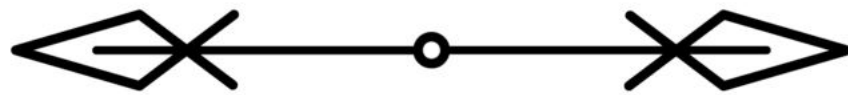




St. Joseph's College of Law

Affiliated to Karnataka State Law University
and Approved by Bar Council of India

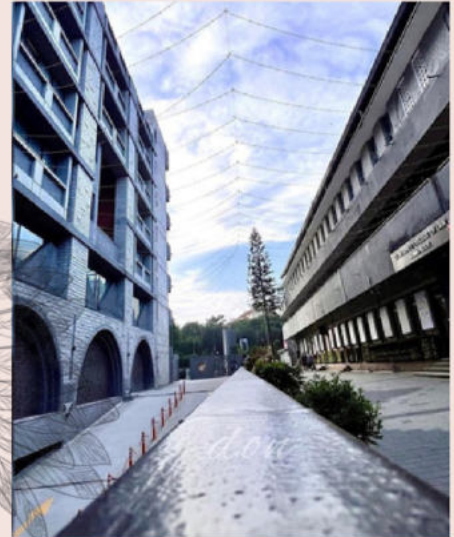
3RD NATIONAL MOOT COURT COMPETITION



PROPOSITION

2023

ABOUT THE COLLEGE



Established in the year 2017, St. Joseph's College of Law, Bangalore is the pioneer Jesuit law college in South Asia that is strengthened with a 450-year-old legacy in imparting quality education through the Jesuit mission of molding students into 'people of competence, conscience and compassion dedicated to the service of faith and the promotion of justice'.

In pursuance of the noble Jesuit motto - FIDE ET LABORE, St. Joseph's College of Law was founded on the ideals of practicing law, promoting justice and to transform society. Emboldened with a vision to 'transform the lives of people by bringing about a just an egalitarian society', the College believes in a steadfast focus to bridge law and governance with a human rights approach. The college, though neoteric, has been able to work towards these set ideals.

The Moot Court Society, through its various inter and intra collegiate events, aims to achieve and fulfill the objectives of the institution by encouraging a sound mooting culture, which has at its center, Justice and Equity.



ABOUT THE COMPETITION

OBJECTIVE

The 3rd St. Joseph's College of Law National Moot Court Competition, 2023 is specifically curated to provide aspiring lawyers with a platform to showcase their research, analytical abilities, and legal expertise in the field of Intellectual Property and Traditional Knowledge. The competition's objective is to explore the dynamic interplay between Intellectual Property Rights and the preservation, protection, and utilization of Traditional Knowledge in the modern world. Through this competition, we aim to encourage participants to delve into the intricacies of legal frameworks surrounding Traditional knowledge, Intellectual Property Rights, and the delicate balance between promoting innovation and safeguarding cultural heritage. Ultimately, the competition aims to nurture the "*legisperitus*" within each student, empowering them to navigate the complexities of Intellectual Property Law and Traditional Knowledge in the ever-evolving legal landscape.

AIM AND PURPOSE

The 3rd St. Joseph's College of Law National Moot Court Competition, 2023 has been conceived with the aim of creating opportunities to learn the development of jurisprudence on emerging trends in the domain of Intellectual Property Rights. It has been designed with a vision to enrich the knowledge of aspiring lawyers in keeping with the mission to actively bridge law and governance through legal education while developing cutting edge skills in research, writing and advocacy.

NOTE BY THE DIRECTOR



At St. Joseph's College of Law (SJCL), administered by the Bangalore Jesuit Education Society (BJES), our aim is to enable socially conscious lawyers who have a fine balance of knowledge, ethics and competence who can contribute to strengthening the judiciary system and practice in India as well as internationally. The core value of our institution is to work for the most vulnerable and marginalized with Constitutional principles of Justice, Equality and Fraternity as the central tenet.

The Moot Court Competition provides an exceptional platform for law students to delve into the intricacies of Intellectual Property Law, with a specific focus on the critical area of Traditional Knowledge. It offers a unique opportunity to analyse and debate contemporary legal issues concerning the protection, preservation, and equitable utilisation of Traditional Knowledge in the context of Intellectual Property Rights. By participating in this competition, you will have the opportunity to engage in thought-provoking legal discourse, develop critical thinking skills, and enhance your research and advocacy abilities.

In pursuance of our aims, it is with immense pleasure that St. Joseph's College of Law, presents the 3rd SJCL National Moot Court Competition, 2023. We invite your esteemed institution to participate in our moot court competition. It is our endeavour to create an atmosphere of intellectual exchange and the opportunity to learn court craft through simulated experiences in the competition. We hope to provide a great learning experience to law students across the nation.

Warm regards,
Rev. Fr. Jerald D'Souza SJ
Director



NOTE BY THE PRINCIPAL



Mooting is an attempt to engage the students with the real process of Court functioning, this is made possible through the 3rd SJCL National Moot Court Competition, 2023. At St. Joseph's College of law, we believe in equipping our students with the key skills of lawyering. We are keen to produce young lawyers who not only cater to the requirements of the corporate world but are committed to the cause of producing lawyers who may be engineers of social change. The mooting process helps the student to engage with and think deeply about interesting and topical legal issues. It also enhances their advocacy, legal research and writing skills. Mooting provides students a platform to demonstrate their interest in advocacy.

The vision statement of St. Joseph's College of Law aptly titled "Practice Law, Promote Justice, Transform Society" captures our efforts in this direction. I'm sure that with all our efforts together we can dream of a better world, an equal society that embraces all. I extend a warm welcome to students to participate in the 3rd SJCL National Moot Court Competition, 2023.

Warm Regards,
Ms. Pauline Priya
Principal



MOOT PROPOSITION

1. The State of Jambudvipa is the largest democracy in the world. The preamble of the constitution of Jambudvipa declares the country to be a Sovereign, Socialist, Secular, Democratic, Republic. The demography of Jambudvipa comprises people from various religions, castes, ethnicity, and social strata. While the state provides for equal rights for all, the constitution mandates marginalized sections such as tribal and indigenous persons.

2. The Sonago tribe is one of the most unique tribes in Jambudvipa. They are exclusively situated in the island of Samos and mostly rely upon the forest and its produce for their sustenance. Samos being situated hundreds of kilometres away from the mainland of Jambudvipa, the people of Sonago tribe are cut off from most parts of the country.

3. The Constitution of Jambudvipa provides for comprehensive schemes and direction to prevent their exploitation and to secure the rights over Samos. As a matter of fact they enjoy ownership rights over the forest produce, right to self-determination and rights over the usage of land.

4. To prevent the exploitation of the natural resources of Samos and protect the interests of the Sonago tribe, the government of Jambudvipa has enacted statutory laws that prohibit travel to the island. This is primarily to protect the tribal community from contagious or infectious diseases from the mainland for which they might not have adequate immunity. Owing to this, the lands of Samos remain largely unexplored and unknown to the people of Jambudvipa.



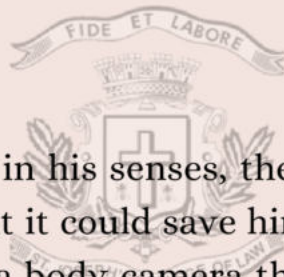
5. Mr. Marcopolo is a travel vlogger and a very famous social influencer. He is known for his travel videos that are posted on social media. Mr. Marcopolo has thousands of people who follow his posts and videos that are mostly on travel and lifestyle.

6. During March 2023, Mr. Marcopolo traveled to Falatoon, an island that is a few miles away from Samos. As a part of an adventure vlog, Mr. Marcopolo hired a yacht and set out alone in the ocean. It was his idea to record his travels and experiences traveling alone in a yacht and then share it on social media.

7. Being an amateur, Mr. Marcopolo could not navigate and was lost in the ocean after three days. Coincidentally, he landed up on the shores of Samos where he was discovered by a few members of the Sonago tribe. Mr. Marcopolo was unconscious on account of severe dehydration and was extremely weak, he also caught a fever owing to the journey. The members of the Sonago tribe though extremely skeptical about the arrival of Mr. Marcopolo thought it fit to provide humanitarian help.

8. The Sonago tribe had several hidden remedies and therapies for health that were unheard of in the outside world. The Sonago tribe had a unique method of preparing a decoction called Kashaya which was prepared with several herbs found amongst the flora in the region.

9. The process of preparing Kashaya was handed down from generation to generation for over centuries and was a closely guarded secret. It had healing medicinal properties and was used in the land of Samos to reduce the body temperature in case of fever and also provided the electrolytes needed to replenish the body when it is dehydrated.



10. As Mr. Marcopolo was not in his senses, the members of Sonago prepared Kashaya in his presence so that it could save him. They were unaware that the whole process was caught on a body camera that Mr. Marcopolo wore for the expedition.

11. As expected Kashaya worked brilliantly and Mr. Marcopolo was on his way back to Falatoon. Upon reaching Falatoon and viewing his camera footage, Mr. Marcopolo realised that he may just have uncovered a huge secret that was kept hidden from the outside world for centuries.

12. Instead of uploading the video on social media as he had intended to, Mr. Marcopolo approached M/s Hydra Private Limited (thereafter referred to as the Company) the largest Pharmaceutical Company in Jambudvipa. He offered to sell them the know-how and the procedure of preparing Kashaya for an undisclosed sum of money.

13. The Company wanted to conduct further research on Kashaya and explore the possibility of developing a new product that is efficacious and would not have any side effects. In order to do so, they executed a confidentiality agreement with Mr. Marcopolo for preparing a pharmaceutical drug containing Kashaya as an Active Pharmaceutical Ingredient (API) and having it tested prior to taking further steps. The company was hoping that if the results were promising, then it would revolutionize the pharmaceutical industry. Kashaya had the potential to disrupt the market in Jambudvipa and abroad as well.

14. The company conducted a clinical trial for testing the efficiency of Kashaya and found out that the therapeutic effects as experienced by Marcopolo were true. Therefore, the company decided to conduct further research on the medicinal plants and prepared another combination using some of the medicinal plants that were the ingredients of Kashaya. The product was named 'Lehya' by the company and a clinical trial was conducted. It was found that the combination used for making Leahya provided therapeutic effects that were suitable for improving metabolic function, stabilising blood pressure, and curing renal disorders. The Company decided to file an application for a patent on 'Lehya' before the Controller of Patents at Madeira.



15. As a part of the proceedings to obtain a patent, the controller had called for any opposition to the patent application. An opposition was filed by an NGO named “Dhwani” which raised the issue that the product ‘Lehya’ falls under the ambit of Traditional Knowledge and therefore no patent can be issued for the same. The controller of patents did not accept the contentions of Dhwani and considering the public interest, the opposition was rejected and the patent was granted.

16. Dhwani filed an appeal before the Madeira High Court stating that the decision taken by the controller of Patents is erroneous and mala fide. Allowing such a patent would result in the violation of Intellectual Property Rights and many other rights that are recognized by the Constitution.

17. Dhwani also pursued criminal action against Marcopolo and information was given to the police wherein an FIR was filed and Marcopolo was taken into custody. Marcopolo has been in custody ever since.

18. When the matter was pending in the High Court, another NGO named Anibadha filed a petition in the High Court of Kalinga, another High Court in Jambudvipa wherein a research scholar Ibn Battuta had gone into a reserved area for learning about a tribe called Adikalinga and was sentenced to imprisonment of two years for the violation of law.

19. The petition challenged the validity of the law passed by the legislature of Jambudvipa as unreasonable and restrictive of personal liberty. It additionally asserted that such laws would hinder the process of learning about the indigenous people of Jambudvipa and would also not encourage the spirit of academic and scientific temper among the people.



20. Considering the fact that there are proceedings that are pending in two High Courts of the country that consist of the same questions of law, the Supreme Court of Jambudvipa decided to transfer the proceedings that are pending in the High Court of Madeira and the High Court of Kalinga under Article 139A of the Constitution upon application of the Attorney General of Jambudvipa. The matters are to be considered together for hearing before a Constitutional Bench considering the relevance of the issues.

Issues

1. Whether the medicinal plants that were used for the preparation of a concoction can be utilized for the development of pharmaceutical drugs that were unknown to the indigenous people?
2. Whether all the rights guaranteed under the existing legislation for the development of a pharmaceutical drug can be disregarded just for the sake of protecting the rights of indigenous peoples in the context of developing scientific research and protecting public health?

Note: The laws of Jambudvipa are in *pari materia* with the laws of India. Participants must prepare arguments for both sides for both issues.



IMPORTANT DATES

Release of Proposition	July 7th
Last Date of registration and payment of Registration Fee	July 24th
Last date for submission of Moot Memorials (Soft Copy)	Aug 2nd
Last date of receipt of Moot Memorials (Hard Copy through Courier)	Aug 5th
Last date for queries regarding the problem	July 30th
Submission of Itinerary	Aug 5th
Inaugural Ceremony	Aug 11th
Researchers Test	Aug 11th
Prelims Rounds, Octa Round & Quarter Finals	Aug 12th
Semi Final Round, Final Rounds and Valedictory Ceremony	Aug 13th

Participants can communicate their clarification(s) regarding the Moot problem via the Google Form:

https://docs.google.com/forms/d/1tKK8doDKS5Rqz5kD0FFbrncIumkJFVsNhe08UC98FZU/edit?usp=drive_link

ORGANISING COMMITTEE

Faculty Co-ordinators:

Mr. Thomas Chakramakal

Mr. Md Zafar Sadique

Student Co-ordinators:

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Komal: 6206101684

Kavyayashwini MS: 9148085935

Queries related to Accommodation and Transit-

M.Vidya Shree: 9141129553

Abdur Raqeeb : 9901220132

Queries related to Registration and Payment-

Anjum : 7353074665

Smruthi P. : 6364372933

