



REGIONAL MOOT COURT COMPETITION, 2024
15th MARCH, 2024



समामो मल्लः समितिः समानी

(Colleges in West Bengal and Sikkim are eligible to apply and participate)



ORGANISED BY:
MOOT COURT SOCIETY
DEPARTMENT OF LAW
UNIVERSITY OF NORTH BENGAL
ACCREDITED BY NAAC WITH GRADE 'B++'
RAJA RAMMOHUNPUR, P.O.- NBU, SILIGURI
DIST. DARJEELING
PIN CODE- 734013, INDIA

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I. ABOUT THE DEPARTMENT

The Department of Law is prominently situated on Asian Highway (2) between Bagdogra and Siliguri in the District of Darjeeling. The distance from Bagdogra is six kilometres and from Siliguri is seven kilometres. The Department has its own campus in the south Block of the University opposite of the main campus of University of North Bengal. The sprawling campus of the University enjoys the pristine beauty of the eastern Himalayas and is the intellectual hub of North Bengal. Siliguri is an important subdivision of the district and commercial capital of North Bengal. Located at the foot hills of eastern Himalayas, Siliguri is the gate way to north eastern India and countries like Bhutan and Nepal. It shares a huge and porous international border with Bangladesh, Nepal and Bhutan. It is well connected with all major cities of India by air and rail. The Department of Law was formerly known as the North Bengal University Law College and was established as such in the year 1974. It was upgraded as the Department of Law in the year 2000. Presently the Department offers B.A. LL.B. [Honours] 5-year integrated course, LL.M. course, M.Phil and Ph.D. The intake at the LL.B. level is one hundred and fifteen, and the LL.M. course which was started in 1993 has thirty six seats. The criteria of admission both at B.A.LL.B.[Honours] under CBCS mode and LL.M. under CBCS mode are on merit. The Department has a rich Ph.D. programme. It was started in 1999 and since then 50 Ph.D. degrees have been awarded. Presently there are about eighteen scholars engaged in doctoral research under various faculty members under the UGC Regulation, 2016. The Department attracts scholars and students from all over India and especially from Sikkim, Assam, Tripura, Arunachal Pradesh, Uttar Pradesh and Orissa. It also attracts students from Bhutan, Nepal and Bangladesh. The Department was jointly selected by the British Council, Delhi, University of Warwick, U.K. and the National Law School of India University to carry out the 'Human Rights Outreach Project'. It was also a partner institution with CEERA, National Law School of India University for carrying out environment education for forest personnel, Tea Garden personnel and judicial officers. The Department has published Booklets on Human Rights, Environment Legislations in Bengali and Nepali. It has a Legal Aid Clinic in collaboration with the State Legal Services Authorities. It runs a very successful NSS programme. The recently formed Centre

for Child Rights at the behest of the UNICEF in collaboration with the Legal Aid Committee shall also conduct outreach programmes in relation to child rights and child welfare. That apart, it is noteworthy that Department of Law has also established a 'Centre for Cyber Law and Cyber Security' in the year 2018.

The Department has been organising Regional, National and International Seminar/Conference/Workshop/Symposium etc. at regular intervals. The Department also undertakes a number of Research Projects sponsored by different National and International bodies on regular basis. Moreover, it has close collaboration with renowned national and international institutions. The publication cell of the Department is very active. It brings out the Indian Journal of Law and Justice (IJLJ-ISSN:09763570), double binded peer reviewed, UGC carelisted, SCOPUS and HenOnline Indexed bi-annual journal). The Journal can be accessed in its official websites: ijlj.nbu.ac.in. More over the publication cell brings out an edited book on the topic of that year's Seminar. The Cell has presently undertaken a venture to publish the research projects undertaken by the Department and outstanding research work done by the students.

II. ABOUT THE MOOT COURT SOCIETY

The Moot Court Society of Department of Law, University of North Bengal has been set up in 2018. The objective of this Moot Court Society is to provide the students an opportunity to develop their advocacy skills. Participation in Moot Court Competition enhances researching skill of a student and also prepare a student to respond to an unfavourable situation. It also helps in building confidence in a law student. Mooting gives a practical court room experience to a law student.

The Moot Court Society, Department of Law, University of North Bengal consitituted with the following members. Dr. Sujit Kumar Biswas (Director), Dr. Dipankar Debnath, Mr.Subhajit Bhattacharjee & Dr. Chandrani Chatterjee. The Student members are, Miss Sudiksha Ghatak and Tanujit Barman.

The Moot Court Society has also organised following competition in order to encourage the students of Department of Law, University of North Bengal:

1. Intra-Departmental Client Counselling Competition;
2. Intra-Departmental Moot Court Competition;
3. Intra-Departmental Mock Trial Competition.

III. ORGANISING COMMITTEE

An organising committee for smooth holding of Regional Moot Court Competition on 15th March, 2024 is constituted of the following persons:

Dr. Sujit Kumar Biswas (Director);

Dr. Dipankar Debnath (Convener);

Ms. Prerna Lepcha;

Ms. Neelam Lama;

Dr. Sangeeta Mandal Biswas;

Dr. Sanyukta Moitra;

Dr. Soma Dey Sarkar;

Dr. Chandrani Chatterjee;

Dr. Sanjay Dutta;

Ms. Tania Basu Majumdar;

Mr. Shubhajeet Shome;

Mr. Subhajit Bhattacharjee;

Dr. Suparna Bandyopadhyay;

Ms. Ashima Rai;

Dr. Sukanya Kar.

IV. RULES OF THE COMPETITION

Preliminary selection of the teams shall be made on the basis of the marks allotted in the memorials.

IV.I. ROUNDS OF THE COMPETITION

The Regional Moot Court Competition shall comprise of the following two rounds after the publications of the result of the preliminary round:

- a. Semi-Final Rounds and
- b. Final Round.

IV.II. LANGUAGE:

The language of the competition will be English.

IV.III. ELIGIBILITY FOR PARTICIPATION:

Students pursuing 3 years/5 years undergraduate LL.B. degree course are eligible to participate in this competition.

Only one team can participate from each institution.

IV.IV.COMPOSITION OF PARTICIPATING TEAMS:

Composition of the participating teams shall be:

Each team shall consist of three (3) members. Two designated as speaker and one as researcher.

The researcher may be permitted to argue as speaker only in case of illness or any unforeseen event, but a written permission of the Moot Court Convener in such case shall be mandatory.

IV.V. DRESS CODE:

The participants shall adhere to the following when they shall be present in any court room during the competition:

1. Girls: Black salwar and white kurta or white shirt and black trousers along with black coat and black shoes;
2. Boys: White shirt, black trousers and black tie along with black coat and black shoes.

Note: (a) The participating teams shall also adhere to the above-mentioned dress code while attending the inaugural and valedictory ceremonies of the Competition.

(b) The aforesaid uniform must not bear any sign, identification mark or logo of any institution, college or university and violation of same shall cause immediate disqualification.

IV.VI.PARTICIPATION AND REGISTRATION

a. Team should register provisionally by sending mail to mcs.nbu.2019@gmail.com by 15th February, 2024 with the subject “Registration for Regional Moot Court Competition, 2024” through an authorised official e-mail id.

b. On receiving the mail, the participants will be notified the Team Code upon confirmation of the participation.

c. A soft copy of duly filled in Registration form shall be mailed at mcs.nbu.2019@gmail.com.

d. On reporting at the Department of Law, NBU during the competition, each team has to pay registration fee (as mentioned in the Registration fee clause) along with the hard copy of the Registration Form (the scanned copy of the

Registration form has to be sent on or before 15th February, 2024 via mail to mcs.nbu.2019@gmail.com as a provisional registration).

e. No change in the names of the participants shall be permitted unless the same has been communicated to the organisers a week prior to the event in exceptional circumstances only after due proof has been attached.

f. No certificates shall be provided at the time of Registration. The same shall be provided after the Valedictory Ceremony scheduled on 15th March, 2024. No certificates/mementos shall be sent by post and no request for sending certificates and mementos through post shall be entertained.

IV.VII. MEMORIAL SUBMISSION

The following requirements for memorial must be strictly followed by the participants:

a. All memorials submitted for all purposes of the Competition shall strictly adhere to the rules of the Competition. Each Team participating in the Competition must prepare one Memorial on behalf of Petitioner(s)/Appellant(s) and one on behalf of the Respondent(s). Further each team has to submit 6 hard copies of the Memorials from each side. Non-compliance will entail a penalty of 1 point per copy not submitted.

b. Petitioner(s)/Appellant(s) memorials are required to have a Blue cover and Respondent(s) memorials are required to have a Red cover. The memorials shall not contain any form of identification apart from the team code. If any such identification or mark, symbol, etc. which has the effect of identifying the team is found on the memorial, then it shall result in instant disqualification. A penalty of 1 mark shall be levied in case the memorial is submitted in any other format or as a multiple file by the team. The hard copy of memorial must be exact replica of the soft copy submitted with the Organisers. Any difference in the same will result in disqualification from the Competition.

c. Each Team must send a soft copy of their memorials in PDF format only, for evaluation by 28th February, 2024 on or before 11:59 PM to mcs.nbu.2019@gmail.com with the subject “Memorials for National Moot Court Competition, Department of Law, and University of North Bengal”. The hard copies of the memorials (6 copies for each side) have to be sent to the

following address on or before 2nd March, 2024. No extensions will be granted with respect to this deadline.

d. Address to which hard copies of memorials are to be sent by speed post/courier/etc.:

To,
The Head of the Department,
Department of Law, University of North Bengal
Raja Rammohunpur,P.O.: N.B.U.
District: Darjeeling, Pin Code: 734013,West Bengal

IV.VIII. GUIDELINES FOR FORMATTING MEMORIALS

A. STRUCTURE OF MEMORIAL

The memorials must contain the following:

- a. Cover Page;
- b. Table of Contents;
- c. Index of Authorities;
- d. Statement of Jurisdiction;
- e. Statement of Facts (Argumentative statement of facts would attract penalties);
- f. Issues raised;
- g. Questions of Law /Summary of Arguments;
- h. Arguments Advanced;
- i. Prayer.

Appendix (Optional);

Exhibits (Optional).

B. TEAM CODE

The Team Code must be ascribed on the top right corner of the cover page. Team Codes shall be intimated to participants through email on or before 25th February, 2024.

C. CONTENT SPECIFICATION

The following content specification must be strictly adhered to:

- a. Font and Size: Times New Roman, 12 pts.
- b. Line Spacing: 1.5 lines.
- c. Footnotes: Follow Blue Book 20th Edition.

d. Page Margins: 1 inch on all sides

The Hard Copies of the Memorial shall be printed on only one side.

The citation should be in compliance with the 20th edition of Bluebook.

Speaking footnotes or End notes are discouraged.

It is to be noted that display of any sign, identification mark or logo of any institution, college or university in the memorial or in any other document is strictly prohibited and violation of same shall cause immediate disqualification.

V. SCORING AREA

AREA OF SCORING	POINTS
Memorial	20
Discerning of facts	15
Understanding of laws and procedures	20
Use of authorities and precedents	05
Response to questions and articulation	25
Advocacy skills, court craft and demeanour	15
TOTAL	100

VI. TIME FOR ORAL ROUNDS

A. The oral rounds shall only be limited to Semi-final & Final rounds.

I. SEMI-FINAL ROUNDS AND FINAL ROUND

Each team will get a total of 60 minutes to present their case.

One speaker shall not use more than 25 minutes of the total time.

Each team shall get 5 minutes for rebuttal and 5 minutes for sur-rebuttal (if required).

This will be a knockout round.

II. MAXIMUM TIME ALLOTTED

The maximum time provided would include the time that each team may want to reserve for their rebuttal. At the commencement of each session the team

shall notify the Court Officer as to the division of time between two the 2 speakers (including rebuttal).

VII.SCOUTING

Teams shall not be allowed to observe the orals of another team, unless they have been officially knocked-out of the competition. Scouting is strictly prohibited. Scouting by any team shall entail instant disqualification.

VIII. ACCOMMODATION AND TRAVEL

- a. No accommodation and travel facilities shall be provided.
- b. Food shall be provided to all teams by the organiser.
- c. The team after reaching Siliguri must report at the Department of Law, University of North Bengal.

IX. REGISTRATION FEE

- a. Registration fee per team is fixed for Rs. 3000/-.
- b. Registration shall be made on the date of competition i.e. on 15th March, 2024.
- c. Registration fees must be paid in the Department of Law at the registration desk in cash.
- d. No online payment shall be entertained.

X. MISCELLANEOUS

- a. If any one of the members of a team is notified or informed of any detail or information concerning the Competition, it shall be deemed as if the said team as a whole has been duly notified or informed.
- b. The copyright in the memorials submitted by the teams shall vest with the Department of Law, University of North Bengal. The acceptance of such vesting is a precondition to participation in the Competition.
- c. In case of any doubt in the understanding or interpretation of any matter concerning the Competition, the decision of the Organising Committee shall be final and binding.
- d. The organisers shall resolve unanticipated or unexpected contingencies, if any, and the decision of the Organising Committee in this regard shall be final. The acceptance of any such decisions of the Organising Committee is a precondition to participation in the Competition.

e. The organisers reserve the right to use, amend, alter, vary or change, in any manner whatsoever, the Rules governing the Competition, which would be communicated to the teams within a reasonable period of time.

X. CONTACT DETAILS

Any query relating to the moot court competition or relating to travel and accommodation shall be asked by sending mail to mcs.nbu.2019@gmail.com. However, participants are free to contact following student co-ordinators, if require.

Faculty Coordinator

- a. Dr. Dipankar Debnath-9932906953
- b. Mr. Subhajit Bhattacharjee-9933576879

XI. LIST OF IMPORTANT DATES

SPECIFICATIONS	DATES
Last date of provisional registration by sending scanned copy of Registration Form and Travel & Accommodation form.	15 th February, 2024 (Thursday)
Last date of Seeking Clarification	19 th February, 2024 (Monday)
Date of Releasing Common Clarification	23 rd February, 2024 (Friday)
Date of intimation of Team Codes	26 th February, 2024 (Monday)
Last Date of Sending the soft Copies of Memorials	29 th February, 2024 (Thursday)
Last Date on which the Hard Copies of Memorials must reach Department of Law	2 nd March, 2024 (Saturday)
Date of Announcement of Result regarding memorials	5 th March, 2024 (Tuesday)

Date of Competition	15 th March, 2024 (Friday)
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XII. MOOT PROPOSITION

Desham is a federal democratic republic with Rule of Law, Independent Judiciary, Free Media and Vibrant Civil Society with a written Constitution and its political Capital is *Bellard*. The Constitutional and Legal System of *Desham* is identical to that of “Union of India”. *Alliance* is one of the States under the Union of *Desham*, having its own Legislative Assembly. *Alliance* Capital is “*Gonrock*” which is also known as the Tea City of *Desham*. *Desham* has its Supreme Court in *Bellard* known as the Supreme Court of *Desham* and is the final and sole interpreter of the Constitution. *Desham* has 28 states and 8 Union Territories. There are 25 High Courts in *Desham*, six having control over more than one State/UT. *Alliance* also has a High Court namely *Alliance High Court* having jurisdiction over state of *Alliance* and also three other neighbouring states.

Desham was a British colony having attained its independence on 15th August 1947. In consonance with its Constitution and the fundamental commitment made therein, a special law was enacted for the benefit of the children at large. The act was Children Protection Act 2012 (CPA), with objective to protect children from offences of sexual assault, sexual harassment and for establishment of special courts for trial such offences. Any person below the age of 18 years is considered as a child.

Marriages in *Desham* vary according to the region, the religion, the community and the personal preferences of the bride and groom. In a large part of *Desham* and also cutting across various communities social relations are subject to scrutiny from elders of the communities and elsewhere. The written Constitution of *Desham* guarantees freedom of religion and conscience, other than socio- cultural rights making special provision for religious minorities.

Of late, the Children Protection Act 2012 (CPA) has been a matter for consternation for litigants, lawyers, Judges and for the academics at large. After passing of the Act, older adolescents engaging in consensual and non exploitative acts find themselves embroiled in the criminal justice system. Since consent of a “child” is immaterial, consensual sexual intercourse with or among adolescents is treated on at par with offence of rape. While boys/young men are charged with sexual offences, the girls are treated as victims and institutionalised in children’s homes when they refuse to return to their parents or parents refuse to accept them. Faced with criminal prosecution and

incarceration, the only relief available to a litigant is to go to a High Court ‘to prevent abuse of the process of any Court or otherwise to secure the ends of justice’.

An analysis by Emerald Health Trust of 1715 “romantic” cases under Children Protection Act 2012 (CPA) decided between 2016- 2020 by Special Courts in three States of Desham including Alliance revealed that such cases constitute 24.3% of the total cases decided by the courts. The parents and relatives of the girls constituted 80.2% of the complaints. They approached the police after the girl went “missing”, or eloped with her partner, or a pregnancy was discovered. The victim and the accused were married to each other in only 46.5% of the cases. In 85.5% of the cases, the girls said the relationships were consensual. In 81.5% of the cases, they did not state anything incriminating against the accused during evidence. In 61.7% of the cases, the Special Courts too acknowledged that the relationship was consensual. Moreover, acquittals were recorded in 93.8% of the cases.

The high rate of acquittals shows that the law is not in sync with social realities of adolescents relationship. Children Protection Act 2012 (CPA) has been a disruptive mechanism. Sexual behavior is normative during adolescences and not all relationships end in marriage. Blanket criminalisation of such consensual acts involving older adolescents erodes their dignity, best interest, liberty, privacy, evolving autonomy, and development potential. It also impacts the delivery of justice as these cases constitute a large burden on our courts and divert attention from investigation and prosecution of actual cases of child sexual abuse and exploitation.

Godrock is a town surrounded by tea gardens which employs large number of young labourers both male and female. Rajesh Tudu a man of 19 yrs went to the local hospital for check-up in Godrock with his wife Shyama Tudu of 17 yrs both of whom were tea garden labourers after she became pregnant. An NGO campaigning in the said hospital about child rights reported the case to the local Godrock Police station whereby a criminal case (First information report) of Kidnapping under the relevant penal provision of Godrock and penetrative and aggravated sexual assault under the Children Protection Act 2012 (CPA) was registered on 22-12-2023. Shyama Tudu was taken to a women hostel of the destitute run by the State Government of Alliance. Rajesh Tudu went into hiding and preferred an application before Godrock High Court for quashing of First information report under the relevant Sections of the Procedural Code. The High Court of Alliance refused to grant him any stay.

Rajesh Tudu finding no other alternative preferred a Special Leave Petition to Supreme Court of Desham. Herein other than assailing the fact that his marriage was consensual, he asserted that both he and his wife comes from indigenous communities and follows and beliefs rituals and customs confirming to their specific societies which is not in conformity with the majority religious beliefs and practice in Desham. He also contended that the socio-cultural context of their indigenous community is also distinct and unique protected and guaranteed by the Constitution of Desham.

The Supreme Court of Desham admitted the Special leave Petition issuing notice to the State of Alliance and framed the following issues to heard and decided at the final hearing of the petition.

ISSUES-

- 1) Is the First Information report against Rajesh Tudu registered in Godrock Police Station liable to be quashed?
- 2) Does the Children Protection Act 2012 (CPA) violate the socio- cultural rights to form a union or marriage of indigenous communities in Desham?
- 3) In criminalizing adolescent consensual and non exploitative relations are Police diluting the legislative intent of the Children Protection Act 2012 (CPA)?
- 4) To examine the constitutional validity of the Children Protection Act 2012 (CPA) on the context that it arbitrarily tries to end the conjugal life of a married couple before the outcome of any final judgment of a competent court?

Disclaimer: All characters, names and events mentioned in this ‘Moot Court Problem’ are entirely fictitious and used purely for academic purposes only. Any similarity with actual events or persons, living or dead, is purely coincidental.