in association with

Himachal Pradesh
National Law University, Shimla

National Human Rights
Commission

Presents

3rd HPNLU National Moot Court Competition, 2022

29th-31st October, 2022

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Moot Court Committee, HPNLU, Shimla

FOREWORD FROM THE VICE-CHANCELLOR

Greetings on behalf of Himachal Pradesh National Law University, Shimla! HPNLU's prime focus has always been to prepare leaders for law and law-related professions through an integrated curriculum that emphasizes academic excellence and acceptability. We make available an exclusive platform that provides students with a surfeit of unparalleled opportunities to experience the bliss of learning and marvels of knowledge. Here, our priority is to make everyone "discover" their limitless potential and proficiencies. With such an objective to provide devoted educational facilities to the students, they are also groomed to be transformed into policymakers. With this in mind the HPNLU has committed itself to provide a congenial environment for the better growth and development of students, **3rd National Moot Court Competition, 2022** in association with **National Human Rights Commission, New Delhi**, will be its flagship event. Not only does the university encourage its students to put their minds to the test, but it also fosters and creates a similar environment for students across the country. This Temple of learning fosters an intellectual culture that bridges theory with practice and contributes to the social, economic, and cultural development of the country. Although the times were difficult and challenging due to the pandemic, the university, with this flagship in-person event, has committed itself to not letting it create obstacles on the path of growth for the students and legal education in the country. With this, I welcome you all to attend the event and look forward to an intellectually stimulating competition.
Looking forward to hosting you all at HPNLU, Shimla.

ABOUT

HPNLU, SHIMLA

The Himachal Pradesh National Law University, Shimla (HPNLU, Shimla) was established by an Act of the Himachal Pradesh Vidhan Sabha in 2016 (Act 16 of 2016). In the six years of its foundation, HPNLU has seen tremendous growth and has undertaken a good number of innovative measures to enhance the academic potential of its faculty members, students, and research scholars. Led by the visionary scholar of law, Hon'ble Vice-Chancellor Professor (Dr.) Nishtha Jaswal, the University, has been proactive in organising a series of events encompassing a wide spectrum of socio-legal issues. Despite the spread of the ongoing COVID-19 pandemic and the ensuing lockdown, HPNLU, Shimla has been at the forefront of using digital platforms to raise awareness about issues such as fundamental duties, women's reproductive rights, human rights and access to justice, among many others. HPNLU, Shimla has always tried to inculcate an interest in mooting culture in its law students and considers mooting an essential part of the law school experience.

The Moot Court Committee (MCC) is the official student committee for managing mooting activities and events at HPNLU. In order to foster the culture of moot court competitions, the University is organising its 3rd National Moot Court Competition, 2022 in association with NHRC and SCC and EBC as knowledge partners.

ABOUT

NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission (NHRC) of India was established on 12 October 1993. The statute under which it was established is the Protection of Human Rights Act (PHRA), 1993, and amended by the Protection of Human Rights (Amendment) Act, 2006.

It is in conformity with the Paris Principles, adopted at the first international workshop on National Institutions for the Promotion and Protection of Human Rights held in Paris in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December 1993.

The NHRC is an embodiment of India's concern for promoting and protecting human rights. Section 2(1)(d) of the PHRA defines Human Rights as the rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India.

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ABOUT
SCC ONLINE & EBC

SCC Online® is brought to you by Eastern Book Company - a publishing house of international repute and an acknowledged leader in the field of law publishing in India for more than 75 years.

It was in the 1940's when two brothers, the Late Shri C.L. Malik and his younger brother, the Late Shri P.L. Malik, decided to settle in Lucknow and embark upon a career in law bookselling and publishing. Together they laid the foundations of what today has grown into a group of companies under the banner of Eastern Book Company - a group recognized and respected for its contribution to legal literature worldwide. EBC publishes a wide range of legal commentaries, student texts, law reports and digests, and its products include pioneering works both in the print and electronic medium. With a list of over 550 authoritative and well known titles, it is well recognised for its contribution to legal literature worldwide.

Reliable and comprehensive law reporting of the Supreme Court of India has been achieved through EBC's weekly law report since 1969, the Supreme Court Cases™.

Now running into nearly 300 volumes, it is the leading law report of India with a very wide circulation and readership. Its high quality and meticulous standards have earned for it the respect and admiration of the entire legal community and it is today the most preferred and cited law report in all law courts.

Using the finest of technological innovations, we pioneered law information databases for making law easily accessible in the electronic medium. This has appeared in a revolutionary form, in the electronic medium, as SCC Online's Case Finder™. This Information Database and search program is a proven source for quick retrieval of case-law precedents of the Supreme Court of India.

The Web Edition versions of SCC Online® products have also been made available since 2009 with coverage expanding to 3.4 million documents from over 20 different countries.

The mark of EBC stands for authenticity, reliability and promptness. Thereby, it also fulfils its commitment to the rule of law.

ABOUT THE COMPETITON

Himachal Pradesh National Law University, Shimla, (HPNLU, Shimla) is delighted to announce the third edition of the National Moot Court Competition, 2022 in association with the National Human Rights Commission (NHRC). The competition is powered by SCC Online and EBC as knowledge partners. This flagship event has been devised with the aim to create an opportunity for learning the development of jurisprudence on emerging trends in constitutional law and human rights law, besides armouring the upcoming generations of the legal fraternity with research and oratory skills.

The Moot Proposition of the Competition revolves around constitutional law, human rights and related laws. However, the participants are expected to explore different dimensions of law and not restrict themselves to the theme of the Competition. In the past, HPNLU has successfully conducted two editions of its National Moot Court Competition in virtual mode, which witnessed significant participation of law students from all over India.

Keeping up with the spirit of mooting, this year as well, we are delighted to organize our flagship event in association with NHRC, in the premises of our campus, surrounded by the beautiful landscape of Shimla. We cordially invite your Law School/ University/ Institution/ College etc. to participate in the Competition.

TENTATIVE

TIMELINE

DATE	EVENT
25th August, 2022	Commencement of Provisional Registration
13th September, 2022	Release of Brochure, Rulebook, Commencement of Registrations for Round-I
30th September, 2022	Last date for Registrations and Payment for Round-I
30th September, 2022	Last date to seek Clarifications
3rd October, 2022	Release of Clarification
10th October, 2022	Deadline for Memorial Submission
By 15th October, 2022	Declaration of Results for Round-I (Memorial Qualifier Round)
20th October, 2022	Last date for Registration & payment for Round- II (Oral Rounds)
29th- 31st October, 2022	Researcher's Test & Oral Rounds

AWARDS

TEAM AWARDS

a. Winners: The Team shall be awarded with

- Cash Prize of **INR 40, 000/-** (Forty thousand only)
- Three (3) one year academic subscription to SCC Online Web Edition worth Rs. 81,000; and
- Certificate of Excellence.

b. Runners up: The Team shall be awarded with

- Cash Prize of **INR 30,000/-** (Thirty thousand only)
- Three (3) one year subscription to EBC Learning worth Rs. 43,500; and
- Certificate of Excellence.

c. Best Memorial (Applicant): The Team having the highest average Memorial scores from Applicant/Petitioner sides shall be rewarded with the cash prize of **INR 15,000/-** (Fifteen thousand only) along with a Certificate of Excellence.

d. Best Memorial (Respondent): The Team having the highest average Memorial scores from Respondent sides shall be rewarded with the cash prize of **INR 15,000/-** (Fifteen thousand only) along with a Certificate of Excellence.

e. Certificate of Merit shall be given to all the Teams qualifying for the Quarter-finals Round.

f. Certificate of Participation and one month access to SCC Online Web Edition shall be given to all the Teams participating in the Oral Rounds.

g. Certificate of Participation in the Memorial Qualifier Round: Teams participating in the memorial qualifier round will also be a Certificate of Participation.

INDIVIDUAL AWARDS

a. Best Researcher: The Researcher scoring the highest score in the Researcher's Test shall be rewarded with the cash prize of INR 10,000/- (Ten thousand only) along with a Certificate of Excellence.

b. The Best Orator (Male) from the Advanced Round shall be rewarded with the cash prize of **INR 10,000/-** (Ten thousand only) along with a Certificate of Excellence.

c. The Best Orator (Female) from the Advanced Round shall be rewarded with the cash prize of **INR 10,000/-** (Ten thousand only) along with a Certificate of Excellence.

THE ORGANIZERS

PATRON-IN-CHIEF
Hon'ble Mr. Justice Amjad Ahtesham Sayed,
Chief Justice, High Court of Himachal Pradesh
&
Chancellor, HPNLU, Shimla

PATRON
Prof. (Dr.) Nishtha Jaswal
Vice-Chancellor, HPNLU, Shimla

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Dr. Chandrika (Faculty Convenor)
Dr. Chandreshwari Minhas
Dr. Shaifali Dixit
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MOOT PROPOSITION

1. Indica is a developing peninsular country situated in the Southern part of the Rondwana continent, the largest continent of the world. The country got its independence from British colonial rule in the year 1940 and since then has been governed under a single-party democracy system.
2. Ever since its colonial independence, Indica has led the frontier of the group of common law countries and has had a rich history of legal development, in all aspects of law, over the years and its judicial activism has constantly been praised by the world.
3. Marwadan is a 23-year-old student studying at a premier law institute called Jatala Global Law School and is based in the state of Jatala in the country of Indica. He is a well-reputed poet, who belongs to the religious community Xatalism. He has published many poetic works in Hindi and publishes his work through both, offline and online mediums. His poetic work has always been a source of inspiration for the masses attracting a huge fan following on his social media pages.
4. Art. 19(1)(a) of The Constitution of Indica guarantees every citizen to have Freedom of Speech and Expression, subject to certain reasonable restrictions prescribed under Art. 19(2) of the Constitution. Marwadan has recently published a story in poetic form from Subahvani Prakashan. In one of the verses, he characterised the beauty of a woman of a fictional character by describing her body parts. He also went on to describe in one of the verses about the sexual act in which the woman in character participated with her paramour.
5. One NGO named Abhilashini, working for the empowerment of women in the state of Jatala, found the poem objectionable on several grounds. The head of the NGO, Ms. Chitrakala, when approached for a statement said that "We should collectively remove such mental waste from our society; this is against Indica's sanskar". Pursuant to this, the NGO filed a writ petition before the High Court of Jatala, a State in the Republic of Indica, to pass a writ restricting the publication of that poem. The NGO argued before the High Court that the story depicted in the poetic expression is an unreasonable exercise of freedom of speech and expression. Such a form of expression is lascivious and creates prurient interest in the mind of the reader. This poem may deprave and corrupt the mind of possible readers; she also stated that if such material is allowed to fall into the hands of the young and vulnerable generation it will result in a moral hazard. Further, it was argued by the NGO that the poem is obscene; hence, it is an offence punishable under Section 292 of the Indica Penal Code, 1860 (IPC).

6. In the meanwhile, this issue garnered attention from both national and international media. This resulted in widespread criticism of the government and heated debates on several online platforms. Sensing the alarming situation, the Union government issued directions to block public access to the poem by taking it down from all social media platforms.
7. Parallelly, multiple protests broke out in various parts of the state of Jatala, where people were agitating for the arrest of Marwadan. In one such protest, things escalated in a precarious manner and the protest took the form of a riot. Therein, police were dispatched to the agitation area, where a group of people used Molotov cocktails against them, which resulted in several grievous injuries to both the police and people who showed up for the protest.
8. Sensing the gravity of the situation, the Union government of Indica passed an order to restrict the internet in the state of Jatala, citing the law and order situation in the state. Further, the investigating agencies also identified Mr. Michael Joseph as the one to have thrown the Molotov cocktail and charged him under the Unlawful Activities (Prevention) Amendment Act, 2019 famously known as UAPA.
9. Against the internet ban, Marwadan contended that it is violative of his freedom of speech and expression.
10. The Xatali Community worships the female goddess in virgin form and the scriptures of the Xatali religion prohibit any lascivious description of the female body. The religious practices of the Xatali community have been recognized by the State through the Xatali Community Members (Management and Regulation of Conduct) Act, 2022. (Annexure-I) A group of Xatali Community members remarked that the composition by Marwadan is violative of the provisions of the Act.
11. Thereafter, members of the Xatali Community approached the High Court of Jatala, claiming that Marwadan should be prosecuted and punished as per the Act of 2022. The three petitions were clubbed by the High Court of Jatala and heard together where Marwadan claimed the following -
    - That the right to expression was enshrined in the Constitution as fundamental and cannot be abridged by any law of the land.
    - That the provisions of Section 2 of the Xatali Community Members (Management and Regulation of Conduct) Act, 2022 was unconstitutional.
    - That the freedom of speech and expression was at a higher pedestal in the hierarchy of rights as enunciated and expressed in the Constitution of Indica.
    - That the right to freedom of religion could not go beyond the general moral prescriptions emerging from human rights as enunciated and conferred internationally by virtue of the Universal Declaration of Human Rights.

- That the provision of the Act of 2022 was also violative of the *jus cogens* with respect to protection of human rights and thus *ultra vires*.
- That the right to access the internet was a fundamental right under the Constitution of Indica.

12. The High Court declined to provide any relief to the NGO or the members of the Xatala Community on the ground that the author has not exceeded the legitimate domain of expression allowed by the Constitution. However, the High Court did not interfere in the religious or the right to access to the internet, or the UAPA aspect of the petition, stating that the issues raised important questions of constitutional law that needed to be settled and that the interference of the highest court was needed.
13. The Supreme Court of Indica took note of the matter and constituted a thirteen-judge bench to decide the matter. Accordingly, the following issues have been framed before the Supreme Court of Indica:

    1. Whether the Xatali Community Members (Management and Regulation of Conduct) Act, 2022 is *ultra vires* the Constitution of Indica?
    2. Whether there is a hierarchical scheme in the idea of fundamental rights?
    3. Whether the author's right to freedom and speech and expression violates the general standard of morality or decency established by the community?
    4. Whether the right to freedom of speech and expression be curtailed on the ground that it is violative of the religious sentiments of a particular community?
    5. Whether the right to access to the internet is a fundamental right under Article 21 of Indica?
    6. Whether the 2019 amendment to the Unlawful Activities (Prevention) Amendment Act, 2019 is manifestly arbitrary and violative of Articles 14 and 21 of the Constitution of Indica?

NOTES:

A. The Constitution and all other laws of Indica should be interpreted in *pari materia* with the Constitution and other laws of India and no such fact is *pari materia* to any country.
B. Participants are at liberty to take additional arguments/ grounds in support of the issues raised herein.
C. The events and the characters depicted in the moot court problem are purely a work of fiction and hypothetical. Any similarity to actual persons living or dead is purely coincidental. This Moot Problem is purely intended for the Moot Court Competition and educational purposes amongst law students.

ANNEXURE – 1

THE XATALI COMMUNITY MEMBERS (MANAGEMENT AND REGULATION OF CONDUCT) ACT, 2022
(No. 1 of 2022)

The following act of the parliament received the assent of the President on 9th August, 2022. An act to manage and regulate the conduct of the members of the Xatali community residing in the territory of Indica, or any other community which the central government may from time to time notify.

CHAPTER I

1. ***Preliminary:***
(1) This act may be called the Xatali Community Members (Management and Regulation) Act, 2022.
(2) It shall come into force at once;
(3) It shall apply to the whole of Indica.

CHAPTER II

2. ***Prohibition on Expressions*** – Subject to the conjoint reading of provisions of the fundamental freedoms guaranteed under the Constitution and the right to freedom of religion, no member of the Xatali Community shall –
a. Not discuss publicly in a derogatory manner about women, in written or other forms.
b. Not discuss publicly or initiate a discourse about the intimate acts that persons involved in and generally, the representation of women in such acts.
c. Respect women and womanhood.

3. ***Punishment for violation of Prohibition under Section 2*** – Any person who violates Section 2 shall be punished with an imprisonment of either description of a term which may extend to 10 years, and shall also be liable to fine up to INR 25,000 or both.