

INDIAN INSTITUTE OF LEGAL STUDIES

3 YEAR LLB, SEMESTER VI

SUBJECT: EXPERIENTIAL LEARNING & FIELD WORK

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3 YEARS LL.B. SEMESTER VI

CONSTITUTIONAL LAW

MOOT PROBLEM

1. The Republic of Iron Hill is located in the South Asian Region of Asia. It is one of the ancient nations in the world. Till 1947, Republic of Iron Hill was a British colony for about 150 years. It achieved independence in 1947. Now, the Republic of Iron Hill is a democratic country with a written Constitution which came into force in 1950. It has 28 States and 8 Union Territories. The Constitution has adopted Parliamentary system wherein President is the executive Head of the government. The country has diversified religion with Hinduism, Buddhism, Christianity, Islam, Jainism and Sikhism as the major religions followed by the people, characterized by a diversity of religious beliefs and practices, dressing, cultural outlook, food-habit etc. The majority population of 75% of the Republic of Iron Hill is Hindu. Around 24% of the population are from the faith of Christianity, Islam, Jainism.
2. The Constitution of Republic of Iron Hill declares various rights as fundamental rights such as the right to freedom of religion, freedom to carry on any trade, profession and business, right to life and personal liberty etc. The State has Iron Hill Penal Code to ensure the maintenance of law and order in the Republic of Iron Hill, which deals with various offences prescribing the punishments for the same, apart from other laws of the nation.
3. Republic of Iron Hill is the most ethnically and religiously diverse country in the world and its history is dotted with numerous religious conflicts and riots. The danger of communal conflicts is ever-present and unlikely to wane anytime. The diverse and oftentimes diametrically opposed religious practices often become the point of clashes among various communities.
4. In March 2019 certain newspapers published a report about Love Jihad which is an activity of certain Organizations under which young Muslim men and boys in the state target young girls belonging to non-Muslim communities for conversion to Islam by feigning love. The news report stated that there has been 3,000- 4,000 conversions in the past four years having the nature of Love Jihad in the Republic of Iron Hill.
5. Jurisprudence from High Courts across the country has said that conversion is not a casual matter. In 2014, the High Court of Karnataka stated in a judgement that if

conversion *"is resorted to merely with the object of creating a ground for some claim of right"* it would be *"a fraud upon the law"*. In the case of **Lily Thomas vs Union of Iron Hill** in 2000 the Supreme Court nullified the marriage on the basis that if someone *"feigns to have adopted another religion just for some worldly gain or benefit"* it was *"religious bigotry."*

6. State of Kondana is the largest State of Iron Hill and it has the largest representation of the ruling government in the Iron Hill Parliament. State of Kondana has often been in news because of its controversies like Anti-Romeo squad, cow vigilantes and other Hindu religious organisations.
7. The Kondana Prohibition of Unlawful Religious Conversion Ordinance, 2020, unofficially referred to as the 'love jihad law' by most of the media, is a law enacted by the Government of Kondana, Iron Hill. The Kondana state cabinet cleared the ordinance on 20 November 2020 following which it was approved and signed by state Governor on 24 November 2020.
8. The Kondana ordinance makes conversion non-bailable with up to 10 years of jail time if undertaken through misinformation, unlawfully, forcefully, allurements or other allegedly fraudulent means and requires that religious conversions for marriage in Kondana to be approved by a district magistrate. The law also encompasses strict action for mass conversion, including cancellation of registration of social organizations involved in mass religious conversion.
9. There has been much furor over the Kondana Prohibition of Unlawful Conversion of Religion Ordinance 2020. Most of it has been around the law being a violation of an individual's right to marry a person of one's choice and being restrictive of the fundamental right to life, autonomy and privacy. It is also argued by members of civil societies that this ordinance, which is nothing less than a draconian law, is a serious violation of the right to equality based on religion.
10. In December 2020, Prativa, and Kevin, a young couple residing in the Runlow, the capital of Kondana, expressed their willingness to marry each other. Prativa, was a Jain by religion and Kevin belonged to a family practicing Islamic faith. Belonging to different religions, they wished to be wedded under the Special Marriage Act 1956. This marriage was severely objected to by Prativa's family who did not approve of inter-faith marriages. On the other hand, Kevin's family begrudgingly accepted their marriage. Prativa decided to convert to Islam, out of her love and respect for Kevin's family and

faith and hoping that his family would be more willing to accept their marriage if she undertakes such a gesture. However, it was decided that Prativa's conversion would be kept to be as a secret from her parents.

11. The marriage occurred on 10th January, 2021. After the marriage the couple shifted into a separate apartment of their own in Jallabad where they happily resided for 2 months. On 11th March, they decided to visit Kevin's home in Runlow. Upon their arrival, they were greeted warmly by his family.
12. Cases of Covid were steadily rising within the State and on 15th March, a two week lockdown was announced in the state. In the midst of this, Prativa's younger brother fell down from stairs and was put to bed-rest. Prativa strongly wished to visit him several times but Kevin's family did not allow her to go during due to limited transportation options and on an apprehension, that Prativa may contract Covid-19 while travelling in such a risky situation. Prativa had requested many times to Kevin and her in-laws to allow her to meet her brother but they did not permit her to leave. Prativa started feeling like a prisoner in the house of her own in-laws.
13. Being frustrated, after 2 months, Prativa called up her parents and asked them to pick her up. Her family became extremely angry on hearing the circumstances. Upon knowing about the details of their marriage and the conversion, they suspected that Kevin and his family had forced Prativa to convert into a different religion and were now forcefully restraining her against her will. They viewed it as a one of the cases of 'Love Jihad' that had been so extensively reported in the state recently. Thus, her family immediately went and filed an FIR in Rainbow Police Station against Kevin's family under Section 498A APC, section 340 of APC as well as under the Kondana Anti-Conversion Ordinance. Information was sent to Bajna police station situated near the residence of Kevin's family, and soon, his family members were arrested on 20th May, 2021.
14. The Magistrate denied bail to Kevin's family and issued a non-bailable warrant against Kevin under section 498A. Kevin and his family preferred a Special Leave Petition before the Supreme Court and also filed a writ petition challenging the validity of Kondana Prohibition of Unlawful Conversion of Religion Ordinance, 2020.
15. Considering the substantial questions of law relating to interpretations of the Constitution, both the petitions are scheduled for hearing before a Constitution

Bench of the Supreme Court. The SLP is at the admission stage.

(Laws of IronHill are in pari materia to the Laws of Republic of India) (The Kondana Anti-Conversion Ordinance is in pari materia to Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020).

MOOT PROBLEM ON CRIMINAL LAW

In the case of:

Mrs. Madhu V. Mr. Vaidya and Others

Mr. Rahul Sen and Mrs. Susmita Sen were married in 2017 and were residents of Kolkata in the State of West Bengal and they were working there in a US based Multi National company.

After 3 years of their happy marital life, Mrs. Susmita Sen became aware that she cannot give birth to a healthy child. She came to know about this fact by reading medical reports kept secretly by her husband. As per that report Mr. Rahul suffered from some serious congenital medical problem that may pass on to their child.

Then they had quite a big fight in this regard that he never told her about his health problem either prior to her marriage or thereafter but kept the information secret. She remained in her in-laws house under their care, as her husband went for employment training program to Pune for two months.

After some time Mr. Rahul learnt that his wife, desirous of having a healthy child, developed an extra marital relationship with her office colleague, Mr. Vaidya. However, he did not object to the same.

Mr. Vaidya however, confessed to his wife that he had an illicit relationship with Mrs. Susmita. *Mrs. Madhu, wife of Mr. Vaidya, furious about the matter, filed a complaint against her husband as 'main accused,' Mrs. Susmita Sen as 'second accused' and Mr. Rahul Sen as 'an abettor' as he, through his silence and acquiescence facilitated, rather, to put it bluntly, encouraged Mrs. Susmita Sen and Mr. Vaidya to indulge in 'adultery' thereby ruining her marital life. She pleaded that she too shall be recognized as 'aggrieved person' as her matrimonial life was disturbed with these developments.*

Meanwhile, an NGO filed a Public Interest Limitation in the Supreme Court with a plea that Section 497 of Indian Penal Code, 1860 shall be struck down as it violates Articles 14, 15 and 21 of Indian Constitution on the ground that the relevant section of Indian Penal Code, 1860 gives 'immunity only to adulteress but not to men' when both are equally guilty. As a matter of principle of 'public policy', gender neutrality shall be observed in criminal law.

Mrs. Madhu also impleaded herself challenging the constitutional validity of sec. 497 in the Supreme Court as it violates different Articles of Indian Constitution. She also submits that such 'total immunity cannot be given to Mrs. Susmita, the adulteress.

She submits that S. 198 (2) of Code of Criminal Procedure, 1973 is also unconstitutional for it 'discriminates on the basis of sex' which is prohibited under Article 15 (1) of Indian Constitution.

Mrs. Madhu also filed a petition in the Family Court for 'divorce' from her husband under The Hindu Marriage Act, 1955.

Mr. Rahul also applied for divorce from his wife under The Hindu Marriage Act, 1955. Mrs. Susmita Sen objected that 'it is strange that he, instead of she, filed for divorce when 'in reality non-disclosure of his serious health problem has brought forth this state of affairs'.

The High Court quashed the criminal proceedings against all the accused persons 'declaring that Sec. 497 does not violate any of the provisions of the Indian Constitution.

The Supreme Court, after hearing preliminary arguments, admitted and clubbed all the SLPs for final disposal.

- ***The matter to be heard by the Hon'ble Supreme Court.***
- ***Students shall prepare memorials/arguments for both Petitioner and Respondent.***
- ***Students may frame their own issues***
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MOOT PROBLEM ON CIVIL LAW

In the case of:

SOHAN V. MOHAN

Mohan and Sohan were long standing acquaintances who regularly had business dealings with one another. On 1st November, 2012, Mohan, from his home address in Hyderabad, wrote to Sohan at his address in Bhillai, offering to sell him his customised Volkswagen Polo motor car, (which he has long admired), for Rs 5,00,000 the offer to remain open until 5th November, 2012. On receiving the offer on 2nd November, Sohan left Bhillai on a business trip to Lucknow. On the 2nd of November, Mohan sold the car to Kamal and posted to Sohan a revocation of his offer. This was delivered to Sohan's Bhillai address on 3rd November. On 4th November, Sohan posted an acceptance of the offer from Lucknow, addressed to Mohan at his business address, (which was the address from which Mohan usually conducted dealings with Sohan) in Kondapur, Hyderabad. It was delivered there on 5th November but as Mohan was absent from his office on that day, it wasn't read by him until 6th November. On 7th November, Sohan returned home and read the letter of revocation.

Sohan filed a case in the civil court claiming that a contract had been formed between himself and Mohan, in that he had accepted the offer either on 4th November through the application of the postal, or on the 5th November when the letter was delivered to Mohan's place of business. Both events took place before the offer lapsed and before Mohan's letter of revocation was communicated to him. Hence, Mohan selling the car to Kamal was in breach of the contract.

- ***The matter to be heard by Ld. Civil Judge (Snr. Div.)***
- ***Students shall prepare memorials/arguments for both Petitioner and Respondent.***
- ***Students may frame their own issues***