Memoir: Moot court through my lens

By:

Mishael Wambua

April 24, 2020

“Good afternoon members of the Panel. My name is Mishael Wambua and together with my two colleagues, Maleehah Khandwalla and Catherine Penda, we represent the Respondent in this matter, the Government of Zycron.”

About a year ago Strathmore University (Nairobi, Kenya) came into the limelight as having won the 17th edition of the John H. Jackson (JHJ) Moot. This win was particularly remarkable because not only was it the first time an African team had made it to the advanced rounds of the Final Oral Round (in Geneva, Switzerland) but also, the team was arguably composed of the youngest legal minds in the room. In Kenya, law is offered as an undergraduate degree and by the time of participating in the moot only Catherine was in her fourth year. Maleehah and I were in our third year. It is almost a year later and people still ask, how did you get on the team? What lessons did you learn along the way? What was the experience like? What did you get after the moot?

When I joined Strathmore, I thought moot court was about how well one could speak. For four years while in high-school I trained on how to speak with the debate club. You can imagine my disappointment when I failed an internal moot competition in my first year that was meant to select students to represent the university in national and international competitions. That, however, served as my first lesson. Moot court is **not** a debate, and it is not just about how well you speak. There is actually a 'formula' to moot courts, and how you speak is just a 'field'. If you are reading this, however, I am certain you already know what a moot court is. You know that a moot court is a simulation of court proceedings that requires analytical skills to research on a legal problem that is not settled or that is subject to recent developments; write submissions on it, and make oral argumentation both in favour and against a position. You know that the level of skill and research applied in a moot cannot compare to a high-school debate.

Out of the thirst I had to moot, I sought in-depth feedback on what I could do to improve my chances of representing Strathmore. I learnt a lot. From when to pause while speaking, how to vary my tone, how not to display my emotion even when I am drop-dead clueless of what the adjudicator is asking, how tactful an occasional smile can be, how powerful spontaneous humor can be or even when to concede. Verbal and non-verbal cues were not all that I learnt. I learnt, how to conduct my legal research and write submissions. How to focus my research not only to the specific issue at hand but also, to the wider area of law in order to fully understand and appreciate narrow, specific issues.

I applied to represent the university, and I failed yet again (clearly, I was not ready). I sought feedback once more. The feedback gave me my third lesson. Practice, practice, practice. I learnt how to make oral submissions in front of a mirror at midnight. I even began talking to my six-year-old niece about my fictional case – because if you cannot explain it to a six-year-old, then you don't understand it yourself!

Eventually, I managed to represent Strathmore in two major moot courts - the JHJ moot and the Foreign Direct Investment (FDI) Moot.

Saturday 8th June 2019. The team is seated in room W of the World Trade

Organisation. We are about to represent the Government of Zycron in a trade dispute. Sitting there is against all possible odds you could imagine. We are the first African team to have made it to the advanced rounds of this moot. We are also the first African team to have made it to the Grand Finale. The team we are up against? Well, we are up against Harvard. One of the biggest challenges the team had to surmount in this journey was resources. By resources, I mean financial, academic and technical resources. Unfortunately, to participate in many international competitions, students require financial resources to secure their participation, meals, accommodation, and travel. Universities in Africa are cash-strapped. They have the untenable position of trying to allocate resources to expand their research, employ qualified staff at competitive rates and of course, maintain operational expenses efficiently among other things. With this, it is almost impossible for universities to fully support moot court teams especially those that participate in international moot courts that are not fully sponsored by the organisers. Students have to fund-raise from law firms and well-wishers. This reduces the time taken to actually prepare for the moot as a good amount of time is spent drafting funding proposals and chasing after sponsorship. Even where sponsorship has been secured, students face a further hurdle in terms of their research. Some essential research websites require subscription fees which African students and their universities may not be able to afford. This effectively hampers quality research necessary to secure successful competition. That notwithstanding, coaching is a problem given inadequate expertise or time of the coaches tasked with preparing students for some of the international competitions.

In our case, we had to draft funding proposals to secure participation in some of the international moot court competitions we have participated in. We got turned down (sometimes politely, other times rudely) by potential sponsors. Each rejection, however, gave us impetus to search even harder. We were fortunate to have received financial support from law firms such as Iseme, Kamau and Maema (IKM) Advocates as well as companies such as Housing Finance (HF) Group. As for academic support, we were fortunate to interact with students who study at universities that have access to some of the best online databases. These students served as our academic resource persons as they would readily download and share with us any research material we needed. As regards technical resources, I must admit the Advisory Centre on

WTO Law (ACWL) and in particular Christian Vidal was very instrumental in training the team and Kholofelo Kugler for her support. IKM was also instrumental particularly for the FDI moot.

In sum, I would say that as a team our moot experience has been shaped by perseverance, thirst, research, practice, and teamwork. Any African students who learn from our lessons can become phenomenal! Collectively, we qualified for a half-paid Georgetown University Master's scholarship, and a full scholarship for a summer or winter programme at the World Trade Institute (WTI). I also qualified for a full Master's scholarship at the WTI. Maleehah and I were also awarded internships at TRALAC and TUTWA (South Africa) respectively.

What can I say? It was a thrill – we won. I may not know the thrill of appearing in court on behalf of a real government, but, bliss 'twas to seat in Room W and say the words, '…*we represent the Respondent in this matter, the Government of Zycron.'*

View online: Memoir: Moot court through my lens

Provided by Afronomicslaw