

**CLEA**

**COMMONWEALTH LEGAL  
EDUCATION ASSOCIATION**



*Malaysia*

**COMMONWEALTH  
MOOTING**

**1<sup>ST</sup> TO  
4<sup>TH</sup>  
APRIL**

**COMPETITION**

**ADVOCACY BEYOND BORDERS**



# About CLEA

## COMMONWEALTH LEGAL EDUCATION ASSOCIATION

The Commonwealth Legal Education Association (CLEA) is an international non-profit organisation established in 1971, dedicated to promoting excellence in legal education across Commonwealth countries. It brings together law schools, academics, institutions, and legal professionals to strengthen legal teaching, research, and professional development.



## CLEA & COMMONWEALTH MOOTING

.The Commonwealth Mooting Competition is a flagship CLEA initiative conducted in association with the Commonwealth Law Conference. It provides a global platform for representative student teams from across the Commonwealth to engage in advanced advocacy in areas of constitutional law, international law, public law, and human rights.

## REGIONAL QUALIFYING ROUNDS

.CLEA conducts regional mooting rounds, including the South Asia Rounds, which serve as the qualifying stage for participation in the Commonwealth Moot. These rounds assess students on oral advocacy, legal research, and memorial drafting, ensuring high academic standards.



# RULES & REGULATIONS

## 1. Organisation

The Commonwealth Moot Competition (the Competition) final will be held during the CLEA Biennial Conference at Malaysia. The Indian Round, and Commonwealth Preliminary Round & Selection of Finalists will be organised jointly by the Commonwealth Legal Education Association [CLEA] and Amity Law School, Amity University, Mumbai along with a Mooting Committee appointed by the organising body of the host nation (the Mooting Committee).

## 2. Eligibility

The regions in the Commonwealth those are eligible to send a team to the Commonwealth

Moot are Australia, New Zealand, South East Asia (Hong Kong, Malaysia and Singapore), India, South Asia (Bangladesh, Pakistan and Sri Lanka), Southern Africa, East Africa, West Africa, the Caribbean, Canada, the South Pacific and the United Kingdom. Regional organisers will select regional teams in a manner the regional organisers decide after consultation with the Moot Coordinator. Generally, one team from each region may participate in the competition. If appropriate, additional teams who are appropriately qualified may be invited at the Moot Coordinator's discretion.

## 3. Membership of Team

Each team will consist of two counsel and, if the participating region so wishes, a reserve, each of whom –

- a) On the date of selection of the team, is a law student at an institution in the region that he or she represents; and
- b) On the date of the start of the Competition has not been admitted to the unrestricted practice of law in any jurisdiction.
- c) Each team must complete the 18th CLEA Commonwealth Mooting Competition, 2026 registration form and emailed to the Commonwealth Moot Coordinator at [cleamootcompetition17@gmail.com](mailto:cleamootcompetition17@gmail.com) no later than end of February in the year of the competition.

## 4. Registration

All participants associated with the CLEA Commonwealth Mooting Competition 2026, including student teams, coaches, institutional representatives, and attendees observing the moot proceedings, are mandatorily required to register through the official registration link, which will be made available shortly.

## **5. Assistance**

Teams may not have any outside assistance in the preparation or presentation of their cases other than general guidance on the issues involved and research sources.

## **6. The Problem**

- a) The problem will deal with the issues of International Commonwealth interest and will be concerned solely with points of law.
- b) It will be set under the guidance of the Moot Coordinator and must be approved by the Executive Committee of CLEA.
- c) A copy of the problem will be posted on the CLEA website. The same problem will be used throughout the Competition.
- d) Any ambiguities arising out of the problem must be pointed out to the Commonwealth Moot Coordinator and requests for clarifications made, at least one month before the Competition begins. If necessary, the Mooting Coordinator may then resolve the ambiguities at his/her absolute discretion. Clarifications will be posted to the Commonwealth Moot website as they are made and notified to all the participating teams.
- e) Teams will prepare arguments for both the Applicant and the Respondent.

## **7. The Competition**

- a) Each team will moot twice in the first round (the General Round), once as Applicant and once as Respondent. Teams will be awarded individual and team marks at the end of each moot.
- b) The first four teams who have scored the highest team marks in the general rounds will enter the semi-finals.
- c) In the event where two or more teams score the same number of team marks the team with the highest number of wins will enter the semi-finals.
- d) In the event where two or more teams score the same number of team marks and the same number of wins, the teams will compete against each other and the team with the highest score will qualify for semi-finals.
- e) The winners of each semi-final will moot in the final. In the final, the team with the highest semi-final marks will appear for the Applicant.
- f) The marks awarded in each of the three rounds will be published. The Individual marks and team marks awarded in the general round will be published after the end of that round. Individual marks and team marks for the semi-finals will be published after the end of the semi-finals and the marks for the final may be announced at the end of the final round.
- g) The mooter with the highest total of individual points from the General Round will be awarded the best mooter prize. A mooter will have to moot in both general round moots to be eligible for this prize.
- h) The winning team in the final of the Competition will be awarded the Commonwealth Mooting Competition Trophy, which it may retain until the next Competition.

## **8. Mode of Competition**

- a) The General Rounds and Semifinal will take place online.
- b) The Final will take place in Malaysia during the CLEA Biannual Conference.

## **9. Judges**

- a) Each General Round moot normally be held before a panel of three appropriately qualified persons appointed by the Mooting Coordinator.
- b) One of the judges of a moot in the General Round of the Competition may be the Commonwealth Moot Coordinator or her nominee.
- c) Semi-final rounds and final rounds will be held before three judicial officers (or equivalent), none of whom may be working or resident in a region represented in the semi-final unless both teams agree. Normally the more senior judge will be the presiding judge.

## **10. Substitute of Counsel by Reserve**

A reserve may substitute for a designated counsel in a moot when that counsel is ill or otherwise unable to participate. The Commonwealth Moot Coordinator must consent to the substitution before the moot.

## **11. Moot Procedure**

- a) Each team may cite a total of 12 authorities<sup>[1]</sup> for the Applicant and a total of 12 authorities for the Respondent. Each list must have a cover page with details of the team's region, the names of the members, whether it is an Applicant or Respondent's list and the date.
- b) Each team is to email the moot coordinator at [cleamootcompetition17@gmail.com](mailto:cleamootcompetition17@gmail.com), of its final lists of authorities for Applicant and Respondent no later than 24 hours prior to the welcome ceremony. Each list must have a cover page with details of the team's region. The Moot Coordinator will hand the lists to each team's opponents at the welcome ceremony. Any later amendments to lists of authorities may be made only after consultation with the Commonwealth Moot Coordinator.
- c) Each team must send draft outlines of argument as Applicant and Respondent by email to the Commonwealth Moot Coordinator at [cleamootcompetition17@gmail.com](mailto:cleamootcompetition17@gmail.com) no later than one month prior to the mooting competition. Each outline of argument must have written on it in a prominent place, the team's region, counsel's name, whether counsel appears as senior or junior counsel, whether counsel appears for the Applicant or Respondent and the date. Each team's separate draft outline for the Applicant and draft outline for the Respondent must not exceed 2 A4 pages (Times New Roman (or equivalent) size 12 font, and single line spacing) in total length. If appropriate, the draft outlines may be posted to the website.
- d) Each team is to give two copies of its final outlines of argument as Applicant and Respondent to the Commonwealth Moot Coordinator no later than 24 hours prior to the welcome ceremony. The Commonwealth Moot Coordinator will hand the outlines to each team's opponents at the welcome ceremony. Any later amendments to outlines of argument may be made only after consultation with the Commonwealth Moot Coordinator. Each team's separate outline for the Applicant and outline for the Respondent must not exceed 2 A4 pages (Times New Roman or equivalent size 12 font, and single line spacing) in total length.

- a) Counsel must wear business dress during each moot.
- b) At the beginning of every moot, each team must hand up to the Bench –
  - a. one Appeal Book containing –
    - i. counsels' names;
    - ii. photocopies of the relevant material from all authorities and other materials referred to in argument, (eg legislation) ; and
    - iii. an index, or some other means (tabs etc) for finding relevant material; and
  - b. for each judge, a copy of counsels' written outlines of argument to be followed and a list of authorities to be relied on during the moot.
- c) Counsel will be heard in the following order –
  - a. Senior counsel for the Applicant;
  - b. Junior counsel for the Applicant;
  - c. Senior counsel for the Respondent;
  - d. Junior counsel for the Respondent;
  - e. Senior counsel for the Applicant may then exercise a right of reply, (if reserved) during which no new arguments may be raised.
- d) Any Judge may interrupt counsel at any time to ask a question.
- e) Each team has 30 minutes to make submissions. This time limit includes questions and answers, though the bench may allow counsel to continue at its discretion.
- f) The Applicant's right of reply is limited to five minutes.
- g) The Judges may adjourn to consider their decision at the end of the moot.

## 12. Judging

- a) Each Judge will complete an individual marking sheet (Appendix A) for each participant in a moot.
- b) The presiding Judge will add up the marks awarded by each Judge, transpose them to the moot marking sheet (Appendix B) and announce which team has won for the purposes of the Competition.
- c) The winning team is the team that has the highest total marks. The winning team will not necessarily be the team for which judgment may be given on the law.

## 13. Scouting

Counsel, a reserve or any persons affiliated with a team, must not attend any moot other than one in which his or her team is participating while that team is still competing.

## 14. Disputes

Any dispute about the Competition must be referred to the Commonwealth Moot Coordinator before the end of the Competition. Before making a decision about a dispute, the Commonwealth Moot Coordinator may consult the Mooting Committee. A decision made by the Commonwealth Moot Coordinator about a dispute concerning the Competition is final.

# Moot PROPOSITION



## BACKGROUND:

Anti-Corruption Society (ACS), an NGO, has brought a claim against the Government of Westland and Arms For All Inc (AFA) for recovery of monies which ACS say was paid out by AFA in bribes in order to secure a significant contract to supply arms, rocket systems, aircraft and warships to the state of Ageas. The claim is brought in the Commonwealth Moot Court (the CMC) situated in the island State of Westland, a country with an advanced economy and a legal system based on the common law which is well known for its prowess in manufacturing advanced weapons systems. The CMC has jurisdiction and powers similar to those enjoyed by the Commercial Court in England. The statutes of Westland have, unless otherwise stated, been based on those of England. Both Westland and Ageas have signed and ratified the United Nations Convention Against Corruption (UNCAC).

75% of AFA is owned by the Government of Westland, and there is evidence to indicate that the monies paid out in bribes originated from the Central Bank of Westland (the CBB). The bribes themselves were paid to Lucretia, the half-sister of Tarquin, the King of Ageas. ACS claim therefore that, essentially, the bribes were paid out of taxpayers' money. However, anticipating jurisdictional problems in bringing a representative action on behalf of Westland taxpayers, some fifty members of ACS have each purchased one share in AFA.

In this case, say ACS, the state of Ageas will never make a claim of the type set out under para 3 below, because the royal family, in the person of Princess Lucretia, is the principal beneficiary of the payments. ACS had previously attempted to hold the Westland Government to account by seeking a Judicial Review of the Justice Minister's refusal to grant leave for a prosecution of AFA, but this had failed in the Supreme Court, despite a favourable decision in the Court of Appeals. In effect, the interests of national security were cited as being paramount, in a decision in which the reasoning was very similar to that of the House of Lords in *R. (on application of Corner House Research) v Director of Serious Fraud Office* [2008] UKHL 60 (the BAE case).

### **ACS claim that:**

- *The action that they are bringing is brought on behalf of Westland taxpayers and is justified because the Government is in clear breach of the common law relating to bribery;*
- *Alternatively, the members of ACS who are shareholders in AFA are entitled to bring this claim because the directors of AFA were acting ultra vires in paying bribes to secure the contract;*
- *It is a well established principle that a party which has effectively paid a premium for goods and/or services rendered as a result of the price having been inflated by the amount of the bribe has a good claim against the payer of the bribe for the return of those monies;*
- *Alternatively ACS has a proprietary claim to the monies paid out in bribes;*
- *There has been misfeasance in public office: the Justice Minister acted unlawfully in seeking to protect the Government from prosecution for corruption;*

### **AFA and the Government will seek to defend themselves by pleading that:**

1. *Payments of reasonable sums by way of commission are common practice in the arms industry-the payments in this case did not amount to more than 15% of the value of the contracts;*
2. *In particular, a string of cases decided before the Courts of Ageas have held that 'secret' commission payments are quite lawful, provided they are 'reasonable' in amount as a proportion of the price paid under the contract;*
3. *A course of dealing had been established between the parties: 20 years previously contracts between the two parties had been concluded on similar terms without challenge;*
4. *The payments by the Government were subject to the doctrine of act of State, and hence are non-justiciable before a municipal court;*
5. *The Government of Ageas was fully aware of, and condoned, the payment made to Princess Lucretia;*
6. *Under the laws of Ageas it is customary for such payments to be made on large deals such as this.*

Salford Corporation v Lever (No 2) (1891) 1 QB 168  
Selangor United Rubber Estates td v Cradock (No 3) [1968] 1  
WLR 1555,1582  
The Mayor of Salford v Lever (1891) 1 QB 168

Consul Developments Pty Ltd v DPC Estates Pty Ltd [1975] 132 CLR 373  
<http://www.austlii.edu.au/au/cases/cth/HCA/1975/8.html>

Royal Brunei Airlines v Tan [1995] 2 AC 378, PC, 386 – 387  
<http://www.bailii.org/uk/cases/UKPC/1995/4.html>

United Australia Ltd v Barclays Bank Ltd [1941] AC 1, HL  
Warman International Ltd v Dwyer [1995] 182 CLR 544  
<http://www.austlii.edu.au/au/cases/cth/HCA/1995/18.html>

#### 4. Proprietary Claims

Pakistan v Zardari [2006] EWHC 2411  
<http://www.bailii.org/ew/cases/EWHC/Comm/2006/2411.html>

Foskett v McKeown [2001] 1 AC 102, HL  
<http://www.bailii.org/uk/cases/UKHL/2000/29.html>

Serious Fraud Office v Lexi Holdings Plc (In Administration) [2008] EWCA Crim 1443  
<http://www.bailii.org/ew/cases/EWCA/Crim/2008/1443.html>

#### 5. Mifeseance

Three Rivers District Council v Bank of England (No 3) [2003] 2 AC 1, HL  
<http://www.bailii.org/uk/cases/UKHL/2001/16.html>

Attorney General's Reference (No 3 of 2003) [2004] 3 WLR 451  
<http://www.bailii.org/ew/cases/EWCA/Crim/2004/868.html>

Northern Territory of Australia v Mengel (1995) 185 CLR 307, 357 [Lack of honest attempt to perform the functions of the office that constitutes the abuse of the office.] <http://www.austlii.edu.au/au/cases/cth/HCA/1995/65.html>

Garret v Attorney General [1997] 2 NZLR 332 [The act of commission or omission must be unlawful.]

#### Defence

##### 6. Payment of commission as common practice

Turnbull v Garden (1869) 38 LJ Ch 331

Hovenden & Sons v Millhoff (1900) 83 LT 41

## Suggested Reading:

### General

Colin Nicholls QC, Tim Daniel, Alan Bacarese and John Hatchard, *Corruption and Misuse of Public Office*. (2<sup>nd</sup> Ed Oxford University Press, 2011)

United Nations Convention Against Corruption 2004

<http://www.unodc.org/unodc/en/treaties/ACS/index.html>

### Claim:

#### 1. Standing

R. (on application of Corner House Research) v Director of Serious Fraud Office [2008] UKHL 60 <http://www.bailii.org/uk/cases/UKHL/2008/60.html>

R. (on the application of Corner House Research) v Director of Serious Fraud Office Divisional Court [2008] EWHC 714 (Admin)

<http://www.bailii.org/ew/cases/EWHC/Admin/2008/714.html>

Gouriet v Union of Post Office Workers [1978] AC 435, HL

<http://www.bailii.org/uk/cases/UKHL/1977/5.html>

R. v Inland Revenue Commissioners Ex p. National Federation of Self Employed and Small Businesses Ltd [1982] AC 617, HL

<http://www.bailii.org/uk/cases/UKHL/1981/2.html>

Halsbury's Laws of England, (4th ed. 2001 Reissue, Butterworths), Volume 1(1) para 66 'Who may apply for Judicial Review'

De Smith's Judicial Review, (6th ed. Sweet & Maxwell, 2007), pp 2-035 to 2-041 'The role of campaign and interest groups as claimants'

M Supperstone QC, J Goudie QC, Sir P Walker, *Judicial Review*, (3rd ed. Lexis Nexis Butterworths, 2005), paras 17.2 to 17.9.7 'Standing'

#### 2. Minority shareholders claims

The rule in *Foss v Harbottle* (1843) 2 Hare 461

<http://www.commonlii.org/int/cases/EngR/1843/478.pdf>, and its exceptions:

*Edwards v Halliwell* [1950] 2 All ER 1064

*North-West Transportation Co v Beatty* (1887) 12 App Cas 589

## 7. Course of dealings

Arab Monetary Fund v Hashim [1996] 1 Lloyd's Rep 589

<http://www.bailii.org/ew/cases/EWCA/Civ/1997/1298.html>

Attorney General of Zambia v Meer Care & Desai (A firm) [2007] EWHC 952 (Ch)

<http://www.bailii.org/ew/cases/EWHC/Ch/2007/952.html>

Daraydan Holdings Ltd v Solland International Ltd [2004] 3 WLR 1106

<http://www.bailii.org/ew/cases/EWHC/Ch/2004/622.html>

Dubai Aluminium Co. Ltd v Salaam [2003] 2 AC 366, HL

<http://www.bailii.org/uk/cases/UKHL/2002/48.html>

Fyffes Group Ltd v Templeman [2002] 2 Lloyd's Rep 643

<http://www.bailii.org/ew/cases/EWHC/Comm/2000/224.html>

Mahesan S/O Thambiah v Malaysian Government Officers' Co-operative Housing Society [1979] AC 374, PC

World Duty Free v Republic of Kenya ICSID Case

<http://ita.law.uvic.ca/documents/WDFv.KenyaAward.pdf>[http://www.chathamhouse.org.uk/files/9129\\_il280307.pdf](http://www.chathamhouse.org.uk/files/9129_il280307.pdf)

## 8. Doctrine of Act of State

Buttes Gas & Oil Co. v Hammer (No. 3), Occidental Petroleum Corp. v Buttes Gas & Oil Co. (No. 2) [1982] A.C. 888, HL

<http://www.uniset.ca/other/css/1982AC888.html>

[Kuwait Airways Corporation v Iraqi Airways \[1995\] 103 ILR 340](#)

[Kuwait Airways Corporation v Iraqi Airways \[2002\] UKHL 19](#)

<http://www.publications.parliament.uk/pa/ld200102/ldjudgmt/jd020516/kuwait-1.html>

[Kuwait Airways Corporation v Iraqi Airways \[2003\] EWHC 31](#)

<http://www.bailii.org/ew/cases/EWHC/Comm/2003/31.html>

[R v Bow Street Metropolitan Stipendiary Magistrate Ex p. Pinochet Ugart \(No. 1\) \[1998\] 3 WLR 1456 \(House of Lords, 25 November 1998\) \(subsequently vacated by Order of the House, 17 December 1998. See In re Pinochet below.\)](#)

<http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd981125/pino01.html>

*In re Pinochet (House of Lords, Oral Judgment: 17 December 1998 Reasons: 15 January 1999*

<http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990115/pino01.html>

*R v Bow Street Metropolitan Stipendiary Magistrate Ex p. Pinochet Ugart (No. 3) [1999] 2 AER 97 (House of Lords, 24 March 1999)*

<http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990324/pino1.html>

*Petrotimor Compania de Petroleos SARL v Australia [2003] F.C.A.F.C. 3*

<http://www.austlii.edu.au/au/cases/cth/FCAFC/2003/3.html>

*Republic of Ecuador v Occidental Exploration and Production Company [2005] EWHC 774 (Comm) (appealed to the Court of Appeal where the decision was affirmed. See Court of Appeal decision below.)*

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Comm/2005/774.html>

*Republic of Ecuador v Occidental Exploration and Production Company [2005] EWCA Civ 1116*

<http://www.bailii.org/ew/cases/EWCA/Civ/2005/1116.html>

*Korea National Insurance Co. v Allianz Global Corporate & Speciality AG [2008] EWCA Civ 1355* <http://www.bailii.org/ew/cases/EWCA/Civ/2008/1355.html>

See also Evans, M. *International Law Second Edition* (Oxford University Press 2006). pp 383 - 394 and pp 444 - 445.

## 9. Knowing Assistance

*World Duty Free v The Republic of Kenya ICSID Case*

<http://ita.law.uvic.ca/documents/WDFv.KenyaAward.pdf>

[http://www.chathamhouse.org.uk/files/9129\\_il280307.pdf](http://www.chathamhouse.org.uk/files/9129_il280307.pdf)

*Royal Brunei Airlines v Phillip Tan Kok Ming [1995] 2 AC 378*

<http://www.bailii.org/uk/cases/UKPC/1995/4.html>

*Baden v Societe Generale [1993] 1 WLR 509*

*Agip (Africa) Ltd v Jackson [1990] Ch 265*

*Twinsectra v Yardley* [2002] AC 164, PC

<http://www.bailii.org/uk/cases/UKHL/2002/12.html>

1. Customary

*World Duty Free v Republic of Kenya* ICSID Case

<http://ita.law.uvic.ca/documents/WDFv.KenyaAward.pdf>[http://www.chathamhouse.org.uk/files/9129\\_il280307.pdf](http://www.chathamhouse.org.uk/files/9129_il280307.pdf)

*Darayden Holdings Ltd v Solland International Ltd* [2004] 3 WLR 1106

<http://www.bailii.org/ew/cases/EWHC/Ch/2004/622.html>

*Westacre Investments Inc v Jugoimport SPDR Holding CO Ltd* [1999] QB 740

[Brooke J judgment at first instance]

<http://www.bailii.org/ew/cases/EWCA/Civ/1999/895.html>

*Westacre Investments Inc v Jugoimport SPDR Ltd (CA)* [2000] QB 288, CA

<http://www.bailii.org/ew/cases/EWCA/Civ/1999/1401.html>

*Soleimany v Soleimany* [1999] QB 785, CA

<http://www.bailii.org/ew/cases/EWCA/Civ/1998/285.html>

*Omnium de Traitement et de Valorisation SA (OTV) v Hilmarton Ltd* QB [1999] 2

*Lloyd's Rep* 222

**Disclaimer:** This moot problem is purely a hypothetical scenario created for the purpose of this moot court competition. The characters, events, and legal issues depicted in this problem are entirely fictional and do not represent real individuals, cases, or situations. Any resemblance to actual persons, living or dead, or to real legal cases is purely coincidental.

Participants are advised that the scoresheet and evaluation of this moot problem are final. No objections, disputes, or appeals regarding the scoring, judging, or assessment of this problem will be entertained. The organizers' decisions in this regard are conclusive.

## **THE COMMONWEALTH MOOTING COMPETITION, 2026**

The 18th Commonwealth Mooting Competition will be held in conjunction with the CLEA Biennial Conference **“Lawyering 2030”**. The Competition will bring together teams from across Commonwealth jurisdictions to engage in high-level advocacy, legal reasoning, and comparative constitutional and public law analysis.

The Competition will be conducted in **three rounds**. The **preliminary rounds and the semi-final rounds will be conducted online in the month of March**. The **final round** of the Moot Court Competition will be held on **3 April 2026 in Malaysia**, as part of the main conference programme. The final round will provide the selected teams with the unique opportunity to argue before **Chief Justices and Judges of Supreme Courts from across the Commonwealth**, along with eminent senior practitioners and legal scholars. All participants associated with the CLEA Commonwealth Mooting Competition 2026 including **student teams, coaches, institutional representatives, and attendees observing the moot proceedings** are mandatorily required to **register through the official registration link**, which will be made available shortly.

Details regarding the **Dates, Time and Zoom links for the online rounds** will be shared with registered participants in due course.

For further information regarding the Commonwealth Moot, please contact:

### **Prof. Meera Furtado**

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