



**VIVEKANAND EDUCATION SOCIETY'S  
COLLEGE OF LAW  
CHEMBUR, MUMBAI- 71**



**SHREE HASHUJI ADVANI MEMORIAL,  
2<sup>nd</sup> NATIONAL MOOT COURT COMPETITION,  
2019**



**Date: - 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> January, 2019**

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**MOOT PROBLEM – 1**

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**Kusum**

**vs.**

**Devika and one other.**

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1. The issue of infertility amongst otherwise healthy married couple has been a matter of great concern worldwide. An immense desire to have a child by have-nots has led the medical scientists to evolve innovative reproductive techniques to bless such couples with a child.
2. Various types of Assisted Reproductive Techniques (ART) have been developed globally to deal with the issue of infertility amongst the married couple. 'Surrogacy' is one such type of Assisted Reproductive Technique.
3. Durgaprasad and Devika make a happily married Indivan couple, marital knot tied on 15<sup>th</sup> May 2007. Married last seven years and blessed with all physical comforts, married life is flowing like a song for them except for one issue, they are not blessed with a child yet.
4. A craving desire to have a child makes the couple to seek medical advice from a plethora of best known doctors in Indiva. Both being advised to go through a series of medical tests, which lead to a well-reasoned conclusion that the birth of a child is not possible as Devika's womb is not mature enough to sustain the growth of a child in a mother's womb.
5. After deliberations on various types of Assisted Reproductive Techniques (ART), the doctors suggest the couple to go for 'Commercial Surrogacy'. Surrogacy, one type of Assisted Reproductive Technique, is the process of caring and delivering a child for another person. Whereas, commercial surrogacy involves payment of monetary consideration to the Surrogate mother. A hunt begins in June 2014 to find a suitable woman willing to give her womb for rent i.e. a 'Surrogate Mother'.
6. Kusum is one such woman, who belongs to a mediocre family. Her husband has recently lost a job. The couple has a single child who unfortunately is deaf and dumb and for education needs to be sent to a special school at heavy cost. Kusum and her husband are for the purpose of education of child, in an imminent need of money.

7. Durgaprasad and Devika approach Kusum and after verifying her health status and other credentials, request her to be a 'Surrogate Mother' which Kusum and her husband willingly accept for the welfare of their child.
8. A written contract is signed on 15th of July, 2014 between Kusum as a 'Surrogate Mother' and Durgaprasad and Devika. The main terms of the contract are as follows:-
  - a. The parties to the contract would never disclose the fact of commercial surrogacy to a third person.
  - b. To protect health, for nurturing a child in her womb during pregnancy and for delivering the child, Kusum would be paid a consideration of Rs. Five Lakhs only.
  - c. After the birth of the child, the child would be immediately handed over to the custody of Devika.
  - d. After the birth of the child, Kusum i.e. 'Surrogate Mother' would cease to have any relation with the child.
9. The copy of the contract has not been given to Kusum. In a period of a year i.e in June, 2015, Kusum delivers the child, which is immediately handed over to Devika and Durgaprasad and now all is well.
10. After approximately a period of two years i.e. in July, 2017, Kusum and her husband develop an urge to claim back the custody of the child. They approach the doctor concerned, who flatly refuse any kind of assistance to them in the matter. Somehow Kusum manages to get the address of Durgaprasad & Devika and to the utter surprise and shock to both of them, reach to their house and claim custody of the child. Bewildered couple blatantly refuse to do so.
11. An attempt on the part of Kusum and her husband to claim the custody of the child before all the courts below has turned out to be futile as the courts have dismissed their plea for one reason or the other.
12. The Petition as regards to the custody of the child claimed by Kusum is now before the Supreme Court of India by way of Special Leave, which has been granted and is enlisted for final hearing. The issues mainly argued before the courts below covered the legality of the contract of 'commercial surrogacy', the rights of surrogate child, the rights of surrogate mother, human exploitation in commercial surrogacy and enforcement of surrogacy contracts *inter alia* amongst others.

**Note:** - Laws in India are the same as laws in India.

**MOOT PROBLEM – 2**

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**People's Human Rights Association**

**vs.**

**Union of Indiva**

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For the sake of brevity and convenience, the facts of the case are summarised as –

1. One Mr. Rajesh murdered his wife in a drunken rage at night in his house. Then he fled away from the scene and took shelter, in his friend Vicky's house. After few hours, when he came into his senses, he narrated the incident to Vicky. After hearing this, Vicky handed him over to the police.

Mr. Rajesh was then tried by the Sessions Court and without examining other witnesses, only on the basis of extra judicial confession; he was convicted for offence punishable under Section 302, IPC and sentenced to life imprisonment in 2006.

2. Mr. Rajesh was sent to the Central Prison in Nampur. In the prison, he met with one Naresh and they became good friends. After they became friends, Naresh put a proposal before Rajesh to marry his daughter.

In the meantime, Rajesh was released on bail by the Hon'ble High Court of Maharashtra in the year 2008.

3. In 2009, the marriage between Rajesh and Naresh's daughter was solemnised. Out of this wedlock they were blessed with twin baby boys.

4. However, by the year 2012, Rajesh had started suspecting the fidelity of his wife. They had heated arguments between them about the same and in the state of anger Rajesh hacked his wife to death by an agricultural spade. He then killed his two children who were sleeping and then he tried to commit suicide. At that time, after hearing noise, the neighbours rushed in and overpowered him.

5. The matter was tried by the Sessions Court. Defence lawyer did not cross examine witnesses of the prosecution nor did he produce any evidence on record. Thereafter, Rajesh was sentenced to death under Section 302, IPC by the Sessions Court for the reason that Rajesh was on earlier occasion convicted for an offence punishable u/s

302, IPC and the present case falls in the category of “rarest of rare”. High Court of Maharashtra confirmed the death sentence awarded by the sessions Court.

6. In Appeal before the Supreme Court by Special Leave, the defence counsel argued that the appeal against the punishment under Section 302, IPC for murdering his first wife is still pending before the Hon’ble High Court of Maharashtra and the punishment of life imprisonment u/s 302 of IPC only on the basis of extra judicial confession will vitiate the very purpose of justice. As regards the second conviction, it was argued that Rajesh was not given a fair opportunity to defend and therefore the entire trial is vitiated.
7. When the Division bench of Supreme Court could not reach to a consensus, the matter was referred to a third judge. Third Judge felt that there was no reason to interfere in the matter and confirmed the sentence of death in July, 2013. Rajesh then submitted a Mercy Petition in the year 2014 to the President of India which was rejected in the year 2015.
8. On 11<sup>th</sup> September, 2018, the black warrant for the execution of Rajesh has been issued by the appropriate authority. The very next day, Human Rights activists, ‘Peoples Human Rights Association, Maharashtra’, filed a Public Interest Litigation claiming that Rajesh cannot be executed on the grounds that his trials vitiated by illegalities and his execution would violate several provisions of the Constitution of India. Therefore this is a fit case which deserves to be remanded back to the Court of Sessions.
9. The Counsels representing the Petitioners have endorsed their Pleadings before the Supreme Court under Article 32 of the Constitution of India.

**Note:** - Laws in India are the same as laws in India.

## **RULES & REGULATIONS**

### 1. **LANGUAGE**

- The language of the competition shall be English.

### 2. **DRESS CODE**

- The dress code for the competition shall be Advocate's attire. Black and white formals for gentlemen and black and white Indian formals for ladies.
- Advocate's gown and white band are **prohibited**.

### 3. **ELIGIBILITY**

- All Law Colleges and Law Schools recognised by the Bar Council of India are eligible to participate in the competition.
- Bona-fide law students pursuing 3 or 5 years degree course shall be eligible to participate in the competition.

### 4. **TEAM COMPOSITION**

- Each college shall send only one team which shall comprise of **Minimum Two** and **Maximum Three** members. This number cannot be modified under any circumstances.
- Each team may comprise of Two Mooters and One Researcher. Each team should identify such speakers and researcher during Registration. The researcher won't be allowed to speak except under special cases and only with express permission of the organisers/Judges.

### 5. **REGISTRATION**

- Provisional registration shall be via Google Forms. Link regarding the same is as follows: <https://goo.gl/forms/1YwU42IOPUNPqbO52> (kindly browse the link to Register)
- A Google docs Form shall be duly filled & submitted online by any one Member on behalf of their Team.
- Registration shall be confirmed when a hard copy of the Registration Form along with hard copy of the Demand Draft (DD) is received by the host college by post at the address given below.
- **Registration Form shall be filled as per the sequence of appearance of the Mooters only and that sequence shall be followed for all the rounds of the competition. Any alteration of the same will not be allowed.**
- No alteration in the Team Composition will be allowed after Final Registration, except at the sole discretion of the organisers.

- Details of the DD are as follows:-
  - In favour of- **VES College of Law**
  - Amount- **₹ 4,000/- ( Rupees Four Thousand Only )  
(Inclusive of GST)**
  - DD shall be posted to- **Principal, VES College of Law, Sindhi Society,  
Chembur (E), Mumbai – 400071**
  - On or before- **5<sup>th</sup> December, 2018**
- Last date for **final registration** shall be **05.12.2018**
- Each team will be allotted a unique team code after final registration of the Team which will thereafter be the identity of the Team.
- Registration Form is at the end of this document.

#### 6. COMPETITION ROUNDS

- There shall be three rounds of the competition, viz. **Preliminary round, Semi-Final round and Final round.**
- Candidates shall be judged on the basis of following:
  - Knowledge in law
  - Interpretation of facts
  - Persuasiveness & reasoning
  - Court etiquettes
  - Use of authorities
  - Time adherence
- **Preliminary Round**
  - a. The preliminary round shall be held on **Saturday, 12<sup>th</sup> January, 2019.**
  - b. Each Team shall appear for **both sides** i.e once on behalf of Petitioner and once on behalf of Respondent for this round. i.e the participant team shall get two opportunities to argue their case.
  - c. The Preliminary round shall have the **Moot problem- 1.**
  - d. The time provided to **each team** shall be **maximum 15 minutes (12+3 minutes for rebuttal or sur-rebuttal)**. One Mooter shall be allowed to make submissions for maximum of **8 minutes** for this round.
  - e. Marks of Preliminary round shall be cumulative total of marks awarded to both the participants of a team appearing from both the sides.
  - f. Time may be extended at the sole discretion of the judges and the organisers.

Final Score Sheet shall consist of cumulative total of marks awarded to a team in **Preliminary Round (Petitioner + Respondent)** and **Memorial Marks (Petitioner + Respondent)** and the **top 6** highest scoring teams shall qualify for the Semi-final round.

- **Semi-final round**

- a. Accordingly, **top 6 teams** securing highest cumulative total in the final score sheet of Preliminary round shall qualify for the Semi-final round.
- b. Each Team shall appear **only once** i.e on behalf of either Petitioner or Respondent for this round.
- c. The Semi-final round shall be held on the next day i.e **Sunday, 13<sup>th</sup> January, 2019**.
- d. The Semi-final round shall have the **Moot problem- 2**.
- e. The total time available for **each team** will be **maximum of 20 minutes (17+3 minutes for rebuttal or sur-rebuttal)**. One Mooter shall be allowed to make submissions for maximum of **10 minutes** for this round.
- f. Time may be extended at the sole discretion of the judges and the organisers.

- **Final round**

- a. **Two teams** scoring highest in the **Semi-final round** shall qualify for the Final round.
- b. The Final round shall be held on **Sunday, 13<sup>th</sup> January, 2019**.
- c. The Final round shall have **Moot problem-2**.
- g. The total time available for **each team** will be **maximum 30 minutes (25+5 minutes for rebuttal or sur-rebuttal)**. One Mooter shall be allowed to make submissions for maximum of **15 minutes** for this round.
- d. Time may be extended at the sole discretion of the judges and the organisers.

## 7. WRITTEN SUBMISSIONS / MEMORIALS

- All teams are required to submit separate Memorials for Moot Problem-1 & Moot Problem-2 i.e Separate Memorials for the Preliminary round and another for Semi-final & Final round.
- All teams are required to prepare & submit Memorials for both the sides i.e Petitioner & Respondent.
- Team Codes allotted shall be mentioned on the Cover page of the Memorial.
- All teams are required to submit in total **12 hard copies** inclusive of Preliminary as well as Semi-final & Final rounds i.e **3 for Petitioner & 3 for**

**Respondent (3+3 for Preliminary round & 3+3 for Semi-final & Final round = 12 Copies) on Friday, 11<sup>th</sup> January, 2019.**

- Exchange of Memorials will take place on **Friday, 11<sup>th</sup> January, 2019 at 4:30 pm.**
- Teams are required to carry their own copies of Memorials on the day of the competition apart from the 12 hard copies submitted.
- Teams must note that Memorials shall carry **40 marks i.e 20 marks for each side in the Preliminary round..**
- The Memorial marks shall be added into the cumulative total marks for the Preliminary round.
- The Contents of the Memorial may contain *inter alia* the following:
  - Cover Page
  - Table of Contents
  - List of Authorities
  - Statement of Jurisdiction
  - Statement of Facts
  - Issues
  - Summary of Pleadings
  - Arguments Advanced
  - Prayer
- The format of the written submissions shall be as follows:
  - **Cover Page – Blue for the Petitioner & Red for the Respondent**
  - **Font**–Times New Roman, 12 (10 for footnotes)
  - **Line Spacing** – 1.5 for the body (1.0 for footnotes)
  - **Page Size** – A4 size
  - **Margin** – 2.54 cms from all sides
  - **Page Number** – Bottom of the page
  - **Page Limit** – 30 pages
- Participants are expected to **submit the soft copies of the Memorial** (pdf format only) on or before **23<sup>rd</sup> December, 2018.**
- Late submission of Memorials will result in reduction of 2 marks per day.
- The soft copies shall be mailed to **mootcourtveslaw@gmail.com**
- The subject of the mail shall be titled as **“Memorial– (Team Code)”**
- Documents shall be titled as follows:-

“MP M1 – (Team Code)” for Petitioner	}	Preliminary Round
“MR M1 – (Team Code)” for Respondent		Moot Problem 1
“MP M2 – (Team Code)” for Petitioner	}	Semi-final & Final Round
“MR M2 – (Team Code)” for Respondent		Moot Problem 2

8. GENERAL RULES

- All the participants are expected to carry with themselves all case laws, compendiums, bare acts and authorities which they intend to refer along with their own copies of Memorials.
- The organisers shall not provide any reading material or printing facilities to the participants.
- The participants, during the course of oral submissions will not be permitted to make any audio/visual representation nor will they be allowed to use personal computers, laptops and any other technical or mechanical device.

9. MISCELLANEOUS

- Decisions of the judges shall be final.
- Decisions regarding interpretation of any of the rules shall be taken by the organisers. This decision shall be final and binding on the participants.
- Rules should be strictly adhered to and any deviations thereof can attract disqualification.
- Participants must carry their current College ID-cards along with them to the competition.
- If there arises any situation which is not contemplated by any of the above mentioned rules, the organisers' decision on the same shall be final and binding.
- The organizers reserve the right to vary, alter, modify or repeal any of the above mentioned rules at any given point of time.
- In case of any queries or clarifications in respect of the competition/moot problem, the teams or any of the participants may contact:-
  1. **Dr. Jyoti Deshmukh** **Principal**  
Convenor
  2. **Prof. Dr. Anil G. Farkade** +91 9371277990  
Co-Convenor
  3. **Prof. Bhushan Shinde** +91 9892810749  
Professor in charge
  4. **Jai Kumar Vohra** +91 8454823201  
General Secretary
  5. **Riddhi Pawar** +91 9892671849  
Administrator
  6. **Akash Manwani** +91 8652158620  
Moot Court Association (Head)
  7. **Ashish Jain** +91 7738959497  
Moot Court Association (Head)
- In case of difficulty in locating the host college, Participants may contact :  
02225284134 – VES College of Law, Mumbai

**AWARDS**

<b>SR NO.</b>	<b>AWARD</b>	<b>CASH PRICE</b>
1.	Winner (Trophy + Certificate of Merit)	Rs 15,000/-
2.	Runner up (Trophy + Certificate of Merit)	Rs. 10,000/-
3.	Best Memorial (Trophy + Certificate of Merit)	Rs. 5,000/-
4.	Best Speaker (Trophy + Certificate of Merit)	Rs. 5,000/-

- Certificate of Participation will be given to all participants & Certificate of Merit will be given to all Awardees.

**SCHEDULE**

<b>SR NO.</b>	<b>PARTICULARS</b>	<b>DATE</b>	<b>TIME</b>
1.	Last date of final Registration (Submission of Registration Form + Demand Draft).	05.12.2018	5:00 pm
2.	Team Code allotment by host college.	22.12.2018	6:00 pm
3.	Memorial – Soft Copy Submission via Email on or before (pdf. Format).	23.12.2018	11:59 pm
4.	Last date for clarification of doubts & queries with respect to Moot problems.	01.01.2019	6:00 pm
5.	a. Registration b. Submission of hard copies of Memorials c. Exchange of Memorials d. Draw of lots	11.01.2019	4:00 pm
6.	a. Inauguration program b. Preliminary Round (Part I & II)	12.01.2019	10:00 am
7.	a. Semi-final Round b. Final Round c. Valedictory function and Prize distribution	13.01.2019	10:00 am

**PROGRAM**

**Day 1 - 11<sup>th</sup> January, 2019**

<b>TIME</b>	<b>PARTICULARS</b>
04:00 pm	Registration
04:30 pm	Draw of Lots & Memorial Exchange
05:30 pm	Tea & Snacks

**Day 2 - 12<sup>th</sup> January, 2019**

<b>TIME</b>	<b>PARTICULARS</b>
08:30 am	Breakfast
10:00 am	Inauguration Ceremony
11:30 am	Preliminary Round (Part 1)
02:00 – 03:00 pm	Lunch
03:00 pm	Preliminary Round (Part 2)
6:00 pm	Cultural Program followed by Declaration of Result of the Preliminary round.
8:00 pm	Dinner

**Day 3 - 13<sup>th</sup> January, 2019**

<b>TIME</b>	<b>PARTICULARS</b>
08:00 am	Breakfast
10:00 am	Semi-final Round
01:30 – 02:30 pm	Declaration of Results followed by Lunch
03:00 pm	Final Round
4:30 pm	Valedictory function and Prize distribution

**VES COLLEGE OF LAW**

Sindhi Society, Chembur (E), Mumbai – 400 071.  
Tel: 022 – 2528 4134. Email: mootcourtveslaw@gmail.com

**REGISTRATION FORM**

Name & Address of Institute / College:

\_\_\_\_\_  
\_\_\_\_\_

1. Name of the Mooter: \_\_\_\_\_

Class: \_\_\_\_\_

Mobile No: \_\_\_\_\_

Email ID: \_\_\_\_\_

\_\_\_\_\_

2. Name of the Mooter: \_\_\_\_\_

Class: \_\_\_\_\_

Mobile No: \_\_\_\_\_

Email ID: \_\_\_\_\_

\_\_\_\_\_

3. Name of the Researcher: \_\_\_\_\_

Class: \_\_\_\_\_

Mobile No: \_\_\_\_\_

Email ID: \_\_\_\_\_

\_\_\_\_\_

4. Name of the Bank \_\_\_\_\_

Demand Draft No. \_\_\_\_\_ Date \_\_\_\_\_

SIGNATURE & SEAL OF  
THE PRINCIPAL

**DETAILS (TRAVEL FORM)**

Teams registered for the Competition are required to fill in this Form.

[ These details are being taken for the purpose of records, convenience and communication. The information regarding the same shall not be disclosed to any party unconcerned with the Competition and may be used only for Competition related purposes. ]

NAME OF THE COLLEGE

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TRAVEL DETAILS

WAY OF TRANSPORT: \_\_\_\_\_

ARRIVAL TIME & DATE: \_\_\_\_\_

WAY OF TRANSPORT (for departure): \_\_\_\_\_

DEPARTURE TIME & DATE: \_\_\_\_\_

PLACE OF ACCOMODATION

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DETAILS OF PERSONS ACCOMPANYING (if any)

NAME: \_\_\_\_\_

RELATION: \_\_\_\_\_

CONTACT DETAILS: \_\_\_\_\_

Signature of the Participant

**ACCOMODATION**

It is to be noted by all the teams participating that Accommodation **shall not** be provided by the host college. Following is a list of hotels located within a radius of 2 kms from host college premises. It is to be noted that the college shall not interfere in any matter with respect to Accommodation. Rates mentioned in the table below are approximate rates and the same may also be considered in light of changing circumstances and time of booking.

<b>SR NO.</b>	<b>NAME OF THE HOTELS</b>	<b>RATE</b>	<b>NO OF PERSONS IN ONE ROOM</b>
1.	Hotel Rajans	Rs. 3,500/-	3
2.	Hotel Maharana Inn	Rs. 3,500/-	3
3.	Hotel Bahri Residency	Rs. 3,000/-	3
4.	Hotel Diamond	Rs. 3,000/-	2
5.	Hotel Abrol	Rs. 3,000/-	3

**Note:** It is to be further noted by all the Teams that rates of hotels may vary on online sites like trivago, makemytrip.com, booking.com, Goibibo.com & OYO Rooms are also available nearby.