

## *What is Undergraduate Moot Court*

---

— by Dr. Charles R. Knerr (Professor, Political Science, UT Arlington)

**Moot Court** – a simulation of an appellate court proceeding—is also known as mock Supreme Court and Supreme Court. Moot Court involves teams of student-contestants, clients burdened by a legal problem, briefs and oratory detailing the dimensions of the problem before an appellate court, and the judging of performances by panels of students, attorneys, law faculty, or, occasionally, members of the judicial branch of government.

Moot court is used as an educational tool around the world. Moot court tournaments are currently organized in the United States, Great Britain, in Canada, in Australia, in New Zealand, and in a number of other countries. Moot court has apparently been used for legal training for hundreds of years, with origins in medieval England.

In the United States, moot court is almost universally required in the J.D. (Juris Doctorate) law school programs. Over the years, a number of undergraduate moot court activities have been developed in American colleges and universities. To improve the quality of undergraduate moot court activities, the American Collegiate Moot Court Association was established in 2000. Two forms of undergraduate moot court are frequently found in American colleges: scholastic moot court—in which students of a single class, such as Constitutional, International, or Business Law, or a Communications/Speech class (among other academic disciplines) are required to participate as a condition of successfully completing that class; the second form is the moot court tournament, in which teams of undergraduate students voluntarily compete for trophies or other personal rewards.

**Scholastic simulations:** Variation can be noted among the various scholastic moot courts examined through the acquisition of cases through electronic and snail mail exchanges with instructors. The first point of variation is the academic discipline of the majority of simulations are operated by Political Science faculty, followed by Speech/Communications professors and Law faculty. Other academic disciplines identified include: history, economics, psychology, sociology, education, criminal justice, and geology. The majority of faculty organizing scholastic moots require the students to perform either the role of attorney or judge. Some professors give each student a choice of roles; other faculty simply make assignments. A few faculty create additional simulation roles: law clerks, reporters or amicus brief writers. Some faculty invite local attorneys or local judges to serve as judges for their scholastic moots.

Another variation is the requirement regarding written briefs and oral argument: many faculty require both, while some require only oratory. Variation can also be noted in regard to the case: some faculty using scholastic moots develop fictitious problems based upon a case currently pending before the Supreme Court, while yet other faculty prefer a case already decided by an appellate court. A few faculty, such as Tom Hensley of Kent State University, allow the students to choose which case currently pending before the Supreme Court to simulate in the classroom. The percentage of each student's grade determined by scholastic moot court participation also varies, from 5% to 50% of the final grade.

**Tournaments:** More than a dozen campus-wide, statewide, or regional undergraduate tournaments are known to be held annually across the U.S.: several in California, and in Indiana, Illinois, Mississippi, North Carolina, Ohio, Oklahoma, and Texas. Undergraduate moots, in which undergraduate students sometimes serve as judges, or attorneys, clerks or even reporters, in the tournament. In a moot court the only role for contestants is as an attorney. Although most require two student teams, in one—the Oklahoma tournament—single contestants compete. And although several tournaments require both briefs and oral argument, others require only one or the other.

Texas statewide tournaments require only oratory.

Variation can also be noted in regard to the case: several tournaments use a case actually pending before the Supreme Court, while others rely upon a moot or fictitious case. An additional point of variation is whether the case is "open" to outside research or is limited to the cases cited in the tournament problem. The Oklahoma and Illinois statewide tournaments, for example, concern a single case, while the Texas statewide tournament is a short paragraph. Contestants then must research this "open" problem and identify supporting cases. In Texas, the tournament is "closed" ("self-contained"): only the moot case and certain specifically cited cases may be relied upon by contestants; no outside research is required.

Variation can be noted in regard to judging: some tournaments rely upon local attorneys and sitting judges, while others rely upon law students and faculty. For example, Ken Salter of San Jose State University and Dan Cameron of Cal State Chico invite judges to return to their campuses to judge moot court competitions. Law schools host the Texas and Ohio tournaments; preliminary rounds are judged by second and third year law students, while the final round is judged by law faculty.

Undergraduate tournaments also vary in regard to length and structure. Two of the tournaments—in Illinois and Oklahoma—are a larger simulation of state government organized and operated by students without significant faculty input; hearings before the Supreme Court (populated by law students) are conducted over three or four days. In Texas, tournaments begin on a Friday during which two preliminary rounds are conducted and resume early Saturday and conclude by shortly after noon (elimination rounds). The Ohio regional tournament—known as the Seiberling Competition and hosted by the University of Akron Law School—begins on Saturday—two elimination rounds in the morning followed by a final round of the two best performing teams in the afternoon.

**Benefits and Costs:** Benefits believed to be attributable to participation in moot court include: improved communication and writing skills, critical thinking abilities under duress, improved legal research and writing skills, enhanced self-confidence and poise, and enhanced relationships with alumni, and for those students performing well enough to enjoy one or more tournament trophies, enhanced acceptance into law school. A large number report participating in moot court is "fun," one of the most enjoyable activities of the undergraduate experience. Success in moot court tournaments and are being used by some faculty and colleges as a recruiting tool to attract students to a college and to a particular major.

In the opinion of the author, one of the greatest benefits of undergraduate moot court is practical preparation for law school. Legal education relies principally upon the Socratic method of instruction: law students are required to arise upon demand to state facts of a case or to expound upon a legal doctrine while under the duress of probing inquiries of the law faculty. And in not all, law schools require moot court. Undergraduate moot court thus prepares students for both the law school classroom and the law school moot court.

Not all moot court participants are law school bound. A recent examination of post-baccalaureate information pertaining to two dozen University of Texas at Arlington participants over the past three years reveals only about half desired and went to law school after graduation; many of the other half were admitted to graduate school, and a few entered the world of work. Then, the benefits extend to graduate work and the real world.

Of course, certain costs are a burden to students: time and energies to prepare for a moot court is a major cost. The cost of lodging for the tournament's duration is another burden, along with lost income for those students gainfully employed during the tournament.

Faculty also can be burdened with certain costs: classroom time devoted to staging a simulation; preparation time outside the classroom for those faculty attending tournaments, travel costs. Some colleges support student and faculty travel costs. Other colleges do not.

alumni or the local community. To the enthusiasts of undergraduate moot court, the various benefits clearly outweigh

For further information regarding any aspect of American undergraduate moot court—scholastic moots, tournaments, conference panels devoted to this topic, a listing of available videos, or a selected bibliography on the topic, contact: Department of Political Science, the University of Texas at Arlington, 76019, 817-272-3985 or [crknerr@aol.com](mailto:crknerr@aol.com)