Learning the skills of mooting in Moot Court

By
Dr Durgambini Patel
Associate Professor, Dept. of Law,
University of Pune, India

Different learning styles in the discipline of Law
- lecturing method
- Interactive discussion method
- Seminar method
- Workshop method
- Case method
- Trail advocacy skills
- Client counseling
- Field study
- Clinical method
- Moot court method
• Law is studied from two perspectives:
• ----law in books
• ----law in action
-To know the law means to understand the situations and apply the correct law to it.

• Moot court is also called as problem based learning. It is a co-curricular activity with stimulated court proceedings.
• Focus on teaching the skills of writing briefs, participation in oral arguments understanding and applying the law to the given situation.. to identify the legal remedy to solve the problem or the dispute.

Moot court competition roughly parallels what would happen in actual appellate practice. Participants will typically receive a problem ahead of time, which includes the facts of the underlying case, and often an opinion from a lower court that is being challenged in the problem. Students must then research and prepare for that case as if they were lawyers or advocates for one or sometimes both of the parties. Depending on the competition, participants will be required to submit written briefs, participate in oral argument, or both. The case or problem is often one of current interest, sometimes mimicking an actual case, and sometimes fabricated to address difficult legal issues.
• The terms Question of Law and question of fact
• The difference in the procedure at in the trial courts and the appellate courts..
• Moot questions generally involve questions of law upon the disputed issue and the task of the mooter is to find the appropriate law applicable to the set of facts that have been ascertained by the trial court..
• Rules may differ from competition to competition generally a team prepares both sides or in some competitions a mooter will be asked to prepare both sides and by drawing of lots will be given the side to argue on..

Procedure for mootting

a. authority for the argument is necessary that has the force of law and are in nature of precedent from case law. These are the principles adopted to determine the law.
b. The relevant statute or code should be traced.
c. Reliance shall be placed on Govt. Documents, research from NGOs, Law commission and committee reports, academic journals and texts books. International instruments are more common in international trade matters but also a good source of law otherwise
`Briefs’ skeleton of written arguments to be referred by the judges of the competition .....is submitted before the oral arguments. It gives the general idea of the arguments and usually assigned marks.

• The order in which the advocates will speak mirrors that of the actual court.
• The appellants(first speakers)to be given few minutes in order to reply to the respondents argument. This is called as rebuttal.
• To check the advocacy skills the judges may ask questions to clarify a point.

-- Both sides may not have equal legal base. On law point one team may be stronger however, it is a challenge to the team with weak legal base to argue as they have to be more persuasive and come up with innovative logical ideas.
Thus we require ..... 

• Identification of the facts of the case.
• Identification of the jurisdiction of the court or tribunal before which the remedy is seeked. (the moot problem will not specify always but the mooter has to identify the jurisdiction)
• Developing the contentions on the basis of the – LAW—Tapping all the sources of law.. violation of it makes the acts void ab initio or voidable
• Citing appropriate law and the judicial precedents in support of the argument.

• Identification of nature of harm or loss caused due to the violation of law.. drawing attention of the court to the irreparable damages caused by invoking justice, equity and good conscious principles.
• And finally....
  The prayer clause ...seeking the appropriate remedy from the court having the jurisdiction
• writs
• Interim relief if any
• Injunction
• Damages, specific performance

In the area of transnational trade law the dispute settlement mechanism is different and the parties are called as complainants and the respondents. The ADR mechanism is more popular and feasible.