



**RULES AND GUIDELINES
FOR SYARIAH MOOT**

MOOT MOCK, PLACEMENT (LAA 3064)

**FACULTY SYARIAH AND LAW
ISLAMIC UNIVERSITY COLLEGE OF
MALAYSIA**

1. Introductions

A moot is one of the components required for subject Moot, mock and Placement (LAA 3064) which is compulsory to all undergraduate students of Syariah and Judiciary. It is actually a very effective mode of learning in legal education. It provides an opportunity to the students to argue and to cite authorities based on law with correct and proper manner. Mooting is only concern with a point of law and not of fact and therefore there are no witnesses to convince. In Faculty Syariah and law, mooting will be conducted based on Syariah Court practice. It is hoped that the moot practice may assist the student to improve their legal skills and knowledge.

2. Conduct of the moot.

Briefly, mooting will be conducted as below:-

When everything is already the court clerk will announce that the judge is ready to enter the courtroom. All persons in court should stand. The judge will enter and bow. Each counsel should bow to the judge. The judge will then sit down. The court clerk then will announce that the court is sitting and read the name of the case.

Counsel for the appellant should introduce him or herself, and all the other participants. For example "May it please your Yang Arif, my name is Mr. Safar bin Rejab and, together with my Learned Counsel.... I appear for the appellant. My learned friend Mr Muharam bin Syawal appears for the respondents."

The appellant will then proceed with the case. Here, the appellant counsel should state the grounds of appeal and cite all relevant authorities. When the appellant finishes his submission, the judge will hear the respondent submission. Then if it is necessary the appellant or respondent may reply to the submission of the opposing parties. It is good to end the submission with " may it please Yang Arif, that is the case for the appellant/ the respondent".

The judge then will give a decision based on law and provide comments.

2. Speaking

It is a common mistake to read too quickly from a prepared brief. Make submissions, by describing the basis of your legal argument, and introduce points in support briefly, showing how each in turn supports your submission. Look at the judge; you can often tell if your arguments are going well, and if not, you may need to add more explanation. Deal with the authorities on the other side's list.

Avoid saying “ I think or in my opinion”. Use words “I submit or it is my contention”. If the judge disagreeing with you use words “ With respect, Yang Arif, the thrust of my argument is that...”.

3. Court Etiquette

Mooting is modeled on court procedure. Moots are usually appeal hearings before the Court of Appeal. Address the judge directly as: "Yang Arif". Your fellow counsel is "My learned counsel". Your opponents are: "My learned friends". When referring to real judges by name make sure you get their names correct. For example “Datuk or Dato’.

4. Preparation

The moot sheet will state the facts, which must be accepted. You cannot argue that findings of fact in the lower court were wrong. A moot is an argument on points of law only. The moot sheet will also state the grounds of appeal. You are bound by them, even though you may feel you could have drafted them better. What submissions you are able to make may depend on the case.

a) Documents and authorities

Bundle of documents and authorities will identify the day on which arguments and lists of authorities have to be exchanged. The documents will support your contention and authorities will strengthen your case. It should cite the main authorities relied upon.

b) Exchange of documents and authorities

Teams are required to provide documents and authorities for their opponents and the judge in advance of the moot on the date specified.

c) Providing authorities for the court

Mooters are responsible for following the Court's procedures. Bundle of documents and authorities should be prepared in good and in order to enable the judge to find the authorities and documents easily. Failure to comply with this rule will affect your submission.

5. Answering Question

When you are interrupted and questioned by the judge - as you will be - listen carefully to the question, and attempt to provide the most effective answer you can. This is so even if you were about to come to that point in your argument later.

With permission of the judge, you may consult your learned counsel. If you have no answer, don't flannel. Admit the strength of the objection, and thank the judge for making it: "I'm obliged to Yang Arif". Either move on, or bring your submissions to a close.

6. Use Of Authorities

In citing al-Quran, you must identify which surah, verse and tafsir that you refer. In citing al-hadith you have to mention its reference. Highlight the important points.

When citing authority, you must identify the court deciding the case, and its relative authority in the moot court (binding or persuasive). If you are quoting from a judgment, say whether it forms part of the *ratio decidendi* of the case or is *obiter dicta*. Make sure you know which judges, if any, dissented. Incomplete quotation, especially if it distorts the judge's reasoning, will result in deduction of marks. If you want to cite the words of a judge you must cite the case in which those words were reported, not a later one where those words may have been quoted by another judge.

Where relevant, you should cite statutes, and other authorities e.g. text books, Malaysian Legal System, written by Prof Ahmad Ibrahim page 8 or Minhaj al-Talibin written by Al-Nawawi page 9. Only recognized references will be acceptable.

Cite the most authoritative report. Prefer reports produced by Jurnal Hukm, MLJ and CLJ. Referring to a report in a speech. What in writing would be *Pendakwa Syarie v. Agus Sali* [2005] 1 JH 16 in speech becomes: "In the case of the *Pendakwa Syarie* and Agus Sali reported in the first volume of the Jurnal Hukm for two thousand five at page sixteen". Note you say 'and', although you write 'v'. In speech, a criminal case on indictment is either: "In PP against Amri ". You never say 'v' or 'versus' or 'R', or 'Reg' or 'Regina'.

Citing electronic reports. Subject to what is said above about selecting the best authorities, there is no rule excluding cases reported only electronically. "In the case of the *Pendakwa Syarie* and Agus Sali reported in the first volume of the Jurnal Hukm for two thousand five ". Pinpoint references are to paragraph numbers.

RULES OF THE SYARIAH MOOT

1. The moot problem will be handed out to the participating teams at least seven days before the moot.
2. Each team may use only recognized authorities. For example reference made to syiah's view will be extremely rejected.
3. Each team must prepare bundle of documents and authorities (including documents, references to al-Quran, al-hadith, articles, statutes, textbooks to be used).
4. Students are required to prepare written submissions and submit it to the judge after the mooting.
5. Each student will be allowed 5-7 minutes to present his or her arguments (Total of 30-35 minutes per team). In addition, representative for the appellant or respondent will be allowed a 3-5 minutes right to reply if he or she wishes.
6. On the day of the mooting, each team will be responsible for his own authorities. They must follow the standard procedure and must provide the judge and the opposition bundle of documents and authorities on the date of the mooting.
7. Court dress must be worn during each contest by the participating teams. Rob can be taken before 10 minutes of the moot. Male counsel must wear black songkok and female counsel shall wear a white scarf.
8. The competition is based as far as possible and as time will allow on a points system. Points are awarded for presentation and clarity of argument, ability to answer questions, use of authorities and courtroom manner.
9. The moot are open to interested viewers but the court's rules have to be followed.
10. All moots are to be held in the moot court located at ground floor of Faculty Syariah and Law, KUIM.
11. Any student who is unable to attend at the time specified should advise the judge at the earliest possible time. Otherwise no mark will be given. The judge reserves the right to penalize the latecomers at his discretion.
12. Any of the above rules may be amended at any time at the discretion of the judge of Moot.