JESSUP CUP

Interest Meeting and Skills Workshop
September 7 and 14, 2015

Sponsored by the Moot Court Board
General Information

• What is the Jessup Cup?
  • Intramural version of a competition where dozens of schools compete regionally and internationally
  • Closed-Universe Problem featuring 2 issues in international law

• Who can participate?
  • Any 1L, 2L, 3L or LLM candidate who has not engaged in the practice of law in any jurisdiction
Why compete in the Jessup Cup?

- Top competitors will be invited onto the Moot Court Board.
- Great experience to talk about in your 1L job search.
- Great experience for your 2L summer or post-graduation employment.
- Gain experience and receive feedback to help prepare you for Hardt Cup (which all 1Ls must compete in) or Dean’s Cup in the Spring.
- Opportunity to be considered for the team Duke will send to national and international Jessup Competitions.
Timeline

- September 7/14: Initial Interest Meeting
- September 15 at 11:59 p.m.: Signup Deadline
- September 18-19: Distribution of Problem Materials
- September 21-22: Preliminary Rounds
- September 24: Quarterfinals
- September 25: Semifinals
- September 29: Finals
- Mid-October: Interscholastic team selection
How to Register

• Sign up on our Google Doc at www.tinyurl.com/DukeJessup2015 (we will email this to you!) by September 15 at 11:59 p.m.
• After you register, you MUST compete!
How does the Jessup Cup work?

- You will receive the problem and materials 72 hours before you compete (either Sept. 18 or 19).
- The supplementary materials will include international treaties, ICJ cases, law review articles, and other information.
  - Not all of the information is necessary to make your argument.
  - Part of preparation is figuring out which materials are necessary and which are not.
- **DO NOT PREPARE FOR 72 HOURS!**
  - 6-8 hours should be plenty of time to skim materials and develop an argument.
  - 1-2 hours of practice.
  - **DO NOT DO THIS DURING CLASS AND DO NOT MISS CLASS TO WORK ON IT!**
What does an argument look like?

• The Jessup Cup is more like a conversation rather than a presentation.
• Competitors do not write out an entire speech – you have bullet points that you talk around.
  • Have a folder with your bullet points prepared.
  • Drive your answers towards what you want to talk about.
  • Make sure you address both issues.
• Be prepared to answer questions from the judges.
Presentation Guidelines

• How to start:
  • "May it please the Court, my name is ______, agent for the applicant [or respondent], ______."

• What to include
  • Statement of the case ("This case is about defending national sovereignty")
  • Applicant: Ask about facts.
  • **Roadmap** (two issues you will discuss)**very important**
  • Argument
  • Conclusion

• What to call your judge
  • Your Excellency

• Length
  • Applicant: 12 minutes total (can reserve 2 minutes for rebuttal)
  • Respondent: 12 minutes total
Logistics

- Competitors will argue for each side once, for a total of two arguments during the preliminary round.
  - Once for applicant. Once for respondent.
  - You will be assigned a time, room, and opponent.
  - **After you register, you MUST participate.**
- First rounds will be on September 21\textsuperscript{st} or 22\textsuperscript{nd} (6-10pm)
  - Problem Packet and Materials will be sent out on the preceding Friday or Saturday, depending on when you will be competing.
  - You will have 3 days/72 hours to prepare.
- The top 8 competitors will go onto the quarterfinals.
  - Competitors may only withdraw at the time they are offered to continue and not afterwards.
  - Competitors will be assigned to argue one side in the quarterfinals, semifinals, and the final round.
Scoring

- **Structure = 6 points**
  - Introduction
  - Roadmap

- **Presentation/Style = 18 points**
  - Oratory skills
  - Clarity
  - Transitions
  - Use of appropriate formalities

- **Substance = 16 points**
  - Command of materials and the law
  - Ability to answer questions effectively
  - Ability to craft a cohesive and internally consistent argument
Other Information

• It is an Honor Code violation to consult any materials, including past Jessup Cup problems and briefs, outside of the closed set of materials distributed to you by the Duke Law Moot Court Board or to discuss the problem with others.
  • Do not access the general Jessup Cup website (you may access the Duke Jessup Cup website).
  • Do not discuss the problem with other competitors, students, professors, etc.
• If you have questions about style, consult: http://law.duke.edu/students/orgs/mootcourt/jessup/
International Law Primer

Sources of International Law (Article 38 of the ICJ)
- Treaties and Conventions
  - Vienna Convention on the Law of Treaties (VCLT)
  - UN Convention
  - Bilateral Treaties
- Customary International Law
  - Requirements
    - State Practice ("universal, extensive, and representative")
    - Opinio Juris
    - Persistent Objector Rule
  - Jus Cogens norms (not in ICJ Art. 38; preempt treaties)
- General Principles of Law
  - Necessity, force majeure, waiver, estoppel
- Judicial decisions and teachings of most highly qualified publicists
Treaty Interpretation

- Governed by the Vienna Convention on the Law of Treaties (VCLT)
- Basic principles and provisions
  - Article 26 - *pacta sunt servanda*: Treaties are binding upon parties and must be performed
  - Article 34 - Treaties do not bind states that are not parties, but may be evidence of customary international law
  - Article 38 - Treaties that have the force of CIL may become binding on non-parties (some treaties codify CIL, others may create CIL)
  - Article 31 - Treaty must be interpreted in good faith and in accordance with ordinary meaning of the terms in their context and in light of object and purpose
  - Article 32 - Additional sources of reference (ie: travaux preparatoires) when Art. 31 interpretation is ambiguous or absurd
Use of Force

• Prohibition in Article 2(4) of the UN Charter
  • All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations

• Exceptions
  • Self defense pursuant Article 51 of the UN Charter
    • When an armed attack occurs against a state
  • Chapter VII resolutions by the UN Security Council
    • Collective action to enforce international peace and security

• Controversial grounds
  • Protection of nationals
  • Humanitarian intervention (unilateral)
Customary International Law (CIL)

- Binding force despite not being in a treaty because states treat it as a rule of law
  - Binding on all states, not just those who have accepted it
- Evidence
  - State practice: treaties, # of states following a particular norm
  - Opinio juris: state action because of a sense of legal obligation
  - Decisions of national or international courts
  - Practice of international organizations
- The party asserting a rule of CIL bears the burden of proving both 1) state practice and 2) opinio juris
International Court of Justice

- Judicial arm of the United Nations
  - Jurisdiction pursuant to Article 93 of the UN Charter
  - But jurisdiction is only compulsory on states that have agreed
- Venue for states only
- The ICJ issues decisions for controversies as well as advisory opinions.
- Decisions by the ICJ are only binding on the parties to the case, but the Court may consider its own decisions in the future (persuasive authority) [Article 59 of ICJ Statute]
THANK YOU
& GOOD LUCK!

To register (DEADLINE: September 15):
If you have questions email:
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