

PUBLIC INTEREST LAW MOOT COURT COMPETITION

2023/24

Information pack for participants



CONTENTS

Introduction	3
Hypothetical case.....	5
Directives	6
Competition rules	7
Competition timeline	12
Contact details.....	13

INTRODUCTION

While South Africa has seen significant gains in the last 29 years since transitioning to a constitutional democracy, there is still much work to be done to ensure true equality and social justice for all. South Africa needs a new generation of human rights lawyers who have the energy, ingenuity and skill to respond to the ongoing socio-economic and political issues that still plague our country today.

The Public Interest Law Moot Court Competition gives law students the opportunity to showcase these skills by working on a hypothetical case which brings together questions around civil and political rights, gender rights and the right to vote amongst other rights in anticipation of the 7th general elections under the democratic South Africa.

Entry requirements

Students registered for any law-related qualification in their second to fifth year of study at any accredited institution in South Africa may enter. Students must form teams comprising of a minimum two or a maximum of three members to enter the Competition. Students enter the competition by [registering here](#) or by emailing pilmoot@lawguild.co.za before **19 October 2023**. Thereafter, teams have until **15 December 2023** to submit heads of argument for both the applicant and respondent of the hypothetical case.

Teams will compete against one another to progress from the initial two rounds of written submissions to a virtual oral submission round, where teams will present their oral arguments on a virtual platform. The final round of the Competition will see the successful teams making oral submissions before a panel of judges at the Constitutional Court of South Africa in April 2024. Members of the winning team will have the opportunity to be preferentially considered for a fully paid internship at the Centre for Applied Legal Studies.

This information pack provides the official competition rules, competition timeline, hypothetical case and directives. Please read through these documents carefully before entering.

All the best!

HYPOTHETICAL CASE

1. Tshepo Zulu, 25, is a person who was assigned the gender of male at birth. Tshepo grew up in the township of Katlehong and attended Supatsela High School. Katlehong is a large township in the Gauteng Province of South Africa. It is 28 km south-east of Johannesburg and south of Germiston between two other townships of Thokoza and Vosloorus. It forms part of the City of Ekurhuleni Metropolitan Municipality.
2. The African Liberation Congress (ALC) is a social-democratic political party in South Africa. A liberation movement known for its opposition to apartheid, it has governed the country since 2004. In the post-apartheid era, the ALC continues to identify itself foremost as a liberation movement, although it is also a registered political party.
3. Best Party (BP) is a South African political party and the official opposition to the ruling ALC. BP is broadly centrist and has been attributed both centre-left and centre-right policies. It is a member of Liberal International and the Africa Liberal Network. The BP ideologically shows a variety of liberal tendencies, including social liberalism, classical liberalism, and conservative liberalism.
4. Since childhood, Tshepo has always expressed himself in a very feminine way. Tshepo would often try to wear his mother's dresses and put on makeup. In matric, Tshepo formed part of the School's Representative Council of Learners (RCL). Tshepo organised numerous successful school marches resulting in the provision of free sanitary towels for girls at Supatsela, and the reduction of prices at the tuck shop.

5. In the leadup to the 2019 national elections, ALC held a rally at the Huntersfield Stadium in Katlehong. ALC presented its manifesto and, in part of its efforts to provide social housing to people living in townships, promised to build one million houses in Katlehong by 2022 if it won the elections.
6. National elections were held in South Africa on 8 May 2019 to elect a new President, National Assembly and provincial legislatures in each province. These were the sixth elections held since the end of apartheid in 1994 and determined who would become the next President of South Africa. The ALC won by a narrow margin of 50.2%.
7. For the next five years, the ALC government, working together with labour, business, and civil society, focused on addressing the long-term challenge of building and growing an economy. Since it was established, the ALC Better Tomorrow Program has benefited over 1.2 million people, especially women and youth with jobs and necessary skills development. However, with the challenges caused by the Covid-19 outbreak and the effects of the Russia-Ukraine war, a total of two million job losses were reported in the country. The economic hardship experienced by the country also resulted in reduced government expenditure in areas such as housing, sanitation, and education.
8. The ALC despite its work is not shy of scandals. Reports emanating from the Auditor general recorded wasteful expenditure by various government departments, and a loss of two billion rands from the National Department of Housing through corruption and tender irregularities.
9. In 2021, a number of service delivery protests organised by Tshepo and several community leaders erupted in Katlehong. Amongst other things, Katlehong residents

were demanding that the ALC government construct the one million houses that they had promised. At the time, only 500 houses were constructed. To date, a total of one thousand houses have since been constructed in Katlehong.

10. In 2021, about 42,000 children and teens across South Africa received a diagnosis of gender dysphoria, nearly triple the number in 2017. Gender dysphoria is defined as the distress caused by a discrepancy between a person's gender identity and the one assigned to them at birth. Overall, at least 121,882 children ages 6 to 17 were diagnosed with gender dysphoria from 2017 through 2021.

11. After turning 21, Tshepo began openly identifying as a woman and renamed herself to Tshepiso. Tshepiso decided she wanted to begin the formal process of changing her name to Tshepiso Zulu and having her gender on her ID changed to female. After enduring a lengthy two-year wait, Tshepiso successfully acquired a new Identity Document from the Department of Home Affairs.

12. With an eager interest in human rights, Tshepiso was accepted for a Bachelor of Laws Program at the University of Johannesburg. During her first year, she joined the Best Party Student Chapter (BPSC) where, over the years, she held various roles. During her final year, BPSC won the Students Representative Council elections, and she was voted President. She rose to fame due to her radical policies that ensured that students from previously disadvantaged backgrounds had better access to funding and other resources, he introduced various policies in favour of members of the LGBTQIA+ community at the University.

13. In 2022, disgruntled with the housing situation in Katlehong, Tshepiso approached Centre for Applied Legal Studies for assistance with taking ALC to court for failing to deliver on the promises they made to residents of Katlehong when canvassing for votes during the 2019 national elections. Citing the President of the Republic of

South Africa, and the ALC as respondents, they approached the North Gauteng High Court for relief. They argued that the promises made to voters are a binding representation that formed a contractual relationship between the voters and the political party. The Respondents submitted that the manifesto presented was a mere guideline and did not create a binding contractual relationship between the party and the voters. The High Court dismissed the application on the 4th of April 2023.

14. With elections set to be held on the 9th of May 2024, political parties and independent candidates took to various platforms to present their manifestos and campaign for the upcoming 2024 elections. Based on her stellar performance, Tshepiso was announced as BP's new Deputy President. BP's manifesto centred around Creating economic growth and jobs, developing effective means to tackle Gender-Based Violence, tackling loadshedding through exploring alternatives means of power, developing policies that foster inclusivity of the LGBTQIA+ community in South Africa, as well as curbing corruption in the State.

15. At one of their rallies, Tshepiso placed emphasis that BP would take a hard stance on reducing the levels of corruption in the country by introducing legislation that gives prosecuting agencies greater autonomy and independence from state interference. Tshepiso also outlined the measures BP would take to invest in harnessing shale gas power to solve the electricity crisis and drive economic growth. Tshepiso also outlined how BP would introduce a policy that allows gender-affirming treatment to individuals from the age of 11.

16. BP's election manifesto was met with mixed reactions from analysts and members of the public. A hotly debated topic was BP's stance to introduce gender-affirming treatment to individuals from the age of 11. Some analysts and activists identified it as a progressive move, while others questioned the policy.

17. On the 11th of April 2024, less than a month before the elections, a post was made on ALC's social media pages quoting a statement made by the ALC during an election rally stating that *"Tshepiso is a confused want to be woman. We will not build a confused generation. Tshepiso Zulu wishes to confuse your kids by introducing policies that will deprive you of your role as parents. You will have no say in how your children grow up. They want to confuse your children and turn them into something they are not. Vote ALC! We will not condone such nonsense."* The posts were seen by over ten million people.

18. Tshepiso disgruntled with the social media post responded on her timeline with a screenshot which shows hate that she has been subjected to as a member of the LGBTQIA+ from a senior member in the ALC whilst the party portrays itself in public to be progressive.

19. The following day, Tshepiso is served with a letter of demand instructing her to take down the posts or she will face court action. After receiving the letter, Tshepiso was followed by an unknown car where two men told her that she must keep her mouth shut or else she will face dire consequences.

20. On the 15th of April Tshepiso approached the Electoral Court on an urgent basis. She argued that the conduct of the ALC; the letter and the false remarks made on the ALC social media page were published with an intention to intimidate her and influence the outcome of the election in contravention with the electoral laws of the country. ALC contended that the post constituted fair comment or an opinion that could be honestly and genuinely held by any fair person, that the post was not false, nor in contravention of the electoral laws of the country.

21. The Electoral Court granted the order sought by Tshepiso. An urgent appeal was launched to the full bench of the North Gauteng High Court by ALC. On the 19th of April, the North Gauteng High Court overturned the decision of the Electoral Court and held that the post amounted to fair comment.

22. Tshepiso now seeks to approach the Constitutional Court on an urgent basis to appeal both decisions of the North Gauteng High Court handed down on the 4th and 11th of April respectively.

The parties are directed to make written submissions on the following issues to be argued before the Constitutional Court:

1. Whether the public can approach the court to enforce promises made by political parties in their election manifestos.
2. Whether the post made by ALC on their social media page amounts to the violation of any rights in the constitution and electoral laws of the country.
3. Whether the threatened legal action by ALC amounts to repression.

COMPETITION RULES

1. GENERAL

The Public Interest Law Moot Court Competition aims to introduce law students to the practice of public interest litigation and develop their awareness of emergent human rights issues. This Competition is a collaboration between the Centre for Applied Legal Studies (CALS) and the Student Litigation Society (SLS).

About the organisers

The Centre for Applied Legal Studies (CALS) is a public interest law organisation based at the Wits School of Law. CALS is also a law clinic registered with the Legal Practice Council. As such, CALS connects the worlds of academia and social justice through research, advocacy, teaching and litigation.

The Student Litigation Society (SLS) advances practical legal education with the aim of equipping prospective legal practitioners and legal practitioners with the skills required in the legal profession.

2. ELIGIBILITY

Institutional Eligibility

Only students from universities that enjoy full LLB accreditation by the South African Council on Higher Education (CHE) are eligible to participate in the Competition.

Eligible classes of students

Only students from first year onwards who are in the process of completing an LLB, BCom or BA Law degree at a South African university are eligible to participate in the Competition. The following people are prohibited from taking part in the Public Interest Law Moot Court Competition:

- Students who are currently employed or otherwise associated with either CALS or SLS;
- Qualified legal practitioners; and
- Students who already hold an LLB or equivalent degree.

3. TEAM COMPOSITION

Each participating team must comprise no fewer than two (2) students and must not exceed more than three (3) students. All members of the team must be students registered with the same university. If a team is found to be made up of one or more ineligible members, the entire team may be disqualified. The team members may be selected through any appropriate processes determined by their law school, law faculty or student moot society. There is no limitation on the number of teams that a law school, law faculty or student moot society may enter into the Competition.

4. HYPOTHETICAL CASE

A hypothetical case will be provided by the organisers and will be made available to participants in advance. The hypothetical case will be available on the CALS and SLS websites.

5. REQUESTS FOR CLARIFICATION

Teams may request clarifications of the facts. These clarifications must be requested anytime up

until end of business on **19 October 2023**

6. REGISTRATION

Prospective teams should express their interest to participate in the Competition by the close of business on **19 October 2023**. Teams must register by [completing this form](#).

Teams may register by sending an email to pilmoot@lawguild.co.za, only if they are struggling to access the online registration form.

Teams registering via email must send an email to the above email address detailing the university that is represented, the team members, the names of each the team members, the academic level (i.e. first year, second year, penultimate year or final year) of each of the team members, the team contact person and contact details.

7. WRITTEN SUBMISSIONS

Heads of Argument

During the Preliminary round, each registered team must prepare and submit two sets of heads of argument, i.e. for both the Applicant and the Respondent. Heads of argument must be written in English and typed in Arial 12–point font, 2.0 line spacing and justified. All footnotes must be written in Arial 10–point font. The heads of argument must comply with the Rules of the Constitutional Court. All heads of argument must be filed electronically in PDF format without any passwords or encryptions. The heads of argument must be uploaded to the following address: pilmoot@lawguild.co.za.

The deadline for the heads of argument is 17h00 on 15 December 2023.

Supplementary Written Submissions

Every team qualifying for the next round will be required to prepare and submit supplementary written submissions. These shall be based on directives to be issued closer to the date. The supplementary written submissions must be written in English and typed in Arial 12-point font, 2.0 line spacing and justified. All footnotes must be written in Arial 10-point font. The supplementary written submissions must comply with the Rules of the Constitutional Court. All supplementary written submissions must be submitted electronically in PDF format without any passwords or encryptions. The supplementary written submissions must be submitted to the following email address: pilmoot@lawguild.co.za.

The deadline for the supplementary written submissions is 17h00 on 5 February 2024

8. DETERMINATION OF OPPOSING TEAMS

A draw shall be conducted to determine which teams shall represent the Applicant and which teams shall represent the Respondent after the virtual oral round of the Competition. The organisers of the Competition may modify the pairings in the best interests of the Competition. The organisers of the Competition may subsequently modify the pairings to account for absent teams or other unforeseeable circumstances. Affected teams will be timeously notified of modifications and the reasons thereof.

9. ORAL SUBMISSIONS

Only teams participating in the virtual oral round, semifinals and the final shall be required to prepare oral submissions.

General Procedure

The order of proceedings shall be: Applicant Team, Respondent Team, rebuttal by Applicant Team and surrebuttal by the Respondent Team. Time for rebuttal should be reserved in advance with the Court. Rebuttals may not exceed 5 minutes. The scope of a team's oral

pleading is limited to the scope of its written submissions. The scope of the Applicant's rebuttal is limited to the scope of the Respondent's oral pleadings.

Judges may exercise their discretion whether to allow or not to allow surrebuttals.

Virtual oral round

The teams that make it through to the quarter finals will be required to prepare for oral submissions. Oral submissions for this round are scheduled for **13 –14 March 2023**

The quarter finals will be held virtually on a platform that will be communicated closer to the date. All team members must act as oralists during this stage. Each team shall plead for no longer than 20 minutes including rebuttals. No team member shall be allowed to speak for more than 10 minutes. No team member shall be allowed to speak for less than 5 minutes. Adherence to time allocations shall be considered when determining the overall performance of a team. Presiding Officers may exercise their discretion in granting extra time to a team. Such extra time may not exceed 5 minutes in total. Time for rebuttals and surrebuttals must be reserved in advance.

Semifinals

The teams that make it through to the semifinals will be required to prepare for oral submissions on points in limine based on their supplementary written submissions. Oral submissions for this round are scheduled for **25 April 2024**

All team members must act as oralists during this stage. Each team shall plead for no longer than 20 minutes including rebuttals. No team member shall be allowed to speak for more than 10 minutes. No team member shall be allowed to speak for less than 5 minutes. Adherence to time allocations shall be considered when determining the overall performance of a team. Presiding Officers may exercise their discretion in granting extra time to a team.

Such extra time may not exceed 5 minutes in total. Time for rebuttals and surrebuttals must be reserved in advance.

Final

The teams that make it through to the final will be required to prepare for oral submissions on the merits based on the heads of argument. Oral submissions for this round are scheduled for **26 April 2024**

All team members must act as oralists during this stage. Each team shall plead for no longer than 30 minutes including rebuttals. The time spent responding to judges' questions are included in the allocated 30 minutes. No team member shall be allowed to speak for more than 15 minutes. No team member shall be allowed to speak for less than 5 minutes. Adherence to time allocations shall be considered when determining the overall performance of a team. Presiding Officers may exercise their discretion in granting extra time to a team. Such extra time may not exceed 5 minutes in total. Time for rebuttals and surrebuttals must be reserved in advance.

10. EX PARTE PROCEEDINGS

Where a team fails to arrive for the quarter finals/semifinals and/or the finals, the organisers, after waiting for ten minutes, have the discretion to either announce a new team against which the other team will argue, or allow the round to proceed *ex parte*. 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 organisers may arrange for an additional round for the absent team later during the Competition, if time and administrative concerns permit.

The waiting time for the virtual rounds may be less than 10 minutes and the organisers may exercise discretion in that regard.

11. COMPLAINTS

All teams are welcome to lodge complaints if they believe that a rule has been violated during a particular session. The complaints must be submitted as soon as possible after the session where the rule may have been violated. No complaints of such nature will be entertained if the Competition has reached the finals. The organisers will decide the penalties applicable. The organisers may decide to disqualify a team at any time if any

violation of the rules is brought to their attention. Teams are also allowed to submit any other complaint regarding the organisation of the Competition during any stage of the Competition.

12. DISQUALIFICATION AND PENALTIES

The organisers may disqualify or penalize a team for:

- Late submission of heads of argument;
- Failure to comply with the requirements for the heads of argument;
- Engaging in poor sportsmanship, dishonesty and misconduct; and
- Frivolous complaints or participating contrary to the spirit and aim of the Competition.

The organisers of the Competition reserve the right to determine appropriate penalties on consideration of the particular infringement.

13. INTERPRETATION

Any dispute that arises during the Competition that concerns the interpretation and application of these rules, or the general administration of the Competition, will be resolved by the organisers. All decisions of the organisers concerning questions of the interpretation and application of rules are final. Any queries relating to the Competition and its administration must be directed to the following email: pilmoot@lawguild.co.za.

The organisers, in interpreting the 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 such Rules. The organisers reserve the right to change any rule in the Competition. All participants will be informed in advance of any changes.

COMPETITION TIMELINE

22 September 2023 Hypothetical facts released
Registration opens
Clarification seeking period begins

19 October 2023 Registration closes
Clarification seeking period ends

PRELIMINARY ROUND

15 December 2023 Deadline for written submissions

15 January 2024 Release of shortlist of top 32 teams
Court directives issued

5 February 2024 Deadline for supplementary written submissions

QUARTER FINALS (Virtual oral round)

12 February 2024 Announcement of quarter finalists

27 February – 7 March 2024 Masterclasses

13–14 March 2024 Virtual Oral Rounds

GRAND FINALE (semi-finals and final)

20 March 2024 Announcement of semi-finalists

25–26 April 2024 Semi-finals and final

CONTACT INFORMATION

Please feel free to contact us at pilmoot@lawguild.co.za if you have any queries.

Stay up to date with the competition and learn more at <https://www.lawguild.co.za>. Follow [#PILMOOT](#) on Twitter or Facebook for the latest news and developments.

Also follow @SLS and @CALZ_ZA on twitter

Register to participate at <https://www.lawguild.co.za>.

