondent by a **red** cover.

The Steering Committee cannot provide computer and photocopying facilities to participants during the Moot Court unless strictly necessary.

Each team shall have a compilation of the materials referred to in its memorials available during oral pleadings.

12.3. Memorial Marking

Memorials will be marked by three (3) independent experts before or during the competition.

A team risks disqualification on the basis of plagiarism of Memorials that exceeds **30%**.

12.5. Best Applicant & Respondent Memorial

The team with the best memorial (either applicant or respondent) in the preliminary rounds, based on the points indicated for memorial presentation on the memorial score sheets, will be announced at the end of the competition during the award ceremony.

12.6. The Final Round Memorials & the Use of Opposing Teams' Memorials

As far as the preliminary rounds are concerned, no team shall be allowed to view in advance or otherwise become privy to the memorials of any other team before these are made available to them by the Steering Committee.

The Steering Committee shall make copies of the two separate memorials (used in the preliminary rounds) of the teams that qualify for the semi-final rounds available to all qualifying teams upon announcement of the teams so qualifying. In this regard, teams for the semi-finals are allowed to prepare and submit to the steering committee Reviewed memorials both for the applicant & respondent (3 hard copies each) two hours before the Semi-final rounds for availing to the judges.

The teams for the final round will be allowed access to the opposing team’s memorial at least 30 minutes before the commencement of the final round.

13. ORAL PLEADINGS

13.1 General procedure

The order of pleadings shall be applicant team, respondent team, rebuttal by applicant team. All team members must act as oralists during any round. No team shall plead for longer than **20** minutes (including rebuttal) during the preliminary rounds.

One oralist may not use more than **15** minutes during preliminary rounds, and **20** minutes during the final round. Rebuttal may not exceed **5** minutes. Only the applicant has the opportunity for rebuttal. Time for rebuttal should be reserved in advance.

At the end of each round, the teams shall have **two** minutes each to answer questions that they shall receive from the judges.

13.2 Ex Parte Procedures

Where a team fails to arrive for a scheduled round, the Steering Committee, after waiting for ten minutes, may announce a new team against which the other team will argue, or allow the round to proceed ex parte. In an ex parte proceeding, the attending team presents its oral pleading, which is scored by the judges. In such a case, the team that fails to arrive for the scheduled round shall forfeit all of the round's points. If good cause is shown, the Steering Committee may arrange for an additional round for the absent team later during the competition, if time and administrative concerns permit.

13.3 Scope of pleadings

The scope of a team's oral pleading is not limited to the scope of its memorial. The scope of the applicant's rebuttal is limited to the scope of the respondent's oral pleadings.

13.4 Scouting

No member of a team may attend a preliminary round or view the memorials of any other team taking part in the competition unless so permitted under these rules. Teams violating this rule may be disqualified. All rounds will be open to the public and will only be open to other non-qualifying teams during the semi and final rounds. Audio and video taping of oral pleadings is prohibited unless authorized by the Steering Committee.

13.5 Oral and Written Communication

No oral or written communication may take place between team tables and any spectator during a round.

13.6 Absence from the Courtroom

No team member shall be allowed to leave the courtroom for the duration of the proceedings of a specific case in which he or she is taking part.

13.7 Best Oralists

The names of the best oralists both male and female, in the preliminary rounds, based on the points indicated for oral argument on the score sheets will be announced at the end of the competition during the prize-giving ceremony.

13.8 Final round

In the final round teams will be scored exclusively on their oral pleadings.

14. COMPETITION

The Preliminary, Quarter Finals and Semi Final rounds shall be held from 13th March, 2024 to 14th March 2024 at KUSOL. The Finals will then be held on 15th March, 2024 at the Supreme Court of Kenya.

The oral rounds of the competition shall take the following format:

i) There shall be **2** Preliminary stages.

ii) At the first Preliminary stage, there shall be **24** teams submitting their oral pleadings. The teams participating in this stage of the competition shall be determined after ranking all the teams' memorial scores. The teams shall then proceed to argue their case on **either** the Applicant **or** Respondent side, determined by a toss of the coin once inside the courtroom. The competition at this stage shall be based absolutely on **merit** and thus the teams that gather the most points shall proceed to the next Preliminary stage.

The tallying at the first Preliminary stage shall be based on the teams **Average Score** on oral pleadings and the **Memorial Score.** For the purposes of this preliminary level, calculation of Total Points shall be done as follows:

Average Score + Memorial Score = Total Points.

For avoidance of doubt, oral pleadings shall contribute **70%** of the Total Points and the Memorial **30%** of the Total Points.

iii) At the second Preliminary stage, **16** teams shall submit their oral arguments on **either** the Applicant **or** Respondent side. No team shall be allowed to

argue on the same side as in the first Preliminary stage. Where both teams argued on the same side in the previous Preliminary stage (e.g. Both teams appeared for the Respondent in Preliminary 1), there shall be a toss of the coin to determine the side they argue on, inside the courtroom. The elimination at this stage shall be on **knockout** basis. Therefore, the best team from a courtroom round shall proceed to the Quarter Finals round.

iv) The Quarter finals (comprising of **8** teams) and Semi-finals (comprising of **4** teams) shall subsequently be based on **knock-outs** and thus the teams that emerge the best in each courtroom shall proceed to the next stage. The determination of the side for which the teams appear shall equally be decided by a toss of the coin.

In order to ensure fairness, all court rooms will have an equal number of 4 judges and the calculation of scores awarded shall be done by:

Removing highest mark and lowest mark and adding the 2 middle marks and dividing the result by 2.

This rule is subject to change on the basis of availability of judges.

15. TIMING FOR THE SESSIONS

i) At the **Preliminary rounds**, each team shall be allocated **20 minutes** to argue out their side. This means that each session shall be 45 minutes. 5 minute breaks in between the session are allowed to switch courts and answer to any pressing issues upon which the next session shall commence. It is thus important that time is observed.

ii) In the Quarter Finals, each team shall be allocated **25 minutes** to argue out their side.

iii) At the Semi-Final stage, each team shall be granted **30 minutes** to argue their side of the case.

iv) Eventually at the Finals, each team shall have **35 minutes** to present their case.

All the oral presentations shall be done in English.

16. CONFIDENTIALITY OF TEAM IDENTITY

Each team shall be assigned a number at the start of the competition and shall, for the duration of the competition, be identified only by that number, to ensure that the judges do not know which university or country a team represents. The identity of teams taking part during a specific round shall not be divulged to the judges of any round before that round is completed.

17. TALLYING AND MARKED SCORE SHEETS

Tallying shall be done in a designated room by members of the steering committee. Each Faculty shall be presented a copy of the tallied results at the end of the Competition. Marked score sheets shall equally be shared with the respective faculties at the end of the Competition.

18. INTERPRETATION OF RULES

The rules outlined herein will be interpreted by the AKMCC Steering Committee prior to the competition as well as in case of any dispute arising during the competition that concerns interpretation and application of these rules or the general administration of the competition. All decisions of the Steering Committee concerning questions of rules, interpretation and application are final and dispositive. The Steering Committee, in interpreting the Official Rules, may promulgate such other measures as

may be deemed advisable for the orderly conduct of the competition, provided that these measures do not violate the spirit of these official rules.

19. CLARIFICATION OF THE PROBLEM

Participants may submit written requests for clarification of points in the problem which are manifestly unclear and which must be clarified in order for the participants to develop their pleadings. Requests for clarification must be received by the Steering Committee through the official email allkenyanmoot@ku.ac.ke by **15th January, 2024**.

Such clarifications will be made available to all participants before **31st January 2024.**

20. DISQUALIFICATION AND PENALTIES

20.1. Procedure

The Steering Committee has the power to disqualify a team on the basis of violations of these rules or the spirit of the competition. It also has the power to impose penalties, in the form of subtractions from the marks awarded, not exceeding 20 points for each infraction. Judges may propose disqualification or penalties, but these measures will only take effect once endorsed by the Steering Committee. When the issue of disqualification or penalties arises, the Steering Committee, on its own motion or as a result of a team complaint, must ascertain the facts of the situation in order to determine whether an infraction has occurred. The team initiating the complaint must give timely notice to the Steering Committee and the accused team. If, on its own motion, the Steering Committee investigates a possible violation, it must give timely notice to the accused team. The accused team shall be allowed to reply to the complaints made.

Where judges intend proposing disqualification or the imposition of penalties, they must inform the teams accordingly and give them time to respond at the end of each particular round. Complaints pertaining specifically to oral pleadings must be submitted to the Steering Committee within 5 minutes of the completion of the round in which the alleged violation occurred. Memorial and oral pleading penalty points will be assessed against the total score given by the judges to the penalized team in the particular round.

20.2. Grounds for Disqualification

The Steering Committee may disqualify a team or impose a penalty against a team for behaviour, which substantially prejudices the competition, including, but not limited to the following;

1. Scouting;
2. Late submission of prescribed memorials to the Steering Committee, or failure to submit memorials;
3. Failure to meet memorial length and form requirements;
4. Communication between counsel table and any person (other than judges) during the oral pleadings;
5. Engaging in poor sportsmanship;
6. Submitting petty, frivolous and verbose complaints;
7. Submitting substantially ill-conceived requests for clarification of the problem; 8. Dishonesty or other serious breaches of the spirit of the competition.

21. SCORING

Scoring must be done in accordance with the documents to be sent in the course of time before the competition.

22. THE WINNER

The winner of the Final Round shall be considered to be the Winner of the Competition.

This team shall receive the AKMCC Cup to hold in trust until the following year's Competition. Further, the two oralists of the winning team shall be awarded **available internship positions in our leading partner firms and organizations. (Subject to clarification)**

All correspondence should be addressed to:

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