

ADV. BALASAHEB APTE COLLEGE OF LAW

Prin. N. M. Kale Marg, Off Gokhale Road(S), Dadar (W), Mumbai- 400 028.

Date: 4th July 2020

ONLINE INTRA COLLEGIATE MOOT COURT COMPETITION

The Moot Court Society of our college has organised an Online Intra Collegiate Moot Court Competition for the students of our college from **25th July 2020**. The schedule of the competition shall be shared in due course, depending on the number of participations. This competition shall be conducted in two categories as stated below.

1. **Pool A Category** – For regular students of Classes of First & Second Year B.L.S./ LL. B. and Class of First Year Gen. LL. B.
 2. **Pool B Category** – For regular students of Third, Fourth & Fifth Year B.L.S./ LL. B. and Second & Third Year Gen. LL. B.
- For determining the Category, the Class of the students in the academic year 2019-20 shall be considered.
 - Students must form teams of two participants per team.
 - Kindly read the rules of the competition before registering. The rules and the moot-problems of the competition are appended herewith.
 - The last date and time for registration is **11th July 2020 at 5:00 p.m.**
 - Only one student from each team shall register their team on the following link.

<https://forms.gle/xLMbiXEbGjyKqHPSA>

Professor–In-Charge,
Moot Court Society
Prof. Prajnee Sahoo

Chairperson,
Moot Court Society
Ms. Nainisha Oza

DRAFT RULES FOR ONLINE INTRA- MOOT COURT COMPETITION

1. GENERAL RULES:

1.1. The Competition shall be an Online Intra-Moot Court Competition (**hereinafter the Competition**) organised by **Moot Court Society of PES's Adv. Balasaheb Apte College of Law.**

1.2. The Language of the Competition shall be in English.

1.3. Only Bona Fide under-graduate students who are pursuing 3 years or 5 years LLB course in Adv. Balasaheb Apte College of Law are eligible to participate in the competition.

1.4. The team shall comprise of **two speakers**. There will be **no researcher** in this competition.

1.5. The participants should ensure strict adherence to the rules mentioned herewith. Non-Compliance of the same shall lead to Negative Marking or Disqualification.

1.6. Dress code:

1.6.1. For Men: Advocate's formal attire.

1.6.2. For Women: Black and White Indian or Western Formal Attire.

1.6.3. Use of Advocate's Gowns, Band and Robes are strictly prohibited.

1.7. Registration process is as follows:

1.7.1. The registration shall take place via Google Forms which shall be circulated on the class WhatsApp group by the Class Representative (C.R.) of that respective classes.

1.7.2. Prospective participants should fill in all the details properly and submit the same. Only one form per team is to be submitted.

1.7.3. The acknowledgement will be sent within 24 hours along with the Team Code.

1.7.4. The team codes will be allotted to the Teams on a "**First Come First Serve**" basis i.e. Team registering first will get "team code A" and so on. Every Speaker should use their speaker number as a suffix to the team code provided. **E.g. Team A1 for First speaker of team A and Team A2 for second speaker of team A**

1.7.5. After the team codes are sent to the participants, they will not be able to back out or change the team composition.

1.8. The students shall be divided into 2 POOLS.

1.9. POOL A shall be the 1st and 2nd year students of the 5 years BLS-LLB course and the 1st year students of the 3 years LLB Course of the academic year 2019-2020. The Moot Problem for Pool A shall be a Criminal Problem.

1.10. POOL B shall consist of the 3rd, 4th and 5th year students of the academic year 2019-2020 of the BLS-LLB Course and the 2nd and 3rd year students of the 3 years LLB Course. The Moot Problem for Pool B shall be a Constitutional Problem.

1.11. The Organisers shall reserve all rights to change the rules under extra-ordinary circumstances however, if any changes are made the participants will be notified immediately.

1.12. A Meeting Room Co-ordinator (hereinafter referred as **MRC**) will be assigned to each Meeting Room (a Virtual Court Room) and is equivalent to a Court Room Officer. The MRC will keep the time and will maintain decorum in the Meeting Room. Every team will be informed of their MRC at least 2 days in advance of the competition. The MRC will form a team wise WhatsApp group of the participants where they can co-ordinate with the MRC and the participants are required to share their compendiums on that group only as per the rules mentioned herewith.

2. FORMAT OF THE COMPETITION:

2.1. The Competition is an online Moot Court Competition where the teams will be arguing from the side allotted to them either as a Petitioner / Appellant / Complainant or the Respondent.

2.2. The competition is divided into three phases namely **the Preliminary Round, the Semi-Final Round and the Final Round.**

2.3. Separate rounds will be conducted for each pool.

2.4. The timetable schedule and the sides and opponents will be provided one day prior to the Competition.

3. THE RULES OF EACH OF THE ROUNDS IS MENTIONED AS FOLLOWS:

3.1. PRELIMINARY ROUND.

3.1.1. There will be only ONE Preliminary Round for all teams who have registered for the competition.

3.1.2. **Every team** shall be given a time of **25 minutes** to argue upon their sides. No speaker shall be allowed to speak for more than 15 minutes. Any extension in time will be at the discretion of the judges.

3.1.3. The distribution of time between the speakers should be intimated by the team to the MRC prior to the start of the proceedings. The MRC shall interrupt the meeting to give a reminder to each speaker at the end of 10 minutes for each team and a final reminder will be given at the end of the time of each speaker as provided by the teams.

3.1.4. Maximum **FIVE** minutes shall be provided to each team for rebuttal only at the discretion of the judges.

3.1.5. There is no requirement for a Memorial submission for the competition. If a memorial is made and submitted no additional marks will be given for the same.

3.1.6. **Top 4 teams** securing the Highest marks shall qualify for the Semi-final Round.

3.2. SEMI – FINAL ROUND:

3.2.1. Top 4 teams from the preliminary round will compete against each other in this round.

3.2.2. Teams shall be divided into team codes A, B, C and D based on ranking from highest to lowest marks obtained in the preliminary round. Semi Finals will be held between A vs C and B vs D.

3.2.3. Top 2 teams securing highest marks in Semi-Final Round shall qualify for the Final Round.

3.3. FINAL ROUND:

3.3.1. The top two teams securing highest marks in Semi-Final Round will compete against each other in Final Round.

3.3.2. The draw of lots regarding side and opponent will be held 1 hour before the start of the proceedings.

3.3.3. The winner of this round shall be adjudged as the winner of this competition.

4. MARKING SCHEME:

4.1. Following Parameters shall be considered while assessing the speaker

Description	Marks
Adherence to Rules	10
Court Room Etiquettes	10
Video Call Etiquettes	10
Understanding of Problem	10
Arguments advanced	15
Knowledge of law	15
Answering judge's questions	15
Citing relevant case laws	15
Total	100

5. CONDUCT OF COMPETITION:

- 5.1. The Competition will be conducted by using video- conference platform i.e. **Either Microsoft Teams or Zoom.**
- 5.2. To ensure the smooth functioning of the competition in adherence to the rules of Social Distancing and Government Guidelines, all participants will participate from their respective homes. No team shall be seated together for the purpose of the competition.
- 5.3. An Invitation link of the meeting will be sent to participants on their respective email ids submitted by them in Registration Form one day prior to the competition.
- 5.4. The Participants are expected to be seated in a quiet room free from any echo and isolated from any form of disturbance by any other person.
- 5.5. The participants should make necessary preparations before entering the meeting room i.e. downloading the required Application and ensuring that their device is compliant to the terms mentioned.
- 5.6. The participants should only use their team code as their username while joining meeting room.
- 5.7. In case participants have not signed up beforehand, then they should click on the link sent to them on email and enter the Meeting Room as Guest only. They should put their respective team code and speaker number as the login id / username. For instance, Team

- A1 and Team A2 for First speaker of team A and Team A2 for second speaker of team A. The respective MRC can be consulted for any issue that the participants may face.
- 5.8.** All participants should be online on time which is mentioned in the invitation link mail.
- 5.9.** Following is the system requirement that is mandatory to participate in the competition:
- 5.9.1. E-mail account.
 - 5.9.2. Computer/Laptop/ Mobile Phone with a well configured web cam.
 - 5.9.3. Min of 2 GB RAM
 - 5.9.4. Internet Connection with speed more than 5 Mbps.
 - 5.9.5. All participants must compulsorily use Headphones or Earplugs that has a working mike.
- 5.10.** Any participant who is unable to fulfil criteria mentioned in Rule 5.9 will be ineligible to participate in the competition.
- 5.11.** The participants should unmute their mic and switch on the camera when it is their turn to present their arguments, speak or when asked by the judge or the MRC to do so. In case the participants intend to raise any query, they should use the “Raise Hand” feature.
- 5.12.** The participants should keep their Audios Mute and Camera off during the course of the proceedings otherwise as mentioned above.
- 5.13.** The participants should not use group text feature of the organiser’s hosting platform to communicate with one another. However, they are free to use any other mode of communication.
- 5.14.** In case, the participant’s internet connection is lost, a time limit of 10 minutes will be given to the participant to reconnect. Any further extension of time will be at the discretion of the Judge not more than another 10 minutes. However, even after maximum time of 20 minutes has elapsed and the participant is unable to reconnect; the said team will be disqualified at the discretion of the judges.
- 5.15.** Any other queries will be solved by Event Head with the consultation of the Principal and the Faculty in Charge of the Moot Court Society. Any reference of problem should be made by the MRC to Event Head. The participants should report to the MRC only during the proceedings by way of a chat on the organisers’ hosting platform.
- 5.16.** In any case whatsoever, the decision of the Principal shall be final.
- 5.17.** The organisers shall have the rights reserved over all the audio, video or submitted compendium and the organisers are free to use or dispose them off in the manner they deem fit.

6. SUBMISSION OF COMPENDIUM:

- 6.1.** A Compendium is to be submitted by the participants in a PDF format only.
- 6.2.** Submission of the Compendium should be done ONE day prior to the competition on WhatsApp group which is specially made for this purpose by respective MRCs.

In case of any queries, participants can contact

- 1) EVENT HEAD- NAINISHA OZA - 9987822525
- 2) CO HEADS- NOORITA KARNIK- 9004469206
SHREEVIDYA NARGOLKAR- 8850309372

7. RESULTS

- 7.1.** Results of all the rounds shall be posted on the official College Website.
- 7.2.** All the participants will be provided with an **“E-Certificate of Participation”**.
- 7.3.** The winners will be provided with an **“E-Certificate of Excellence”**.
- 7.4.** The runner – up team will be provided with a **“Runner Up E-Certificate”**
- 7.5.** Best speaker shall be declared on the basis of highest marks secured by speaker in Preliminary round for each pool and will be awarded the **“Best Speaker E-Certificate”**

8. CERTIFICATES:

- 8.1.** The E-Certificates will be mailed to the Participants.
 - 8.2.** Any requests for correction in the E-Certificates should be raised within 24 hours of the E-Certificate being issued. No requests will be entertained thereafter.
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POOL A MOOT PROBLEM

SADASHIV BALCHANDRA v. STATE OF MAHARASHTRA

STATEMENT OF FACTS:

1. Mr. Manoj Desai is a clerk in a government office living on 8th street, Dabhil area, Mumbai, along with his wife Mrs. Kusum Desai. They had two daughters Savita aged 17, and Kasturi aged 14. Both daughters were studying at St. Ann's Convent High School & Junior College.
2. Mr. Sadashiv Balchandra, a 25 year old man resided in a house next to that of Mr. Desai. He was not doing well financially as he was fired from his job.
3. A few months before 30th June 2019 Savita became friendly with Mr. Balchandra. The balconies of their houses allowed them to carry on a conversation with each other from their respective houses. Occasionally, they used to meet at their balconies and share a cup of tea. They even played cards at night.
4. Gradually, Savita and Mr. Balchandra developed a close relationship. On 14th February 2019, Sadashiv put up a proposal for marriage before Savita. Mr. Balchandra felt it was the right moment to ask her since she would be celebrating her 18th Birthday a few months later.
5. Initially, Savita did not agree to marry, but on further persuasion by Mr. Balchandra, she agreed.
6. On 30th June 2019, Kasturi saw them talking to each other at about 10:00 pm. She had seen them talking a couple of times on previous occasions but never so late at night. Kasturi asked Savita as to why she was talking to Mr. Balchandra to which Savita replied saying that she wanted to marry him but asked her not to tell anyone until Savita's birthday party at least.
7. Savita also told Kasturi that Mr. Balchandra was soon to be appointed at a respectable post and would have a secured source of income. She said that Mr. Balchandra had promised to take her to watch a film to celebrate once he receives his first pay at the new job.
8. Savita's intentions were communicated by Kasturi to their father when he returned home at about 11:00 pm on that day. Thereupon, Mr. Desai questioned Savita and showed discontent.
9. Mr. Desai also mentioned the comparatively lower financial position in which Mr. Balchandra was placed in comparison to the Desai family. Upon being questioned Savita started sobbing but did not utter a word.
10. Within a few minutes, Mr. Desai forcefully took Savita to Ranjangaon, and left her at the house of Mr. Nandkumar, a distant relative, intending to keep her as far away from

Sadashiv as possible for some time. Savita did feel awkward to reside at the residence of a distant relative whom she had met only during family functions.

11. On the next day i.e. 1st July 2019, Savita left the house of Mr. Nandkumar at about 10:00 am. Savita telephoned Mr. Balchandra from a P.C.O. asking him to meet her at a certain road in the vicinity. Thereafter she went to that road herself. Mr. Balchandra drove his father's car and had arrived at the place which Savita mentioned before she got there. Savita got into the car voluntarily and both went straight to Siddhivinayak Mandir and got married there. Later, they went to Rainwoods' Motel and stayed there for a day. The next day Mr. Balchandra bought a couple of sarees and blouses for Savita and then they went to Pune.
12. After staying there for a couple of days they went to Kolhapur on the 4th of July and stayed there for 10 to 12 days. Thereafter they went to Belgaum and then Goa where they were found by the police who were investigating a complaint of kidnapping made by Mr. Manoj Desai.
13. They were brought to Mumbai on 15th July 2019. Mr. Sadashiv was charged under Section 363 of the Indian Penal Code, 1860 and was convicted by both the Metropolitan Magistrate's court and the sessions court. Now Mr. Sadashiv has come before the Hon'ble Bombay High Court and the matter is placed on board for final hearing.

POOL B MOOT PROPOSITION

[1.1] 16-year old Ishaan dwells in a slum with his widowed mother and grandmother in Sitapur, located in the state of Dakshin Pradesh in the Republic of India. After dropping out of school at 12 years due to dire economic challenges faced by the family, he spends his time helping his mother at a construction site where she works as a labourer.

[1.2] At the construction site, a group of five boys aged between 19 years to 23 years take Ishaan into their gang and together they engage in smoking, drinking, drugs, and petty theft. One night after having excessive alcohol, the gang impulsively hatch a plan to burgle their employer who is a 65-year old man, living with his 60-year old wife. Ishaan reluctantly agrees to join them in order to buy a smartphone which he has desired for a long time. The gang of six boys make a plan to break into the house through a window and steal the couple's expensive gadgets and get away quickly. They agree to not engage in any violence and abandon the plan and flee immediately if they are discovered or interrupted. Unknown to the other gang members, the eldest member of the group, 23-year old Shiva provides Ishaan with a knife and carries one with himself as a safety measure.

[1.3] They successfully break into the house at midnight and proceed to steal two laptops, a watch, and a tablet device which they find lying around the house. The gang members debate on whether they should now leave the house at which point Shiva states that he wants to steal the employer's wallet and phone as well. Ishaan accompanies Shiva to the employer's bedroom where they proceed to search for further valuables. Ishaan makes an unsuccessful attempt at opening a safe which he finds in the room which sets off a loud alarm. The employer wakes up in shock to find Ishaan and Shiva in his room. Ishaan is quickly caught by the employer who detains him while his wife hurries to call the police. Ishaan with the aid of Shiva, attempts to free themselves and run away but the employer maintains a tight grip on Ishaan. At the fear of getting caught and being imprisoned, Shiva and Ishaan take out their knives and stab the employer several times and then flee the premises with the rest of the gang. The employer succumbs to the stabbing wounds.

[1.4] The police investigation commences, and the six boys are quickly identified with the help of the CCTV camera recordings at the entrance of the house. The five adult boys are arrested while Ishaan is apprehended by the police under the Juvenile Justice (Care and Protection of Children) Act, 2015 [JJ Act].

[1.5] Ishaan is interrogated by the police at the police station for over 6 hours. His repeated requests to speak to his mother and grandmother are denied. In a state of fear, Ishaan confesses to the crime. All the boys are charged under section 302, and section 392 of the Indian Penal Code, 1860.

[1.6] When Ishaan is brought before the Juvenile Justice Board, a legal aid lawyer is assigned to the case. The legal aid lawyer fails to apply for bail and tells Ishaan's family that no defense is now possible in the case since Ishaan has already confessed.

[1.7] In consideration of the heinous nature of the crime, the prosecutor presses the Juvenile Justice Board for Ishaan to be tried as an adult. The JJB holds a preliminary assessment under section 15 of the JJ Act examining Ishaan's family and economic background, and educational background. Noting that Ishaan has discontinued education, and has engaged in alcohol, smoking and drugs, the Board passes an order sending the case to a Children's Court for Ishaan to be tried as an adult defendant. The Children's Court proceeds with the trial and finds Ishaan guilty of both charges and sentences him to life imprisonment. The High Court of Dakshin Pradesh upholds the order of the Children's Court in the appeal proceedings.

[1.8] Yuva, a child rights organisation intervenes in the matter and files an appeal before the Supreme Court of India challenging the constitutionality of section 15 of the JJ Act claiming that trying children below the age of 18 years as adults violates Part III of the Constitution.