



INTERNATIONAL CRIMINAL COURT
Topic 1

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Court Guide

Here is what the process for each case will look like, chronologically:

- 1. Opening speeches**
- 2. Stipulations**
- 3. Jury deliberation and rating of stipulations**
- 4. Evidence**
- 5. Jury deliberation and rating of evidences**
- 6. Witness (jury questioning then direct and cross examination)**
- 7. Jury deliberation**
- 8. Closing Speeches**
- 9. Jury Deliberation for choosing the final verdict**

1. Opening Speeches

An impactful opening speech starts by painting a vivid picture of the events leading up to the violation of international law, setting the stage for the dispute at hand. Then, it's crucial to clearly state the specific law that's been breached, including the relevant articles, to establish the foundation of your argument. Following this, provide a concise summary of your claims, explaining why these actions are a clear violation of the law. Introduce your witnesses. Finally, very briefly highlight some of the evidence you could be using; such as documents, photographs, or videos, that directly support your claims. Remember, the key to a successful opening speech lies not only in the content but also in the delivery. Practice your speech to ensure it's compelling and persuasive, enhancing your chances of a favorable verdict.

Sample Structure for Opening Speech (15-20 mins):

- Introduction/case description and summary of claims: Elaborate on your side of the case, introduce it in a compelling and imaginative way, adding a hook before will accentuate your points further.
- Jurisdiction: A good opening speech must include an overview of the charges and statute clauses that fall under these charges, for prosecution, it's better to talk about the gravity of the charge and ways whatever they are prosecuting violates it. For the defense, adding in these clauses are optional but could be used to your advantage if you have valid defenses for each charge.

- Brief description of evidence: Describe one of your pieces of evidence and delve into it, link how it supports your claim and use it as a stepping stone for the rest of your arguments throughout the case.
- Brief description of witnesses: Names do not need to be mentioned when introducing them, but giving the jury an overview of the types of people being introduced promotes further clarity in the argument.
- Pre-rebuttals: When researching, it will be common to find many sources that support the opposition team, disproving claims derived from this evidence early on will allow you to gain more credibility with the jury.
- Closing remarks

2. Stipulations

After opening speeches, come stipulations. Stipulations are facts about the case both counsels can agree on. Each council has 7 stipulations. Once they present their stipulations, they cannot make any changes to them. News sources should not be used because they can be objected to as relevance/ authenticity/ bias unless it contains video or any recorded media, or something that could not be manipulated. Advocates are expected to use only .org sources or sources written by a reputable author. Advocates are allowed to object to only 3 things during presentation of stipulations and evidence (**relevance, authenticity, bias**)

3. Evidence

Delegates should work on evidence packets with the rest of the advocates on their side (prosecution/defense). Remember: evidence does not mean facts. It should also state **why/how** the defendant is guilty or innocent. It's helpful to tell your delegates to think about it this way: Stipulations are the **where, when, and who**. Evidence is the **why and how** of a case. Delegates are supposed to provide a link under each point of evidence, and the other council can view it for a check on authenticity. In the absence of a provided source under evidence, the other council can and should object on the grounds of authenticity. Evidence must be correctly formatted with a title and name of the author to ensure the wrong link is not provided/ the information is not there.

4. Witness Examination

Witness questioning occurs after a witness has provided their affidavit. After the affidavit is submitted as evidence, the witness may be called to testify during the trial. Prosecution always starts questioning first. Advocates are not limited to any objections, you are free to use any objections from the list provided. Before the prosecution and defense are able to question the witness, the jury will question them without the presence of the prosecution or defense to determine the reliability of the witness, which will then be rated out of 5. After that, examinations will proceed.

Examinations:

1. Direct examination: Between the witness and council they stand with.
2. Cross-examination: Between the witness and the council they stand against. Leading questions **can** be asked but **only** in cross-examination.
3. Re-direct examination (optional): Only 2 questions can be entertained.
4. Re-cross examination (only if redirect is entertained): Only 2 questions can be entertained.
5. Jury examination: Rating is given out of 5.

5. Closing Speeches

This speech should sum up everything that happened in the court, and this is where the councils need to convince the judge to vote with or against the defendant. This speech should last around 15 minutes.

Topic 1:

Brief Background:

Saif al-Islam Gaddafi is the second son of former Libyan leader Muammar Gaddafi. Born in 1972, he became one of the most important figures that shaped history in his father's government, even though he did not officially hold the position of president he was widely viewed as a possible successor since he was trying to take in the footsteps of his father.

When protests against Muammar Gaddafi's regime began across Libya in 2011, Saif al-Islam publicly defended his father's regime and supported his response to the uprising. He was accused of helping to organise and carry out a violent crackdown against civilians, during which protesters were killed, arrested and persecuted. An arrest warrant was issued for him in June 2011 for alleged involvement in murder and persecution as crimes against humanity. He was captured by rebel fighters in November 2011 and held in the city of Zintan, not handed over to the authorities in Tripoli.

Further description:

After the 2011 civil war had started, the son of the former leader of Libya, Saif al-Islam Gaddafi, became the main focus and subject of an ICC prosecution. Gaddafi's loyal soldiers retaliated violently against all civilians as anti-government protests swept through Libya. Saif al-Islam Gaddafi was accused of committing crimes against humanity by the ICC prosecutor; these crimes include murder and persecution against civilians starting on February 15, 2011. After a period of time had passed, the ICC came out with an official arrest warrant for Saif al-Islam Gaddafi on June 27, 2011.

A key event in this case is Saif al-Islam's involvement in the Libyan government. The prosecution against Saif stated that although he did not hold a formal government position, he influenced his father's inner circle and attracted many parts of the state apparatus. This presents one of the main issues of the ICC regarding whether any crimes committed through governmental structures can be held personally responsible or not.

Additionally, this case became a significant test of the ICC's complementarity. Libya claimed that Saif al-Islam Gaddafi must be prosecuted not by the ICC, but by its own courts instead. However, in 2013, the ICC Pre-trial Chamber rejected Libya's claim, concluding that ICC charges and domestic charges were not sufficiently similar, so Libya

could not carry out the prosecution. In 2014, the Appeals Chamber confirmed this decision.

Time line:

- 25 June 1972: Saif al-Islam Gaddafi was born in Tripoli, Libya.
- February 2011: protests against Saif's father Muammar Gaddafi's government began in Libya, and he publicly defended his government as the uprising spread
- Late February 2011: Saif was accused of participating in the campaign against civilians, after the government carried a violent crackdown on protestors using their security forces.
- June 2011: An arrest warrant was issued against Saif al-Islam Gaddafi for alleged **murder and persecution as crimes against humanity**
- August - October 2011: the Gaddafi government began to collapse, and the Rebel forces took more control of Tripoli, Saif disappeared from public view, months later Muammar Gaddafi was captured and killed in Sirte. The proceedings against him subsequently ended.
- 2012-2014: Libya sought to prosecute Saif domestically, creating a legal dispute over whether he should be tried in Libya or transferred to The Hague.
- 28 July 2015: A Tripoli court sentenced Saif al-Islam to death in absentia along with other former officials for crimes related to the 2011 conflict. The trial was heavily criticised for fair trial issues.
- 2016: His release from detention was announced after an amnesty. However, reports surrounding his exact status and whereabouts were initially conflicting.
- After 2016: Saif was out of the reach of the international court but the legal cases against him remained open. The case remains listed as pre-trial and he is on the run.

Charges

- Article 7(1)(a): Murder as a crime against humanity
Saif al Islam Gaddafi is charged with involvement in the massacre of people during the suppression of protesters in February 2011.
- Article 7(1)(h): Persecution as a crime against humanity
He is accused of deliberately stripping basic rights from perceived political enemies and protesters because of their political identity
- Article 7(1): Elements of crimes against humanity:
It is assumed that these crimes were part of a widespread or systematic attack designed against a civilian and that Gaddafi was aware of the attack
- Article 25 (3)(a): Individual criminal responsibility

Gaddafi allegedly was an indirect co-perpetrator: He allegedly helped to devise and put in place a governmental policy to crush the rebellion, but he did not directly carry out the killings

Guiding questions:

1. What crimes has Saif al-Islam Gaddafi been accused of and what evidence is there for those accusations?
2. What was Saif al-Islam Gaddafi's role in the Libyan government and in the alleged crimes?
3. Why does the ICC have jurisdiction over the situation in Libya?
4. Should Libya's national courts or the ICC have jurisdiction over Gaddafi's case, and how does complementarity apply?
5. What are some suggestions for the legal arguments that can be used by the prosecution and defense?