

## **Mooting into the Gap of Transition**

Felicia Snyman,\* Law lecturer, Akademia, South Africa

### **Abstract**

Moot court—a mock proceeding where students argue points of law—is an innovative teaching method well suited to bridging the gap of transition from secondary school to university. However, the practice of moot court is generally not available to first-year students in higher education, and mooting is usually conducted face-to-face rather than by distance education or broadcast technology. Akademia's model of blended learning enables students from different geographical areas and backgrounds to cooperate through distance learning. Students perform roles for which marks are awarded by external assessors who assess from the studio. Peer review is facilitated, and feedback provided to the lecturer. This makes learning relevant and engaging.

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\*Corresponding author. Email: Felicia@akademia.ac.za

### **Introduction**

Akademia's model of blended teaching and learning enables students from different geographical areas and backgrounds to come together through distance learning.

Students arrive at a higher education institution with their own expectations and the gap between institutions, students, and the workplace seems to be a growing concern. Moot court—a mock proceeding where students argue points of law—is an innovative

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teaching method well suited to bridging the gap of transition from secondary school to university. Although the practice of moot court is generally not offered to first-year students at higher education institutions, and is usually conducted face-to-face and not by distance-education or broadcast technology, the program at Akademia innovates in both respects.

Mooting as a part of distance learning offers a holistic approach that can be expanded to develop various student skills at different levels—from an entry-level to a degree. Students will receive a moot problem, perform roles allocated to each, and communicate through broadcast systems for which marks are awarded. Peer review is facilitated and feedback provided to the lecturer. The approach to assessing the moot court proceedings and preparation makes learning relevant and engaging.

External evaluators assess student performance from the studio, providing feedback and objective evaluations that contribute to the students' final marks, thus developing room for summative and formative assessment. The skills developed during the moot, further refined over the course of the completion of the degree, will assist a student in their journey into the workplace, not only in their oral advocacy, but also in gathering research materials and solving problems.

## **Akademia**

Akademia is a private higher education institution that plays a leading role in the development of quality education in the South African private sector. Akademia's model is based on a blended approach to teaching and learning. Blended teaching and learning employ a mixture of synchronous and asynchronous techniques by means of face to-face, online, and offline methods for instruction. The blended teaching and learning approach at Akademia uses distance learning, supported with synchronized face-to-face contact

sessions by way of advanced technological systems in study centers around the country. This approach has proven to be extremely effective.

Blended learning offers the opportunity for different important interactions. These include interactions among students; between the student and lecturer; and between the student and their community. However, the success of the Akademia model lies not only in the blended teaching and learning approach but also in the support structure for distance-learning students, which facilitates contact with lecturers and fellow students. Akademia creates the environment for the various interactions of blended teaching and learning by providing the technology, creating a platform—the learning management system (Moodle)—for interaction.

One of the accredited programs offered by Akademia is the BCom Economics and Law. Even though the course focuses on commerce, legal subjects are an integrated part of the program. There a student gains exposure and knowledge of related subjects such as economics, and also the application of law to various aspects of the business world. This program includes several law modules—*inter alia* Introduction to Law, Law of Persons, Labor Law, and Company law.

The study of modules in law fundamentally involves an understanding of the rules governing conduct applicable to the specific subject matter. The lecturers presenting the law content include mootings in first-year course, Introduction to Law, as well as final year (Labor law) modules. The argument could be made that would be a pedagogically sound approach to utilize a variety of capstone courses in a degree related to the field of law due to the extraordinary South African structure, as well as law system. These capstone courses could lead to a final-year dissertation and/or moot court.

According to Durel (1993), capstones can be defined “as a crowning course or experience coming at the end of a sequence of courses with the specific objective of integrating a body of relatively fragmented knowledge into a unified whole. As a rite of passage, this course provides an experience through which undergraduate students both look back over their undergraduate curriculum in an effort to make sense of that experience and look forward to a life by building on that experience” (p. 223). Our focus here will be on the first-year module, using mooting as an innovative tool to enable a first-year student to make the transition into a higher education environment by implementing a different approach to teaching and learning.

### **Moot court**

Moot court is generally defined as a mock court proceeding or trial at which students argue points of law based on specific moot problems. The moot typically follows the same rules of procedural law as would apply in a real court case. The moot is based on a set of facts, the moot problem, that is provided to the students. Moot problems are characteristically set in an area of law that leave room for arguments that could involve grounds of appeal, argued by each side.

Mooting helps in the overall development of an individual and facilitates understanding of law by giving students insight into what to expect if they enter the legal profession. Thus it establishes a baseline for the students’ transition into the workplace. It involves more than arguing a point of view, but also demonstrating an understanding of the relevant law and the ability to apply it practically.

Mooting—also referred to as mock trials—includes teams preparing written arguments that are exchanged between them as well as oral argument before a judge. The judge is usually an academic or official in the legal profession. The moot normally

does not carry its own credit, but is linked to other modules in the specific program. At Akademia, the moot forms part of the Introduction to Law module. Mooting enables students to participate in and think profoundly about interesting and newsworthy legal issues; to enhance their advocacy, research and writing skills; and to work closely with and learn from their peers.

Mooting delivers a holistic approach to learning law that can be implemented beginning with the very first year of studies. The pedagogies in this approach help to develop imagination, thinking out of the box, practical applications, creativity, and even the spirituality of students. Such a holistic approach also encourages students to draw the connection between procedural and material law, therefore developing psychological, social, and emotional growth.

While the development of credible and worthy arguments in response to the issues raised in a moot problem is usually an intellectual exercise, it could include all the domains of human mental activity, especially when concluding the proceedings in an environment that encourages student interaction.

### **Innovative Teaching Methods**

Some argue that mooting takes place too early in some law degrees, when students' necessary skills have not developed sufficiently to enable them to handle the complexity of moot court. Mooting should not only focus on skill development or summative assessment, and rather make use of it as part of the learning process and include formative feedback. Implementing moot court in the first-year module instills attributes such as oral advocacy skills in a student and the ability to work collaboratively.

Summative assessment is used to evaluate student learning at the end of a module by comparing it against standard or benchmark. Summative assessments normally have a high point value. Formative assessment is generally focused to monitoring a student learning by providing feedback that can be used by students to improve their learning, as well as lecturers to modify their way of teaching.

The model on which Akademia is based, together with the use of cutting-edge and sophisticated technological systems, enables students from different geographical areas, cultural and economic backgrounds to come together and facilitate cooperation generally limited by distance. Due to Akademia's unique configuration and the approach of the law lecturers, most of the associated challenges of mootng can be significantly minimized.

Student at the first-year level who sign up for the Introduction to Law module receive a statement of stipulated facts. As mentioned above, the stipulated facts will be grounded in problems that can be argued by each side. These problems are generally derived from newsworthy a events in the country (in our specific instance, South Africa). The statement of stipulated facts is the basis for moot court and students' starting point. Furthermore, claims, defenses and relief requested will also be made available to students to enable them to prepare for the mock trial, as well as draft the necessary legal documentations.

The first-year students are then divided into two groups. The lecturer, taking into account the students' prior course record, makes the group assignments, with an eye to encouraging learning and providing students with the opportunity to motivate each other. Each member of a group will then be assigned a specific role in the moot trial, e.g. plaintiff, defendant or witnesses. Each role is based on the stipulated facts and every

person receive their own individual set of facts in the form of statements from the numerous parties involved.

All other students who take part in the mock trial will receive access to the same information to enable them to successfully prepare for moot court. The related statutes applicable to the stipulated facts, the relief requested by the parties in the mock trial, and instructions and guidelines for the assignment and assessment criteria are all uploaded onto Moodle.

These instructions and guidelines generally offer a basic outline of what is expected of the students, including the structure and sequence of the mock trial. Hence a student will receive guidance with regards to order of the parties' oral arguments, etiquette and style, and other important information that will be valuable for a law student in practice, should they continue on that road in the future.

Students are provided ongoing support in preparation for the moot, including drafting documents and public speaking skills. The preparation, delivery of the moot court, and feedback take place on Moodle asynchronously and also by use of the technological system synchronically in each study center around the country. During a prescheduled contact session, students have the opportunity to perform various roles in the moot court for which marks are awarded, based on the rubric provided to students. Students communicate by way of a broadcast system that links the various centers across the country.

The lecturer, her-/ himself, will be present in one of the centers situated around the country to stand in for a specific role if the student to whom the role is assigned does not show up. This guarantees that the proceedings can continue without any hindrance. Students who are now in their second and third year of studies, and who have completed the moot court assignment in the Introduction to Law module, show significant

confidence in answering questions over the system and expressing themselves in an appropriate manner.

### **Assessment**

Each student receives the assessment criteria ahead of time, together with their assigned role, and access to the general information in the specific module. A rubric is not only there to guide and support the student to complete the moot court assignment successfully and to the best of their abilities, but also to be used as the assessment criteria by the external evaluator. Thus students can grasp the concept of unacceptable, acceptable and excellent work in each category of the moot court proceedings.

Over the course of the year students make use of the opportunity to draft the required heads of argument and send it to the lecturer for general feedback. The feedback will be in the form of constructive criticism, if needed, so as to guide the student in the right direction. Uploading the draft versions of the documents will also be scored as continuous assessment and contribute to a final module mark. Students are also given the opportunity for peer review. Peer review in this instance refers to the critical analysis of each other's work, based on the fact that students in the same subjects, and mostly the same academic level, ideally can offer valuable confirmation of faculty judgments. Peer review is closely monitored by the lecturer, so to ensure that no student will be denied fair and reasonable prospect to learn from the experience and develop skills.

Furthermore, students are encouraged to provide feedback to the lecturer. This feedback, by way of questionnaires, open conversations and interaction in the face-to-face sessions, provides the lecturer with input to develop the mooting criteria and ensure that the student work stays relevant. This makes their learning more



appropriate, natural, and engaging. The moot court is evaluated by external evaluators from inside the studio.

As noted above, the mark allocation is based on a rubric that has been made available to students in advance. Quantitative and cumulative information is collected from the moot court assignment. The external evaluators take into account the academic level of the students, the role assigned to the individual student, as well as collaboration within the group arguing for one of the opposing sides. Feedback during the proceedings and after completion of the assignment will be provided by the external evaluators to guide and encourage students for similar tasks in further years of studies.

## **Conclusion**

Akademia is unique, not only in the teaching and learning methods and advanced technological systems its education method is based upon, but also in the way the lecturers convey the learning material and content to the students. Moot court, like any practical application of learning material, helps to ensure a student a successful career in the field of law and commerce. Mooting delivers a holistic approach to learning law that should be implemented in different years of studies, and not be limited to the narrow definition of capstone modules. This holistic approach encourages students to draw the connection between procedural and material law.

Using moot court as an innovative teaching method to bridge the gap of transition for first-year students can furthermore be expanded to open the way for blended teaching and learning interactions to be established and implemented from the first year of studies, up until the day a student starts contributing to the greater community.

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