

**BUILDING CROSS-CULTURAL TRIAL ADVOCACY  
SKILLS THROUGH STRUCTURED MENTORING AND  
CO-MENTORING: A CASE STUDY WITH GLOBAL  
IMPLICATIONS**

**Christopher W. Behan<sup>†</sup>**

ABSTRACT .....	402
INTRODUCTION .....	403
I. BACKGROUND AND CHALLENGES .....	405
A. <i>Impetus for the Competition</i> .....	405
B. <i>Similarities and Differences in Courtroom Advocacy Styles         and Legal Education Systems Courtroom Advocacy         Styles</i> .....	405
1. <i>Structural and Procedural Similarities in Common Law             Adversary Trials</i> .....	406
2. <i>No Juries in Kenya</i> .....	408
3. <i>Opening Statements</i> .....	409
4. <i>Witness Examinations</i> .....	410
5. <i>Closing Arguments</i> .....	411
6. <i>Legal Education Systems</i> .....	412
7. <i>American Legal Education and Professional             Licensing</i> .....	412
8. <i>Kenyan Legal Education and Professional Licensing</i> ..	414
9. <i>Bringing Everyone Together</i> .....	415
II. MENTORS AND CO-MENTORS IN A CROSS-CULTURAL SETTING .....	416
A. <i>Mentoring Essentials</i> .....	416

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<sup>†</sup> Professor of Law, Southern Illinois University Simmons Law School. J.D., *magna cum laude*, Brigham Young University J. Reuben Clark Law School; L.L.M., *Commandant's List*, The Judge Advocate General's School of the Army. The Author thanks Matthew Ellefson (Southern Illinois University Simmons Law School Class of 2025) and Christian Carvalho (Class of 2027) for research assistance on this Article and Valery C. Behan, Associate Professor of Practice, SIU Simmons Law School (J.D., *magna cum laude*, J. Reuben Clark Law School) for patience, moral support, and editing assistance.

B. <i>Cross-Cultural Mentoring</i> .....	418
C. <i>Web-Based Technology as a Multiplier in Cross-Cultural Mentoring</i> .....	421
D. <i>Designing Effective Online Mentoring and Co-Mentoring Structures</i> .....	422
III. THE COMPETITION AS CASE STUDY .....	424
A. <i>Pedagogical Preparation</i> .....	424
1. <i>The Basic Tenets of Trial Advocacy Skills Common to Both Countries</i> .....	425
2. <i>Specialized Instruction on the Kenyan Criminal Laws Upon Which the Competition Was Based</i> .....	426
3. <i>Cultural Competency Instruction</i> .....	427
B. <i>Team Composition Including Mentors and Co-Mentors</i> .....	428
1. <i>Culturally and Experientially Balanced Teams</i> .....	428
2. <i>An Expert Kenyan Mentor-Coach for Each Team</i> .....	428
3. <i>Structured Expectations and Communication Protocols for Each Team</i> .....	429
C. <i>Evaluating the Competition</i> .....	430
CONCLUSION.....	432
APPENDIX .....	433

#### ABSTRACT

In March 2024, a pioneering mock trial competition in Mombasa, Kenya, brought together students from Southern Illinois University Simmons Law School and the University of Nairobi School of Law. The competition featured hybrid teams, each comprising an equal mix of Kenyan and American students, collaborating across borders to try a criminal case under Kenyan law and procedure. The competition case file focused on charges of defilement (statutory rape) and sexual assault, addressing the prevalence of gender-based sexual violence in both countries.

The experiment proved highly successful, with students acquiring essential skills and knowledge in comparative criminal law, trial

advocacy, and Kenyan criminal procedure. Professor-conducted formal instruction laid a foundation, but the competition's success came from carefully constructed mentoring and co-mentoring relationships. Kenyan volunteer attorney-coaches played a crucial role as professional mentors in guiding their mixed-nation teams to success. Notably, the competition also fostered a culture of collaborative mentoring (co-mentoring) among teammates, with students learning from and teaching each other based on their unique strengths and backgrounds.

The Article focuses on how structured mentoring by expert trial advocacy teachers and coaches, combined with internal team peer co-mentoring, prepares students to build legal skills while enhancing their cultural competence. As the legal landscape becomes increasingly globalized, such collaborative initiatives offer a promising model for preparing the next generation of lawyers to navigate complex, cross-border challenges with skill and sensitivity.

#### INTRODUCTION

In March 2024, a pioneering mock trial competition in Mombasa, Kenya, brought together students from the Southern Illinois University School of Law and the University of Nairobi Faculty of Law to prepare for and try a criminal case under Kenyan law and procedure. Rather than pitting students against each other based on university affiliation or national identity, the competition featured cross-cultural hybrid teams, each comprising a roughly equal mix of Kenyan and American students.

Drawing on literature from international business skills competitions, as well as previous experiments with hybrid legal advocacy teams in domestic American competitions, the organizers hypothesized that cross-cultural hybrid teams would enhance participants' cultural awareness and provide valuable experiential learning opportunities. Thirty-two students—eighteen Kenyans from the three University of Nairobi Faculty of Law campuses,<sup>1</sup> and fourteen Americans from SIU—were formed into eight hybrid teams, as evenly divided between Kenyans and Americans as possible. Organizers developed a multi-week joint online training program covering foundational trial skills, specialized instruction on Kenyan substantive criminal law and procedure, and cultural competency training. Professors and

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1. The University of Nairobi Faculty of Law offers classes at three different campuses: Parklands (in Nairobi), Kisumu, and Mombasa. *See Faculty of Law, UNIV. OF NAIROBI FAC. OF L.*, <https://law.uonbi.ac.ke/> (on file with Syracuse Law Review) (last visited Oct. 24, 2025).

attorneys from both countries provided online joint coaching and mentoring to support the teams. Each hybrid team was also assigned a Kenyan attorney as a coach and mentor.

To prepare for the competition, students held virtual meetings with their teammates and coaches across continents and time zones, conducting case analysis, developing trial strategies, apportioning trial responsibilities, and practicing. Organizers established formal mentoring structures and reporting protocols for training and accountability purposes. All training, mentoring, and co-mentoring took place using readily available online communication platforms, including Microsoft Teams, Google Docs, and WhatsApp.

The students met in person for the first time in the Indian Ocean coastal city of Mombasa, the day before the competition, to finalize case preparation and presentation strategies. Kenyan and American attorneys judged and scored the preliminary competition rounds. A Kenyan magistrate judge presided over the final round, which was held in the Mombasa Courts building near Mombasa's historic Old Town district.

The experiment proved highly successful, with students acquiring essential skills and knowledge in comparative substantive criminal law, trial advocacy techniques, and Kenyan criminal procedure. The competition's success came from carefully constructed mentoring and co-mentoring relationships. Kenyan volunteer attorney-coaches played a crucial role as professional mentors in guiding their mixed-nationality teams to success. Notably, the competition also fostered a culture of collaborative mentoring (co-mentoring) among teammates, with students learning from and teaching each other based on their unique strengths and backgrounds.

This Article analyzes the role of structured mentoring and co-mentoring in preparing hybrid advocacy competition teams to build experiential legal skills and enhance students' cultural competency. As the legal landscape becomes increasingly globalized, such collaborative initiatives offer a promising model for preparing the next generation of lawyers to navigate complex, cross-border challenges with skill and sensitivity.

The Article is organized as follows: Part I provides background on the competition, including the challenges posed by forming cross-cultural hybrid student teams from different legal and legal education systems. Part II introduces the theoretical foundation for formal mentoring and co-mentoring structures in a cross-cultural environment. Part III uses the competition as a case study to analyze the strengths and weaknesses of the structures developed by competition

organizers. It also discusses the implications of structured mentoring and co-mentoring opportunities in preparing law students for both domestic and cross-cultural hybrid team success in the workplace.

## I. BACKGROUND AND CHALLENGES

### *A. Impetus for the Competition*

In 2015, I served on the teaching faculty of a trial advocacy skills course for professional attorneys in Mombasa, Kenya. The course, taught by attorneys and judges from Kenya and the United States under the auspices of Justice Advocacy Africa,<sup>2</sup> included a few law students from the University of Nairobi Faculty of Law, Mombasa Campus (UONM). Despite their lack of experience—none of them had taken a formal trial advocacy course in law school—these students performed well and held their own against the practicing attorneys in the class. I was impressed by their diligence and willingness to learn new skills in a challenging environment. I immediately thought my students would enjoy not only working with these Kenyan students but also learning more about Kenya’s culture and legal system.

I met with Frederic Oduor, my counterpart at UONM. We discussed possible collaborations that could bring our students together for a unique course teaching universal trial skills techniques applicable to both legal systems. As we both recognized, our primary obstacles would include time, distance, and financial resources: each of our home institutions was a cash-strapped public university, and we were separated by seven time zones and nearly 8,500 miles.

We also knew there would be challenges posed by differences between the Kenyan and American legal and legal education. Nonetheless, it was fun to share the dream, and we both agreed it was a great idea if we could ever muster the resources and institutional support to make it work.

### *B. Similarities and Differences in Courtroom Advocacy Styles and Legal Education Systems Courtroom Advocacy Styles*

Winston Churchill is widely reputed to have quipped that England and the United States were “two nations divided by a common language.”<sup>3</sup> Keeping this witticism in mind, and recognizing that both

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2. See JUST. ADVOC. AFR., <https://www.justiceadvocacyafrica.com/> (on file with Syracuse Law Review) (last visited Oct. 24, 2025).

3. See Patricia T. O’Connor & Stewart Kellerman, *First Chapter: Origins of the Specious*, N.Y. TIMES (May 24, 2009),

countries were once British colonies, we didn't want our Kenyan and American students to experience friction as two nations divided by different approaches to common law. We felt it was critical not to assume that the shared ancestry of our legal systems meant everyone was operating with an identical frame of reference when it came to matters of trial procedure and advocacy norms. We believed it was important to minimize situations in which our students would find themselves figuratively divided by different cultural constructs of what to say and how to present themselves in the courtroom.

*1. Structural and Procedural Similarities in Common Law Adversary Trials*

The legal systems of Kenya and the United States have a shared ancestor in the British common law system. In the United States, the colonies inherited English common law prior to independence and kept it afterwards, as modified to reflect conditions in America.<sup>4</sup> Kenya, as a former British colony, also inherited the common law

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<https://www.nytimes.com/2009/05/24/books/chapter-origins-of-the-specious.html> (excerpting first chapter of the authors' book *Origin of the Specious*) (on file with Syracuse Law Review). As it happens, he himself didn't use that exact phrase, which originated with either George Bernard Shaw or Oscar Wilde. Rather, the phrase was attributed to him after he shared an anecdote in his book *The Second World War* about an incident in which American and British leaders held different views about what it meant to "table" an urgent matter both sides wanted to discuss: when the British suggested tabling the matter, they meant to bring it to the table for discussion, consistent with British usage of the term; but when the Americans heard the suggestion, they thought the British were proposing to put it aside for another time, consistent with American usage of the term. Both connotations of the term existed in the original eighteenth-century phrase "to lay on the table," which "could mean either to bring up or to defer." British usage had preserved one of the meanings, and American usage the other. Churchill wrote that the parties engaged in a long and "even acrimonious argument . . . before both parties realised [sic] that they were agreed on the merits and wanted the same thing." *Id.*

4. See Richard C. Dale, *The Adoption of the Common Law by the American Colonies*, 30 U. PA. L. REV. 553, 553-54 (1882) (containing multiple examples demonstrating how American states both followed and departed from English common law); William B. Stoebuck, *Reception of English Common Law in the American Colonies*, 10 WM. & MARY L. REV. 393, 424 (1968) (noting that early state courts would depart from English common law "if judged not compatible with conditions in America or 'unreasonable,' or, quite possibly, for no stated reason.") (internal citations omitted).

system.<sup>5</sup> Following independence in 1963, Kenya retained the common law system while also developing its own Constitution and laws.<sup>6</sup>

Trial procedures in Kenya and the United States share enough similarities to make cross-cultural collaboration feasible. Both systems are adversarial, rather than inquisitorial, placing the primary responsibility for case investigation and presentation on the opposing parties.<sup>7</sup> Procedural and evidentiary rules in both nations reflect their shared origins in British common law and would be broadly familiar to trained lawyers from either country.<sup>8</sup> Trials include pretrial matters such as motions, opening statements, direct and cross-examinations of witnesses, and closing arguments.<sup>9</sup> However, as one might expect in

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5. See generally Eugene Cotran, *The Development and Reform of the Law in Kenya*, 27 J. AFR. L. 42 (1983) (tracing the introduction of British law, including common law, into the Kenyan legal system). See also Sandra F. Joireman, *The Evolution of the Common Law: Legal Development in Kenya and India*, 44 COMMONWEALTH & COMP. POL. 190, 200 (2006) (noting that British common law had been used to control the Kenyan native population prior to independence).

6. See Joireman, *supra* note 5, at 201 (observing that, after independence, “the courts and legal systems moved closer to English common law than they had been under British colonial rule”); Duncan M. Okubasu, *Common Law in Kenya* (Mar. 21, 2024), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4767362](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4767362) [<https://dx.doi.org/10.2139/ssrn.4767362>] (tracing the development of a unique Kenyan common law based on English common law but heavily influenced by Indian lawyers and judges and modified to fit the unique circumstances of Kenyan society).

7. An adversarial system is “one in which the parties to a dispute are pitted against one another in a relatively brief, oral contest with the expectation that competition between the two sides will reveal the truth.” Joireman, *supra* note 5, at 192. In contrast, an inquisitorial system features an investigating judge, or inquisitor, as the central figure who conducts a factual and legal investigation, aided by attorneys. See *McNeil v. Wisconsin*, 501 U.S. 171, 181 n.2 (1991). The inquisitorial trial “can be described as an investigation culminating in a series of sometimes discontinuous live proceedings, in which most of the evidence is gathered prior to trial in the form of affidavits and *ex parte* examinations of witnesses.” Christopher W. Behan, *Teaching Courtroom Advocacy Skills Across Systems and Cultures*, 46 S. ILL. U. L. J. 1, 3 (2021). Both the Kenyan and United States legal systems are primarily adversarial in nature. Compare Okubasu, *supra* note 6, at 116 (remarking that the Kenyan “justice system is essentially adversarial.”), with Patrick Robinson, *The Interaction of Legal Systems in the Work of the International Criminal Tribunal for the Former Yugoslavia*, 16 ILSA J. INT’L & COMPAR. L. 5, 7 (2009) (noting that the common law adversarial system is followed by the United Kingdom, Commonwealth countries, and the United States).

8. Compare generally FED. R. CIV. P., and FED. R. EVID., with The Civil Procedure Act (2022) Cap. 21 (Kenya), and The Evidence Act (2023) Cap. 80 (Kenya).

9. Compare 14A WASH. PRAC., CIV. P. § 30:3, *Order of events at trial—Jury trial* (3d ed.) (outlining the ordinary order of trial events in a jury trial in the American state of Washington), with The Civil Procedure Act (2022) Cap. 21, Ord. § 18 (Kenya) (containing an order of trial in which each party may “state his case” [opening], produce evidence by the oral testimony of witnesses, and then address the court

legal systems that developed independently of one another, there are differences in the style, structure, and conduct of trials.

## 2. *No Juries in Kenya*

One of the primary differences between the two systems is the absence of trial by jury in Kenya, a vestige of English common law that did not survive independence.<sup>10</sup> This is significant because the presence or absence of trial by jury affects presentation styles, advocacy norms, case preparation techniques, and even the training of law students and professional advocates.<sup>11</sup>

American law students and lawyers are generally taught advocacy techniques almost exclusively in the context of jury trials, with little or no instruction on the differences in persuasion techniques targeted at lay jurors rather than professional judges.<sup>12</sup> For example, American trial lawyers are often encouraged to focus on emotional storytelling techniques rather than strict appeals to logic and the law.<sup>13</sup>

One notable instance of the contrast among systems occurred during the defense closing argument in the championship round of the mock trial competition that is the subject of this Article. The defense

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at the conclusion of the case [closing]) (explanatory brackets added by author), and *The Evidence Act* (2023) Cap. 80 §§ 145–46 (Kenya) (defining examination-in-chief [direct examination], cross-examination, and re-examination and establishing the order of examinations) (explanatory brackets added by author).

10. See Daniel S. McConkie Jr., *Promoting and Reforming Kenya's Customary Justice Systems in Criminal Cases*, 38 EMORY INT'L L. REV. 343, 359 n.123 (2024) (“Kenya abolished the right to a jury trial after independence.”); Obi N.I. Ebbe, *World Factbook of Criminal Justice Systems - Kenya*, BUREAU OF JUST. STAT. (1993), <https://bjs.ojp.gov/content/pub/pdf/wfbcjsk.pdf> (on file with Syracuse Law Review) (last visited Oct. 24, 2025).

11. See generally Behan, *supra* note 7, nn.70–77 and accompanying text (discussing American exceptionalism in training advocates to try cases to a jury, using storytelling and psychological persuasion techniques appropriate for jurors but not necessarily judges or professional fact finders).

12. See John N. Sharifi, *Approaching the Bench: Trial Techniques for Defense Counsel in Criminal Bench Trials*, 28 AM. J. TRIAL ADVOC. 687, 687 (2005) (“Rarely, if ever, are trial advocacy techniques taught in the context of [American] bench trials. The conventional wisdom seems to be that good jury trial skills suffice in a bench trial, so there is no need for instruction tailored specifically for bench trials”) (explanatory brackets added by author); C.J. Williams, *Advocating Altering Advocacy Academics: A Proposal to Change the Pedagogical Approach to Legal Advocacy*, 25 SUFFOLK J. TRIAL & APP. ADVOC. 203, 215–16 (2020) (“[T]here has been little thought given to the difference between arguing to a jury . . . in comparison to arguing to a district judge.”).

13. For an excellent discussion of training lawyers to use storytelling and psychological persuasion techniques in their presentations, see generally Dana K. Cole, *Psychodrama and the Training of Trial Lawyers: Finding the Story*, 21 N. ILL. U.L. REV. 1 (2001).

attorney, an American, spoke movingly and eloquently to the Kenyan magistrate about the youth and inexperience of his client, who was on trial for sexual assault and defilement (statutory rape) of an alleged victim who was close in age to the defendant. He encouraged the judge to consider the impact on his client's life of being convicted of such serious offenses, including a lengthy prison term, the interruption of work and education, and societal disapproval. During a feedback session after the trial, the magistrate explained to the student attorney that his argument had been inappropriate for a Kenyan criminal trial because he had attempted to lay the burden of the defendant's future on the magistrate's shoulders. According to the magistrate, his job was simply to decide whether the prosecution had met its burden of proof at trial; the defendant, not the magistrate, would be responsible for any consequences of a conviction.

### 3. *Opening Statements*

Another difference between the two systems is the opening statements. Kenyan civil and criminal procedural rules permit opening statements,<sup>14</sup> but they are not yet universal; attorneys who wish to give opening statements may need to request leave of the court and explain the benefits of an opening statement.<sup>15</sup> In contrast, opening statements are an expected part of nearly all American trials, both bench and jury.

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14. See *The Civil Procedure Act* (2022) Cap. 21, Ord. 18 § 2 (Kenya) (containing an order of trial in which each party may “state his case” [opening], produce evidence by the oral testimony of witnesses, and then address the court at the conclusion of the case [closing]) (explanatory brackets added by author); *Criminal Procedure Code* Cap. 75 §§ 300, 307 (Kenya) (“The advocate for the prosecution shall open the case against the accused person, and shall call witnesses and adduce evidence in support of the charge”); “The accused person or his advocate may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution . . .”).

15. The use of opening statements at trial is becoming more prevalent in Kenyan courts. According to the Honorable Benjamin Njoroge of the High Court: The obvious benefit to [the] Bench is giving the fact finder a glimpse of the case on trial. The benefit to Counsel and the Court is keeping all parties focused on the issues at hand. It reduces the tendency to wander around before coming to the issues at hand. Judges and Attorneys are readily open to opening statements unlike in previous years. With the advent of virtual hearings in [K]enya and full disclosure by way of filing detailed statements and evidence, the opening statements are gaining traction. They set the mood for the trial.

WhatsApp conversation between Christopher W. Behan and the Honorable Benjamin Njoroge (Aug. 23, 2025) (on file with Syracuse Law Review).

#### 4. *Witness Examinations*

Trial practice in the two countries varies in procedures for witness examinations. Most trial testimony in American courtrooms is given live, in person, by witnesses.<sup>16</sup> Testimony in the form of affidavits or written declarations is disfavored by rules of procedure and evidence and is, consequently, rare.<sup>17</sup> Furthermore, direct examination of a witness at trial is nearly always conducted through non-leading questions that address one fact or subject at a time.<sup>18</sup>

Kenya's witness examination rules are similar, contemplating oral testimony from live witnesses in the courtroom.<sup>19</sup> As in the United States, leading questions are generally not permitted on direct examination (referred to as "examination-in-chief" in Kenyan practice).<sup>20</sup> In civil cases, judges have considerable discretion to accept affidavits in lieu of live testimony.<sup>21</sup> Parties may request the opportunity to cross-

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16. See Mary Margaret Chalk, *Zoom-ing Around the Rules: Courts' Treatment of Remote Trial Testimony in a Virtual World*, 27 STAN. TECH. L. REV. 180, 181 (2024) (asserting that the ceremony of trial and admonitions to present live testimony in the courtroom are ingrained features of the adversary trial system).

17. See FED. R. CIV. P. 43(a) ("At trial, the witnesses' testimony must be taken in open court unless a federal statute, the Federal Rules of Evidence, these rules, or other rules adopted by the Supreme Court provide otherwise."); see also FED. R. CRIM. P. 26 ("In every trial the testimony of witnesses must be taken in open court, unless otherwise provided by a statute or by rules adopted under 28 U.S.C. §§ 2072–2077."); see also FED. R. EVID. 801(c) (defining "hearsay" as a statement that "the declarant does not make while testifying at the current trial or hearing" and is offered for "the truth of the matter asserted . . ."); see also FED. R. EVID. 802 (generally prohibiting the use of hearsay at trial unless otherwise permitted by a federal statute, the Federal Rules of Evidence, or "other rules prescribed by the Supreme Court").

18. See, e.g., STEVEN LUBET & J.C. LORE, MODERN TRIAL ADVOCACY: ANALYSIS AND PRACTICE § 4.2.2, at 48 (5th ed. 2015) ("The principal rule on direct examination is that the attorney may not 'lead' the witness."); see also FED. R. EVID. 611(c) ("Leading questions should not be used on direct examination except as necessary to develop the witness's testimony.").

19. See The Civil Procedure Act (2022) Cap. 21, Ord. 18 § 3 (Kenya) ("The evidence of the witnesses in attendance shall be taken orally in open court in the presence of and under the personal direction and superintendence of the judge."); see also *The Criminal Procedure Code Act* (2023) Cap. 75 § 300 (Kenya) ("the advocate for the prosecution shall . . . call witnesses and adduce evidence in support of the charge"); see also §§ 307–08 (noting that the accused person may examine witnesses personally or through counsel and may call witnesses that have not previously appeared at the trial if the witness is in attendance).

20. See The Evidence Act (2023) Cap. 80 § 150 (Kenya) (generally prohibiting leading questions if objected to by opposing party, except for "introductory or undisputed" matters).

21. See The Civil Procedure Act (2022) Cap. 21, Ord. 19 § 1 (Kenya) ("Any court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the court thinks reasonable[.]").

examine an affiant (referred to as the “deponent” in Kenyan practice), in which case the court may either order the deponent’s attendance in court or make other arrangements for cross-examination.<sup>22</sup> If a court knows there will be a bona fide need for the parties to cross-examine a potential deponent, the rules suggest that the court should not allow the testimony to be given by affidavit.<sup>23</sup>

Cross-examination is considered fundamental to a fair trial in both the United States and Kenya.<sup>24</sup> Cross-examination procedures and practices in both jurisdictions are essentially identical. When a witness testifies on direct examination, the other party is entitled to conduct cross-examination, generally using leading questions.<sup>25</sup>

### 5. *Closing Arguments*

In an adversary trial, the closing argument (in some jurisdictions, called a summation) is often considered one of the highlights of the case. It has been eloquently described by Steven Lubet and J.C. Lore as “the moment for pure advocacy, when all the lawyer’s organizational, analytic, interpretive, and forensic skills are brought to bear on the task of persuading the trier of fact.”<sup>26</sup> Both the Kenyan and American systems retain the final argument as a shared heritage from the British common-law adversary trial. Their substantive and stylistic departures, however, reflect the differences between preparing cases for a professional judicial factfinder in Kenya and preparing to persuade a jury in the United States.

American advocates are trained to focus their arguments on the case’s theme and theory, weaving together the facts and legal issues together persuasively to lead a lay jury to infer and reach conclusions that result in a favorable verdict for their side.<sup>27</sup> Jury instructions, proposed and negotiated by advocates but approved and delivered by the

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22. *See id.* at Ord. 19 § 2.

23. *See id.* at Ord. 19 § 1 (“[W]here it appears to the court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.”).

24. *See* LUBET & LORE, *supra* note 18, § 5.2, at 80 (“Cross examination is the hallmark of the Anglo-American system of adversary justice.”).

25. *Compare* FED. R. EVID. 611 (contemplating cross-examination by leading questions within the scope of direct examination) *with* The Evidence Act (2023) Cap. 80 §§ 144–51 (Kenya) (establishing the order of examination as direct, followed by cross and re-direct, and noting that “[l]eading questions may be asked in cross-examination.”).

26. *See* LUBET & LORE, *supra* note 18, § 13.1.1, at 435.

27. *See id.* § 13.1.2, at 436–43.

judge, frequently serve as an organizational structure for the closing argument.<sup>28</sup> Advocates generally apply this jury-centric approach to closing arguments, primarily because American courtroom advocacy training rarely focuses on the persuasion techniques tailored to a judicial audience.

Kenyan advocates are taught and use many of the same advocacy techniques. In fact, the Kenya School of Law (KSL), a post-graduate bar training school that all Kenyan attorneys must complete prior to licensure, primarily uses American advocacy training materials.

That said, there is an important distinction between closing arguments in a Kenyan trial and an American trial. As a matter of course, Kenyan attorneys use case law and legal arguments in their summations to judicial factfinders.<sup>29</sup> Thus, they can refer to precedent and employ analogy to other cases when presenting their final arguments to a magistrate or a High Court judge, in a manner largely absent from American jury-centric closing arguments, even in bench trials.

#### *6. Legal Education Systems*

The competition brought together students from two different models of legal education. The Kenyan students were all undergraduates earning their Bachelor of Laws (LLB) degree. In contrast, the American students were all enrolled in a terminal degree juris doctor program. A primary goal for the competition organizers was to use common ground between the two educational systems as a foundation to bridge any differences in substantive or experiential education.

#### *7. American Legal Education and Professional Licensing*

In the United States, legal education is offered as a postgraduate professional degree, following the law student's undergraduate degree. No particular discipline or degree is required to enter law school; in fact, law school admissions committees regularly consider diversity of educational background when evaluating admission applications.<sup>30</sup>

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28. *See id.* §§ 13.1.2.1, 13.3.1.3, at 441, 461.

29. *Cf.* The Civil Procedure Act (2022) Cap. 21, Ord. 18 § 2 (Kenya) (“After the party beginning has produced his evidence . . . the party beginning shall have the right to address the court generally on the case; the other party shall then have the right to address the court in reply, but if in the course of his address he cites a case or cases the party beginning shall have the right to address the court at the conclusion of the address of the other party for the purpose of observing on the case or cases cited.”).

30. *Cf.* A.B.A., Standards and Rules of Proc. for Approval of Law Schools, at 38 (2025).

Law schools in the United States award the Doctor of Jurisprudence (JD),<sup>31</sup> a terminal degree.<sup>32</sup>

The American Bar Association serves as the accrediting body for legal education. Its governing accreditation document, Standards and Rules of Procedure for Law Schools,<sup>33</sup> ensures relative uniformity in the substance and delivery of legal education throughout the United States.

The ABA Standards require law schools to require at least six credit hours of experiential education for graduation. These courses must, at a minimum, “integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills [including substantive and procedural knowledge of the law, legal analysis, written and oral professional communication, professional and ethics standards, and so forth].”<sup>34</sup> The accreditation requirement can be satisfied by simulation courses, law clinics, or field placements.<sup>35</sup> Trial advocacy skills courses and mock trial competitions are a universal feature of American law school course offerings,<sup>36</sup> although schools vary considerably in whether such courses are required or electives.

There is no national standard for admission to practice in the United States. Each state has its own rules and standards. Most states require students to take a bar examination after graduation as a prerequisite to gaining admission. The so-called Uniform Bar Examination, which, at the time of this writing was in use by 39 states, provides a standardized bar exam for those states that use it.<sup>37</sup> Scores are portable

31. *See id.* at x.

32. *See U.S. Scholar Program: Common Terminal Degrees*, FULBRIGHT SCHOLAR PROGRAM (July 11, 2024), <https://fulbrightscholars.org/sites/default/files/documents/Terminal%20Degrees%202022-2023.pdf> (on file with Syracuse Law Review).

33. *See generally* A.B.A., Standards and Rules of Procedure for Approval of Law Schools (2025).

34. A.B.A., *supra* note 33, Standard 30 (a)(3), at 22.

35. *See id.*

36. *See, e.g.*, UNIV. OF IOWA MOCK TRIAL, <https://mocktrial.org.uiowa.edu/> (on file with Syracuse Law Review) (last visited Oct. 20, 2025); *Moot Court Board*, PEPP. CARUSO SCH. L., <https://law.pepperdine.edu/competitions/moot-court/> (on file with Syracuse Law Review) (last visited Oct. 20, 2025); *Moot Court*, BYU L. SCH., <https://law.byu.edu/explore/resources/organizations/moot-court-3> (on file with Syracuse Law Review) (last visited Oct. 20, 2025); *Mock Trial*, UNIV. WIS.-MADISON L. SCH., <https://law.wisc.edu/academics/mocktrial/> (on file with Syracuse Law Review) (last visited Oct. 20, 2025).

37. *See Adoption of the Uniform Bar Examination with NCBE Tests Administered by Non-UBE Jurisdictions*, NAT’L CONF. BAR EXAM’RS (Oct. 10, 2023),

across jurisdictions, but each jurisdiction is free to establish its own cut score and to impose additional admission requirements, such as passing a state-specific knowledge test, for applicants.<sup>38</sup>

#### 8. *Kenyan Legal Education and Professional Licensing*

In contrast to the United States, legal education in Kenya occurs at the undergraduate level. As in most other former Commonwealth countries, students pursue a Bachelor of Laws (LLB) degree directly after completing secondary school.<sup>39</sup> The LLB is a four-year program offered by public and private universities accredited by the Council of Legal Education.<sup>40</sup>

The LLB curriculum is to the JD curriculum in many ways. It covers a similar set of core legal subjects to those in US law schools, including courses focused on developing essential legal skills like research and writing.<sup>41</sup> Kenyan LLB programs do not offer the same breadth of experiential learning courses as US JD programs.<sup>42</sup> For example, at the LLB level, trial advocacy training and competitions are not offered or emphasized to the same degree as in the US.<sup>43</sup>

On the other hand, appellate moot court competitions are an integral part of legal education in Kenya. They provide law students with practical experience in legal research, writing, and oral advocacy skills.<sup>44</sup> Moot court participation is often a mandatory component of the law school curriculum, with students arguing hypothetical cases

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[https://www.ncbex.org/sites/default/files/2023-11/UBE-Adoption-with-Other-NCBE-Tests\\_111323.pdf](https://www.ncbex.org/sites/default/files/2023-11/UBE-Adoption-with-Other-NCBE-Tests_111323.pdf) (on file with Syracuse Law Review).

38. See *UBE Score Portability*, NAT'L CONF. BAR EXAM'RS, <https://www.ncbex.org/exams/ube/ube-score-portability> (on file with Syracuse Law Review) (last visited Oct. 20, 2025).

39. See J. B. Ojwang & D. R. Salter, *Legal Education in Kenya*, 33 J. AFR. L. 78, 82 (1989).

40. See *id.* at 81–82.

41. See *id.* at 84–85.

42. See Lynette Osiemo & Anton Kok, *Promoting a Public Service Ethic in the Legal Profession in Kenya: The Imperative Role of Clinical Legal Education*, 64 J. AFR. L. 173, 184–85 (2020).

43. See T. O. Ojienda & M. Oduor, *Reflections on the Implementation of Clinical Legal Education of in Moi University, Kenya*, J. CLINICAL LEGAL EDUC. 49, 52–53, 56 (2002).

44. *The Official Unwanted Witness Privacy Moot Competition Rules*, UNWANTED WITNESS PRIV. MOOT CT. COMPETITION (2025), <https://uwmoot.com/wp-content/uploads/2025/03/moot-2025-Rules.pdf> (a multinational university moot court competition rule set demonstrating what is required of student-advocates) (on file with Syracuse Law Review).

before panels of judges, usually composed of faculty members, practicing lawyers, or actual judges.<sup>45</sup>

Upon completing the LLB, graduates must undergo further professional training at the Kenya School of Law (KSL) before being admitted to practice.<sup>46</sup> Kenyan law students receive the bulk of their formal experiential legal education at KSL. The KSL's Advocates Training Program (ATP) is a one-year course. It combines classroom instruction with practical experience through attachments at "law firms" comprised of KSL students.<sup>47</sup>

Passing of the ATP's final bar exam qualifies candidates for admission to the Roll of Advocates, allowing them to represent clients in Kenyan courts.<sup>48</sup> Unlike the United States' separate state bar exams, this national examination establishes a uniform standard for entry into the Kenyan legal profession.<sup>49</sup>

### *9. Bringing Everyone Together*

Many, but not all, of the American students had taken trial advocacy courses, and some of them had competed in mock trial competitions. None of the Kenyan students had taken a trial advocacy course, although many of them had competed in intramural and interschool appellate moot court competitions. None of the students had ever worked on a cross-cultural project with students from another country and a different legal system.

Competition organizers were able to build hybrid teams on a foundation of shared educational experiences, while simultaneously providing common experiential learning instruction on courtroom advocacy skills. This required coordination and a shared commitment to creating a successful competition experience. Of perhaps greater significance in this cross-cultural experiment, however, was the use of mentors and co-mentors to create harmonious teams that worked together despite having very little in-person preparation time.

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45. See *Kenya School of Law Act* (2022) Cap. 16C § 19; UNWANTED WITNESS; see generally *supra* note 44.

46. See Ojwang & Salter, *supra* note 39, at 87.

47. See KENYA SCH. L., <https://www.ksl.ac.ke/advocates-training-program/> (on file with Syracuse Law Review) (last visited Aug. 28, 2025) (description of the ATP).

48. See Ojwang & Salter, *supra* note 39, at 88.

49. See *id.* at 81.

## II. MENTORS AND CO-MENTORS IN A CROSS-CULTURAL SETTING

*A. Mentoring Essentials*

While definitions of mentoring vary, most contemporary views describe it as an intentional, nurturing relationship that provides guidance, support, and reciprocal benefits to both the mentor and mentee.<sup>50</sup> A mentor is someone with relevant career experience who can help a mentee.<sup>51</sup> In a mentoring relationship, “a caring and experienced professional reach[es] into the life and practice of a generally [though not necessarily] younger and less experienced colleague, offering to assist that person in the development of a range of professional and, to some extent, personal behaviors.”<sup>52</sup> There are several elements of a successful mentoring relationship, including reciprocity of interactions and exchanges rather than a one-way relationship, regular interactions over time, and developmental benefits to both the mentee and the mentor.<sup>53</sup> Mentoring can take on a number of different forms, depending on personalities, circumstances, and professions; professional literature has identified as many as 37 different usages of the term.<sup>54</sup>

Episodic mentoring is a subset of mentoring. Whereas a traditional mentoring relationship includes “regular, consistent involvement between a single mentor and protégé, episodic mentoring involves episodes of mentoring . . . with multiple mentors, each sought out for a particular area of expertise or support.”<sup>55</sup> Traditional mentoring is focused on the overall development and advancement of the mentee/protégé’s educational or professional career. In contrast, episodic mentoring is situational, focused on helping the mentee/protégé gain discrete educational or career development skills on an ad hoc basis, as needed at that moment in the mentee/protégé’s career.<sup>56</sup>

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50. See Eileen S. Johnson et al., *Matched Versus Episodic Mentoring: An Exploration of the Processes and Outcomes for Law School Students Engaged in Professional Mentoring*, 2013 L. EDUC. REV. 154, 156 (2013).

51. See Neil Hamilton, *Mentor/Coach: The Most Effective Curriculum to Foster Each Student’s Professional Development and Formation*, 17 U. ST. THOMAS L.J. 836, 850 (2022).

52. Michael V. Smith, *Modern Mentoring: Ancient Lessons for Today*, 92 MUSIC EDUCATORS J. 62 (2005).

53. See Johnson et al., *supra* note 50, at 156.

54. See *id.* at 155.

55. Johnson et al., *supra* note 50, at 162.

56. See *id.* at 161–63.

Although scholarly literature has traditionally differentiated between the roles of mentor and coach,<sup>57</sup> in truth, coaching is a form of mentoring.<sup>58</sup> In the context of courtroom advocacy education, the blended role of mentor/coach is a familiar one.<sup>59</sup> Nancy Schultz defined coaching in the advocacy competition context as “a strategic mix of instruction and support, finding and expanding natural talents and abilities to create a performance that moves the student closer to excellence and professionalism.”<sup>60</sup> Courtroom advocacy competition preparation can be intense, requiring considerable time and effort from both coaches and competitors.<sup>61</sup> Throughout this process, a coach/mentor models professional behavior, teaches specific courtroom advocacy skills, and works with competitors to overcome skill deficiencies and reach their competitive potential.<sup>62</sup>

Another important form of mentoring, especially in a team competition situation, is collaborative mentoring, also known as co-

57. See Hamilton, *supra* note 51, at 850–51 (citing the work of other scholars on mentoring and coaching in the legal profession). Traditionally, mentoring relationships related more to career development, with a mentor often having the ability to influence the mentee’s career opportunities. Workplace coaches, in contrast, assist their charges in developing immediate career goals, identifying strengths, and overcoming weaknesses. See generally *id.* at 851–52.

58. See Johnson et al., *supra* note 50, at 155 (noting that Eby, Rhodes, and Allen define multiple types of mentoring—including coaching as a different category).

59. See, e.g., Jules M. Epstein, *Developing a Strong Law School Advocacy Program: Some Thoughts and Observations*, TEMP. U. BEASLEY SCH. L.: ADVOC. & EVIDENCE RES. <https://law.temple.edu/aer/2022/08/22/developing-a-strong-law-school-advocacy-program-some-thoughts-and-observations/> (last visited Nov. 9, 2025) (on file with Syracuse Law Review) (noting that good coaches are necessary to teach students advocacy skills and that practicing attorneys are often recruited for such roles by law schools because of insufficient in-house coaching resources).

60. Nancy L. Schultz, *Lessons from Positive Psychology for Developing Advocacy Skills*, 6 J. MARSHALL L.J. 103, 107–108 (2012).

61. See *Mock Trial Program*, SETON HALL UNIV. SCH. OF L., <https://law.shu.edu/experiential/mock-trial.html> (on file with Syracuse Law Review) (explaining that “[s]tudents selected for the Mock Trial Board devote significant time as well as intellectual effort when preparing for these skills competitions” and that “[c]ompeting students practice and improve their skills in the areas of oral advocacy, fact development, legal analysis, witness examination, and trial advocacy”) (last visited Oct. 22, 2025); Sadhvi Mathur, *Everything You Need to Know About Mock Trial*, COLLEGEVINE (May 24, 2019), <https://blog.collegevine.com/everything-you-need-to-know-about-mock-trial> (on file with Syracuse Law Review) (observing that “[s]tudents often prepare for Mock Trial competitions months in advance” and describing the competition as “intense and structured”) (last visited Oct. 22, 2025).

62. See generally Hon. David Nelmark & Justin B. Bernstein, *Championship Mock Trial: The Guide For Students and Coaches* (A.B.A., 2022) (describing the comprehensive nature of mock trial preparation and coaching techniques required for competitive success).

mentoring. Unlike traditional mentoring structures, which pair less experienced mentees/protégés with more experienced mentors, co-mentoring involves collaborators who construct knowledge together.<sup>63</sup> This typically occurs in a small-group setting of five to seven individuals, “organized around a facilitator, and focused on topics supporting learning and development within an organization.”<sup>64</sup> Co-mentoring structures, particularly in an online environment, enhance group member’s ability to build relationships and learn from one another.<sup>65</sup>

It is difficult to conceive of holding a successful mock trial competition, particularly one in which many of the participants had neither taken a trial advocacy course nor participated in an interschool mock trial competition before, without a cohort of experienced advocates to coach the teams or without creating team structures in which members could mentor each other. This is particularly true in a cross-cultural collaborative environment in which students were organized into hybrid teams from countries whose courtroom advocacy practices and legal education systems had both significant similarities and differences.

### *B. Cross-Cultural Mentoring*

Although cross-cultural educational experiences are becoming increasingly common, faculty members often lack the specific training needed to optimize these opportunities for students.<sup>66</sup> Cross-cultural mentoring can assist mentees/protégés to build trust and rapport across

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63. See Charlotte Nirmalani Gunawardena, *Culturally Inclusive Online Learning for Capacity Development Projects in International Contexts*, 7 J. LEARNING FOR DEV. 5, 24 (2020) (distinguishing traditional mentoring structures with an expert and mentees from collaborative mentoring, in which participants construct knowledge together).

64. See HR Kolb et al., *DEI Co-Mentoring Circles for Clinical Research Professionals: A Pilot Project and Toolkit*, 7 J. CLINICAL & TRANSLATIONAL SCI. e25, 2 (2022).

65. See Charlotte Nirmalani Gunawardena et al., *Distributed Co-Mentoring as a Means to Develop Culturally Inclusive Online Learning Communities*, in PROCEEDINGS OF THE 2019 ICDE WORLD CONFERENCE ON ONLINE LEARNING 389, 391 (M. Brown et al. eds., 2020) (“The more distributed, equitable nature of the online environment underscores collaborative learning and relationship networks.”).

66. See Svetlana Vlady, *The Cross-Cultural Mentoring of Graduate Students: Evidence from Organization for Security and Cooperation in Europe Academy in Central Asia*, GLOBAL CO-MENTORING NETWORKS IN HIGHER EDUC. 167, 172 (B. Gloria Guzman Johannessen ed., 2016) (noting that faculty members don’t often receive specific training for intercultural or cross-cultural mentoring).

cultural boundaries,<sup>67</sup> transform perspectives,<sup>68</sup> and enhance cross-cultural communication skills.<sup>69</sup> Illustrating the adage that the teacher always learns as much, or more, than the student,<sup>70</sup> cross-cultural mentoring relationships also deepen and develop the mentor's cross-cultural knowledge and competency.<sup>71</sup> When such mentoring occurs, it is a critical component of successful cross-cultural collaborations.<sup>72</sup> Research involving participants from Australia, Nigeria, China, and Japan suggests that “mentoring processes, quality, and outcomes have some consistency across jurisdictions.”<sup>73</sup>

Cross-cultural mentoring requires particular attention to cultural competence and humility. In many respects, the mentor must have sufficient familiarity with all cultures involved to reach across divides and bridge gaps; culturally appropriate behavior and conduct that is meaningful from different cultural perspectives facilitates effective mentoring relationships.<sup>74</sup> The process model of cross-cultural competence defines it as a person's ability to interact effectively and appropriately in cross-cultural situations, grounded in intercultural

67. *Cf. id.* at 190 (observing that trust can be enhanced through mutual respect and mentors refraining from talking down to mentees).

68. *See* Gunawardena, *supra* note 63, at 11 (recounting how an American e-mentor's story helped Sri Lankan participants develop a different perspective about the street children encountered daily in Sri Lanka).

69. *See* Vlady, *supra* note 66, at 178 (observing that effective communication strategies such as active listening can help build better connection with mentees).

70. *See, e.g.,* James Clear, *3-2-1: On learning by doing, a rule to live by, and the seasons of life*, JAMES CLEAR, <https://jamesclear.com/3-2-1/april-15-2021> (April 15, 2021) (on file with Syracuse Law Review) (“The teacher learns more than the student. The author learns more than the reader. The speaker learns more than the attendee. The way to learn is by doing.”); Christopher Perrin, *Docendo Discimus—By Teaching We Learn*, INSIDE CLASSICAL EDUC., <https://insideclassicaled.com/docendo-discimus-by-teaching-we-learn/> (July 10, 2014) (on file with Syracuse Law Review) (“Here we encounter an educational paradox. The way to become a great teacher is to remain a student; the way to become a great student is to teach.”).

71. *See* Gunawardena, *supra* note 63, at 12–13 (“An unexpected and dynamic finding of this e-mentoring partnership was the cross-cultural learning experiences reported by the US e-mentors after they facilitated the IBL activity . . . The ‘disorienting dilemma’ of entering a new culture online and a new mode of mentoring and coaching called for critical reflection on their role as e-mentors, which in turn transformed perspectives.”).

72. *See id.* at 8 (recounting how communication between American e-mentors in New Mexico and Sri Lankan faculty mentees helped create awareness of Sri Lankan culture, thereby making the learning experience beneficial to both parties).

73. *See* Johnson et al., *supra* note 50, at 157.

74. *See* Vlady, *supra* note 66, at 173 (citing Ting-Toomey (1999) on how culturally appropriate behavior facilitates effective mentoring relationships).

attitudes, knowledge, comprehension, and skills.<sup>75</sup> Cultural humility, the ability to acknowledge that one can never fully grasp all the cultural nuances and complexity present in international contexts, is a critical attribute in mentoring situations.<sup>76</sup> Respectful and genuine interplay among external and local actors in a genuine partnership is also important, with each playing an appropriate role in identifying needs, designing the process, and providing the support and skills necessary for the overall success of a project.<sup>77</sup>

An example of a true intercultural partnership occurred during our competition, when the students worked with their mentor/coaches to change the rules for closing arguments. In the joint advocacy skills training course that we created for student competitors from both countries, closing argument instruction focused on American-style closing arguments. Additionally, the competition rules prohibited the use of case law in the closing arguments, although advocates routinely do so in Kenyan closing arguments.<sup>78</sup> These choices were deliberate. First, although there were no jury instructions, the criminal statutes were included in the case file, and we felt confident students from both countries could use them as a framework for both their case-in-chief and their closing arguments. Second, we were not confident in our ability to bring American students up to speed on researching Kenyan case law for use in their arguments.

We underestimated the students and the power of the relationships they had developed within their teams and with their mentor/coaches. The Kenyan students petitioned to change the competition rules to permit the use of case law in their final arguments. They pointed out that we were using Kenyan criminal statutes and that the case should be heard in a Kenyan magistrate's court. They promised to take responsibility for teaching their American teammates what

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75. *See id.* at 175 (describing Deardorff's 2009 process model of cross-cultural competence).

76. *See* Gunawardena, *supra* note 63, at 8 (discussing the role of cultural humility in project development and acknowledging the impossibility of fully grasping cultural nuances and complexity in international contexts).

77. *Cf. id.* at 7 (emphasizing that local actors must identify needs, design change processes, and own projects for sustainability, while external partners can support with needed skills not available locally).

78. *See The Civil Procedure Act (2022) Cap. 21, Ord. 18 § 2 (Kenya)* ("After the party beginning has produced his evidence . . . the party beginning shall have the right to address the court generally on the case; the other party shall then have the right to address the court in reply, but if in the course of his address he cites a case or cases, the party beginning shall have the right to address the court at the conclusion of the address of the other party for the purpose of observing on the case or cases cited.").

they needed to know about Kenyan law. The competition organizers granted the petition, changed the rules, and then watched as the hybrid teams worked together to weave case law and legal arguments into their closing arguments at the competition, adding a new dimension of trial practice for our American students and reinforcing the primacy of Kenyan laws and customs for our Kenyan hosts.

### *C. Web-Based Technology as a Multiplier in Cross-Cultural Mentoring*

The collaboration between SIU and UONM could not have occurred without the use of online resources and technology, which facilitated cross-cultural mentoring by overcoming barriers of distance and time.<sup>79</sup> Information and communication technologies create opportunities to minimize the physical and psychological distance between people in mentoring programs; in traditional mentoring programs, spatial and temporal limitations are often identified as major obstacles to success.<sup>80</sup> In fact, online technology may well have improved the mentoring experience for participants by offering an egalitarian and boundaryless form of mentoring, free from the pressures of social status;<sup>81</sup> students had no basis upon which to make value judgments about the relative worth of mentors based on perceived status, because all teams were using the same technology platforms for coaching and mentoring communications.

On the other hand, online mentoring brings challenges related to distance, cultural differences, technical difficulties, and

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79. Cf. Gunawardena, *supra* note 63, at 10 (describing a successful online mentoring program involving University of New Mexico graduate students and Sri Lankan faculty members, facilitated and made possible using online technology).

80. See Harold Tinoco-Giraldo, Eva Maria Torrecilla Sanchez & Francisco Jose Garcia-Penalvo, *E-Mentoring in Higher Education: A Structured Literature Review and Implications for Future Research*, 12 SUSTAINABILITY 4344, 2 (2020), <https://doi.org/10.3390/su12114344> (on file with Syracuse Law Review) (noting that “adopting information and communication technologies creates opportunities to minimize the physical and psychological distance between people in mentoring programs” and “obstacles caused by spatial-temporal limitations are the major obstacles of traditional mentoring programs”) (last visited Oct. 21, 2025).

81. See Rhiannon Pollard & Swapna Kumar, *Mentoring Graduate Students Online: Strategies and Challenges*, 22 INT’L REV. OF RSCH. OPEN & DISTRIBUTED LEARNING 267, 272 (2021) (explaining that e-mentoring is “precisely the boundarylessness and egalitarian nature of e-mentoring that distinguished it from traditional mentoring; the ability to have an interaction with a more experienced, supportive role model in the absence of social status pressures.”).

communication.<sup>82</sup> For example, in some Asian and African cultures, students tend to be much more deferential to educational authority figures, such as professors, and are less likely to speak up or challenge the authority figure.<sup>83</sup> Other challenges include differences internet access and quality, work and study schedules, and even religious considerations. Effectively overcoming these barriers requires cultural intelligence and sensitivity.<sup>84</sup> Establishing clear structures, expectations, and agreements is crucial for effective online mentoring relationships.<sup>85</sup>

#### *D. Designing Effective Online Mentoring and Co-Mentoring Structures*

In creating effective cross-cultural educational experiences, no aspect of the course, including mentoring and co-mentoring, should be left entirely to chance.<sup>86</sup> Structured mentoring requires a deliberate, systematic approach that establishes clear frameworks, expectations,

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82. *See id.* at 273 (identifying challenges including “cultural differences, technical difficulties, time management, difficulty writing and receiving written feedback, and life events interrupting study”).

83. *See* Vlady, *supra* note 66, at 180–84 (noting that e-mentors observed that their Central Asian students exhibited significant respect for teachers and mentors, treating them like second mothers and fathers, and would not directly challenge their points of view); Gunawardena, *supra* note 63, at 18 (observing that when “the authority figure of the teacher was removed in a focus group interview with 22 PA students from different regions in Ghana, the students opened up to the North American partners about their concerns”).

84. *See* Mentoring Complete, *Mentoring for Global Diversity: Navigating Cross-Cultural Dynamics*, MENTORING COMPLETE (Jan. 26, 2024), <https://www.mentoringcomplete.com/mentoring-for-global-diversity-navigating-cross-cultural-dynamics/> (on file with Syracuse Law Review) (explaining that cross-cultural mentoring requires “navigating through cultural nuances and biases” and “a higher level of cultural intelligence and sensitivity”).

85. *See* Pollard & Kumar, *supra* note 81, at 275.

86. *See* Vas Taras et al., *A Global Classroom? Evaluating the Effectiveness of Global Virtual Collaboration as a Teaching Tool in Management Education*, 12 ACAD. OF MGMT. LEARNING & EDUC. 414, 431 (2013) (noting that international group virtual teams projects are difficult to organize and manage); Haiyan Hu, *An International Virtual Team Based Project at Undergraduate Level: Design and Assessment*, 19 MKTG. EDUC. REV. 17, 19 (2009) (discussing the importance of instructor structuring and supervision of the team formation and accountability process); Murat Akpınar et al., *Learning Effects of an International Group Competition Project*, 52 INNOVATIONS EDUC. AND TEACHING INT’L 160, 162 (2015) (describing the teacher’s role as providing help, giving feedback, intervening in case of problems, and preventing domination of higher talent so as to avoid withdrawal of lesser-talented students and the hindering of learning). *Cf.* Johnson et al., *supra* note 50, at 155 (describing characteristics of intentional mentoring).

and processes from the outset of the project.<sup>87</sup> Research demonstrates that effective structured mentoring requires explicit agreements and role clarifications to ensure that participants—both mentee/protégés and mentors—get the most out of the experience.<sup>88</sup> Mentoring structures should establish intentional processes for online communication, including scheduled virtual meetings and regularly monitored availability.<sup>89</sup> Mentors may take on multiple roles and tasks in a structured environment, including social development, pedagogy, management of team roles and deadlines, troubleshooting technical issues, team-building, and inspiration.<sup>90</sup>

A key aspect of an effective mentoring structure is the use of clear goal-setting processes, such as Whitmore's GROW model.<sup>91</sup> In this model, the mentor/coach engages the mentee/protégé in questions that examine the following:

- Goal setting for the session as well as the short and long term (What do you want?);
- Reality checking to explore the current situation (Where are you now? And what blocks your path?);

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87. See, e.g., Kristyn S. Masters & Pamela K. Kreeger, *Ten Simple Rules for Developing a Mentor–Mentee Expectations Document*, 13 PLOS COMPUTATIONAL BIOLOGY e1005709 (2017), <https://doi.org/10.1371/journal.pcbi.1005709> (on file with Syracuse Law Review) (listing ten common sense rules for developing mentoring agreements: (1) write it down; (2) tailor the expectations document to audience and environment; (3) convey the big picture; (4) don't forget the nitty gritty; (5) expectations are a two-way street; (6) articulate boundaries; (7) work with others to develop expectations document; (8) plagiarism is okay (sort of)—meaning in this context that the article authors give permission to copy or modify sections of their example expectations document; (9) encourage regular conversations about how to interpret the expectations document; and (10) the document is a living document) (last visited Oct. 21, 2025).

88. See Pollard and Kumar, *supra* note 81, at 275 (discussing the importance of establishing clear expectations). See also W. Charles Huskins, M.D., et al., *Identifying and Aligning Expectations in a Mentoring Relationship*, 4 CLIN. TRANSL. SCI. 439, 444–45 (2011) (noting that a majority of KL2 (mentored early career development programs for scholars) programs explicitly communicate programmatic expectations to mentors and scholars and a minority use mentoring agreements or contracts; commenting on how the importance of aligning expectations at the beginning of a relationship applies not only to long-term mentoring relationships such as KL2 programs, but also to scholars in international or distance learning relationships.) For an example of guidance provided to students on how to establish the structure and accountability processes for their teams, see *infra* Appendix.

89. See Huskins et al., *supra* note 88, at 445 (emphasizing consistency in mentoring interactions).

90. See Gunawardena, *supra* note 63, at 12.

91. See Hamilton, *supra* note 51, at 854.

- Options and alternative strategies or courses of action (What could you do?); and
- What is to be done, When, by Whom, and the Will to do it (What will you do?).<sup>92</sup>

When co-mentors are included in the structure, traditional mentoring responsibilities can be shared or distributed across group members.<sup>93</sup> This, in turn, has the potential to transform educational experiences and traditional hierarchical cultures as mentors and mentees share expertise and learn from one another.<sup>94</sup> In fact, electronic co-mentoring structures, with their emphasis on collective learning and blurring of traditional boundaries between mentors and mentees, may be ideal for cross-cultural experiences involving American and African students.<sup>95</sup>

### III. THE COMPETITION AS CASE STUDY

Part I of this Article described the competition's overall goals, structure, and design.<sup>96</sup> Simply put, the competition brought together students from the United States and Kenya, formed them into hybrid teams with approximately equal numbers of Kenyan and American students, gave the teams a problem situated in a Kenyan court and using Kenyan substantive law and procedures, and brought them together in Mombasa for a two-day mock trial competition.

This Part describes and evaluates various elements of the competition, from design to execution, with a particular focus on cross-cultural mentoring and co-mentoring.

#### *A. Pedagogical Preparation*

From a pedagogical standpoint, it was necessary to bridge substantive law and experiential training gaps between two common-law adversary trial jurisdictions and two different legal education systems.

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92. *See id.* at 854 (citing John Whitmore, *Coaching for Performance* (5th ed. 2017) (internal citations omitted)).

93. *See* Gunawardena et al., *supra* note 65, at 391 (noting that a co-mentoring structure called wisdom communities challenges traditional power structures of mentor-mentee relationships by "equalizing mentoring across faculty, students, and community members").

94. *See id.* at 394.

95. *See* Gunawardena, *supra* note 63, at 17 (discussing Ubuntu, the African cultural concept espousing the principle that the individual owes their existence to the collective group, emphasizes collective learning, contrasting with Western individualism in educational contexts).

96. *See supra* Part I.

This occurred through both asynchronous and synchronous web-based instruction, held at a time and day each week during which students from both countries could attend. Instructors used web-based versions of Microsoft Office, Microsoft Teams, SharePoint, and YouTube to communicate with students, facilitate synchronous online meetings, and provide access to necessary documents and instructional videos. Other than a few isolated technology issues that were quickly resolved, all students were able to access and use these web-based programs.

Instruction was provided in the following areas:

*1. The Basic Tenets of Trial Advocacy Skills Common to Both Countries*

This instruction took place in February 2024. Each week, experienced American and Kenyan instructors, all of whom had taught trial advocacy courses together in Kenya with the Mombasa Law Society and Justice Advocacy Africa, recorded and posted an asynchronous instructional video to the course MS Teams website. Students were required to watch the week's video before attending the live, synchronous online session. The sessions were taught as if the students had no prior knowledge of trial advocacy techniques or procedures in either country. In fact, most of the students, regardless of nationality, had never taken a trial advocacy course or participated in a mock trial competition. Instructional topics included basic advocacy building blocks such as questioning techniques and courtroom decorum, case analysis, opening statements, witness examinations (both direct and cross), and closing arguments.<sup>97</sup>

I would assess this segment of the course design as an unqualified success. On prior occasions, I had worked with all my Kenyan counterparts in teaching trial advocacy courses to Kenyan audiences through Justice Advocacy Africa. We were able to pick up where we had left off. Although the asynchronous videos and large-section supplementary lectures left little room for questions, the Kenyan mentor/coaches worked with students in small groups to offer supplementary instruction and focused coaching, using the learning-by-doing model preferred in trial advocacy experiential education.

The result was a competition in which the participants all performed at a high minimum level of competence, with truly exemplary performances by advocates from each country.

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97. See Law 602 Course Memorandum (on file with Syracuse Law Review).

2. *Specialized Instruction on the Kenyan Criminal Laws Upon Which the Competition Was Based*

Because of the prevalence of gender-based violence in Kenya,<sup>98</sup> my Kenyan counterparts felt it was important to use a case involving the Kenyan offenses of defilement (statutory rape) and sexual assault.<sup>99</sup> To add an additional wrinkle, we selected a case file in which the alleged perpetrator and alleged victim were close in age, with some factual issues suggesting a consensual encounter between the two. This aspect of the case reflected another reality of sexual assault and defilement prosecutions in Kenya.<sup>100</sup>

This necessitated specialized instruction from Kenyan subject-matter experts on the elements of these offenses, along with special considerations for both the prosecution and defense in trying such cases. This instruction took place using a synchronous online class session on MS Teams, supplemented by individual team sessions with the mentor/coaches.

Again, I would assess this instruction as an unqualified success. I had personal misgivings about using a sexual offense case; they are difficult for students under the best of circumstances, without injecting additional complications that could arise from cultural

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98. See Parinita Bhattacharjee et al., *Prevalence and Patterns of Gender-Based Violence Across Adolescent Girls and Young Women in Mombasa, Kenya*, 20 BMC WOMEN'S HEALTH, art. 229, at 2 (2020), <https://doi.org/10.1186/s12905-020-01081-8> (last visited Oct. 20, 2025) (on file with Syracuse Law Review) (finding that “32 and 66% of females aged 18 to 24 reported at least one experience of sexual or physical violence respectively prior to age 18”); Emmanuel A. Ikwara et al., *Prevalence and Factors Influencing Intimate Partner Sexual Violence Against Women Aged 15–49 in Kenya: Findings from the 2022 Kenya Demographic and Health Survey*, 25 BMC WOMEN'S HEALTH, art. 74, at 1–3 (2025), <https://doi.org/10.1186/s12905-025-03593-7> (on file with Syracuse Law Review) (reporting that over 40% of women experience intimate partner violence and that 10.4% of women aged 15–49 in Kenya reported experiencing sexual violence) (last visited Oct. 20, 2025).

99. See *Sexual Offences Act*, ch. 63A, § 8 (Kenya 2006) (defining defilement as occurring when a person “commits an act which causes penetration with a child.”); *Sexual Offense Act*, ch. 63A, § 5 (Kenya 2006) (defining the offense of sexual assault to include unlawful genital penetration of the victim by the accused with either any part of the body or an object).

100. See Festus Njere Njue & Sosteness Francis Materu, *The Legal, Practical and Policy Dilemmas in Enforcing the Sexual Offences Act of Kenya in Relation to Consensual Adolescent Sex*, 65 J. AFR. L. 267, 272 n.45 (2021) (citing *Eliud Waweru Wambui v Republic* [2019] for the assertion that “Kenyan prisons are teeming with young men serving lengthy sentences for having had sexual intercourse with adolescent girls whose consent is considered immaterial simply because they were under 18 years”).

misunderstandings about sexual mores.<sup>101</sup> However, the mentor/coach's instruction and additional work coupled with all student's shared commitment to treat issues arising from the case file with respect and professionalism, resulted in a competition unmarred by misunderstandings or mistreatment of witnesses.

### 3. *Cultural Competency Instruction*

We assigned the American students a project in which they read a work of Kenyan literature, wrote an individual insight paper about the book and its significance in contemporary Kenyan life, and participated in a group presentation about the book.<sup>102</sup> The papers and presentations were due before we left the United States for Kenya.

During the regular Friday synchronous class that included both Kenyan and American students, we provided cultural competency training led by a professor who had taught in both Kenya and the United States. The purpose of the instruction was to acquaint students from each country with customs and social expectations they could expect to find in their counterparts from the other country. As it turned out, several members of the competition faculty team had experience teaching in both countries and contributed their insights to this conversation.

Again, I felt this aspect of the course design was successful. Not only did all the students receive instruction on mutual cultural competence, but they also spent considerable time together working in their groups. They got to know each other as individuals rather than simply nationals of another country and representatives of another culture. In fact, as we had hoped, each team developed its own internal culture.

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101. And make no mistake, the issue of defilement prosecutions in Kenya is fraught with issues involving the sexual conduct of teenagers, gender-based violence, differential treatment of males and females in the criminal justice system, and the like. *See id.*

102. I got the idea for this on my very first visit to Kenya, when I asked a student in one of the classes I was teaching what she would recommend I do to learn more about Kenyan history and culture. Without hesitation, she replied that I should read literary authors and recommended I begin with Ngugi Wa Thiong'o's classic work *Petals of Blood*. *See* Ngugi Wa Thiongo, *Petals of Blood* (1977).

*B. Team Composition Including Mentors and Co-Mentors*

*1. Culturally and Experientially Balanced Teams*

Fourteen American students and eighteen Kenyan students were available for the competition. To take advantage of co-mentoring opportunities, each team included at least one American student who had taken a trial advocacy course or competed in a mock trial and one Kenyan student who had competed in appellate moot court competitions. We also tried to balance law school educational experience, so each team included a mix of year-group cohorts from both schools.

Although this aspect of the competition worked well for most teams, there was considerable room for improvement. Most of the Kenyan students came from the Mombasa campus, which hosted the competition, and were therefore known to their faculty and administrators; this made it easier to assess their experience levels and personality characteristics for team assignments. However, a few Kenyan students came from the other University of Nairobi law school campuses in Parklands and Kisumu, hundreds of kilometers from Mombasa and from each other. We knew very little about these students when assigning them to teams. Moreover, we did not have faculty members from these two campuses participating in the overall training or assignment of team members. Most of the issues we had with teams communicating, working together, and coalescing came from these outlying schools; in fact, some of those students did not even show up for the competition.

Because faculty support for international educational experiences is critical to success,<sup>103</sup> I recommend that every institution with participating students also include participating faculty. I also recommend using an objective survey instrument to gather information about team members, ensuring an ideal composition for both co-mentoring and a level playing field.

*2. An Expert Kenyan Mentor-Coach for Each Team*

We assigned a volunteer member of the Mombasa Law Society to coach and mentor each team. Each mentor was an experienced advocate who had also taught trial advocacy courses to practicing attorneys. The coaches established their own communication protocols and

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103. See Hu, *supra* note 86, at 18 (describing an international marketing project among students from three different countries and noting that the project became possible because of a personal friendship between the author and a visiting Chinese professor).

practice schedules with team members. They also attended and helped teach the weekly online advocacy instruction meetings. Their primary job was to ensure each team member had a basic working knowledge of trial advocacy skills and trial procedure and understood enough Kenyan criminal law to try the case. These mentors bridged the gap between the lecture-style instructions the students received and the skills they would need to demonstrate at the competition.

I believe most of the success we had in holding the competition came from the mentor-coaches. All of them were experienced courtroom advocates and trial advocacy teachers. Because of their work teaching Kenyan lawyers on intercultural teaching teams with faculty from the United States, Botswana, Mali, and Uganda, they were conversant with multiple advocacy systems and styles. They knew how to explain and coach basic trial advocacy skills, expectations for courtroom behavior in Kenya, and both substantive and procedural Kenyan law.

One thing that helped ensure the mentor-coaches' success was separate faculty meetings held before the course began. We established lines of communication and expectations before assigning coaches to students.

We did have a couple of coaches drop out. While this might have proved catastrophic to team development, the Mombasa Law Society moved quickly to find experienced replacements. In the meantime, the co-mentoring dynamic of the teams ensured that they made progress and developed as a team.

### *3. Structured Expectations and Communication Protocols for Each Team*

- *Clear communication expectations for each team.* Each team was required to negotiate a team charter in which the members agreed on a team name, the frequency of meetings, communication methods, accountability measures, and when to seek the assistance of professors in dealing with recalcitrant or nonresponsive team members.<sup>104</sup> In addition, we required each team to write a weekly progress report and email it to designated faculty members from each school. This enabled us to identify actual and potential problems and aid team members in resolving them.

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104. See *infra* Appendix.

- *Organized weekly team meetings.* At the end of each synchronous online session, teams and their coaches met in assigned MS Teams rooms, monitored by competition organizers. The meetings were scheduled for an hour, with the option to meet longer if desired. During the meetings, faculty members from both SIU and UONM remained available in the common MS Teams meeting room to help resolve technology issues, answer questions, and make plans for the live competition in Mombasa.
- *A day for teams to meet and prepare in person prior to the competition.* All competition preparation occurred virtually until the day before the competition. On that day, the American students finally met with their Kenyan team members in person at the University of Nairobi's Mombasa Campus. The students spent the day working with each other and their coaches to finalize trial preparations.
- *Joining together for meals and a final awards ceremony.* Competition organizers ensured the competitors ate lunch together on the first day of the competition. The competition concluded with a lunch, reception, and awards ceremony at the historic Mombasa Club. In addition, as Mombasa is a majority Muslim city, and the visit and competition took place during Ramadan, most of the American students celebrated iftar, the breaking of the fast,<sup>105</sup> together with their Kenyan counterparts.

### C. Evaluating the Competition

As the competition approached, I must admit to feeling anxious. It had taken nearly a decade for financial resources, administrative permission from both institutions, coordination among professors, and travel opportunities to align. Along the way, COVID derailed everything for a few years, but it also forced educational institutions not only to learn how to use distance learning and online resources, but also to leverage them to bridge miles and time zones in ways that could make this type of competition feasible. To add to the pressure of the moment, both the SIU and UONM law school deans decided to attend

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105. See *What is Iftar? Times, Meaning, and Ideas*, ISLAMIC RELIEF UK, <https://www.islamic-relief.org.uk/giving/islamic-giving/ramadan/iftar/> (Mar. 6, 2025) (on file with Syracuse Law Review).

the competition, each school having invested considerable resources and capital in support of it.<sup>106</sup>

When I walked into the classroom at the Mombasa campus and saw each team gathered around tables, working together to finalize their trial presentations, I knew, for the first time, that it would, without a doubt, all work out. Even though they had just met in person less than an hour earlier, the meeting was merely a continuation of a collaboration begun a few weeks earlier. Regardless of national identity or status as undergraduates or students at a professional school, their shared pursuits and interests transcended miles and systems.

The preliminary round trials were all excellent. Mixed panels of Kenyan and American judges scored each trial, and, in each round, the level of consensus in assessing the competitors' performance was remarkable. The final round, held in the historic Mombasa Courts building, featured superb advocacy and witness performances, as well as coaching from two highly engaged mentor-coaches.

I attribute the competition's success to three things:

- Strong collaborative design and implementation by American and Kenyan counterparts. We worked together to create a unique competition that would meet the needs of both student bodies. We respected each other's viewpoints and implemented them into the overall competition design. Left to my own devices, for example, I would never have chosen a defilement/sexual assault case for a trial competition, and yet, in retrospect, this case provided maximum cross-cultural experiential learning opportunities.
- Co-mentoring by team members. Reading the weekly reports from each team quickly revealed that each team developed its own leadership and mentoring culture. Kenyan students tended to lead out on substantive legal matters, suggesting arguments and strategies consistent with Kenyan criminal law practices. American students tended to take the lead on trial procedures and tactics. Teams figured out how to leverage their strengths while including all team members – as required by competition rules – as either advocates or witnesses.

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106. In proof that the world is, in truth, a small and interconnected place, the two deans immediately recognized each other at the first live meeting of competition organizers and faculty members in Mombasa. They had both been students in a graduate literature program at the University of Nairobi before attending law school. Neither of them knew that the other was the dean of a law school, much less the other law school in this unique collaborative endeavor.

- Expert mentoring by Kenyan volunteer coaches. Without these coaches, we simply could not have bridged the gap between theory and practice. They invested considerable time working with each team and sometimes, individually with team members, to ensure they had the baseline skills necessary to compete. As expert advocates and experienced teachers, their mentoring efforts were the catalyst sparking some truly excellent trial performances.

#### CONCLUSION

In conclusion, this collaborative, cross-cultural mock trial competition exemplifies an innovative approach to legal education that worked for both Kenyan LLB students and American JD students at the professional school postgraduate level. The competition's success hinged on several key elements: joint online advocacy skills instruction by experienced faculty from both countries; specialized training in relevant substantive law; balanced teams leveraging participants' diverse strengths; and active co-mentoring by coaches throughout the process. By working together as equals to bridge differences in legal systems, educational backgrounds, and advocacy practices, students developed crucial competencies for inter-jurisdictional practice in a globalized legal environment.

Cross-cultural co-mentoring among team members, coupled with expert mentoring from volunteer Kenyan attorney-coaches, was critical to the competition's overall success. Team members worked together to create a shared culture, teach each other substantive law and trial performance skills, identify strengths, and effectively integrate all team members in competition performances. Expert professional mentor-coaches bridged the gap between theoretical instruction and competition performance, ensuring each team reached a baseline level of competent trial performance.

The lessons learned from this pioneering collaboration can inform the design and implementation of future cross-cultural legal education initiatives, equipping the next generation of lawyers with the skills and cultural fluency to succeed in an interconnected world.

## APPENDIX

**Assignment Memorandum One**Purpose

To meet as advocacy teams and establish communication protocols, accountability standards, and a mutual commitment to team unity and success.

Assignment

- As part of our first joint class session, students will be divided into MS Teams rooms by teams. In this first meeting, you should introduce yourselves to each other, verify that your contact information for each other is correct, and reach agreement on how to complete the rest of the assignment.
- The remainder of the assignment is for each team to turn in a memorandum that represents the collective and united work of the entire team; in other words, it is not acceptable to simply assign one team member the task of writing the memorandum alone. Each team must turn in one copy only of its memorandum via email to Dr. [UONM Faculty] at [email address] and Professor [SIU Faculty] at [email]. Thus, it is necessary for the team to decide which member will send the email with its attached memorandum. Dr. [UONM Faculty] and Professor [SIU Faculty] will further distribute the memoranda to other members of the faculty team. **The deadline for this is Saturday, February 10, at 12:00 pm US Central Time/9:00 PM EAT.**
- The memorandum must contain separate sections, as follows:
  - An Original Team Name
  - Names of all team members with contact information (email, WhatsApp, and/or other communication media selected by the team) and an agreed standard communication platform for the group.
  - A one-paragraph personal profile of each student that includes something interesting about each person that is not related to being a law student.

- A timeline and schedule for regular team meetings that acknowledges and respects time-zone differences. The timeline should begin with **Saturday, February 17** and end with the date that we all meet in person, which is **Wednesday, March 13**.
- The name(s) of students assigned to create and maintain email or other social media communication groups.
- The name(s) of team members responsible to create and maintain online document-sharing sites.
- Agreed procedures for internal accountability and external monitoring when necessary by faculty members.
- The name(s) of team members responsible to send a weekly report of team activities and achievements via email to Dr. [UONM Faculty] and Professor [SIU Faculty]. These reports will be due every Monday, beginning February 19, by 9 am US Central Time/5 pm EAT.
- A shared commitment to equal distribution of assignments and advocacy competition performances that is appropriately acknowledged by all (e-signature, initials—the team can figure out how to do this).