



2nd RMLNLU – SCC ONLINE[®]
INTERNATIONAL MEDIA LAW
MOOT COURT COMPETITION
2014

February 28 – March 2, 2014

MOOT PROPOSITION

THE COURT

(a)

The Moot court participants will work within an environment where citizens of the member States of the United Nations enjoy the rights enshrined in Article 19 of the International Covenant on Civil and Political Rights. This objective will be engaged with the establishment of a fictional World Court of Human Rights (“the World Court”) that substitutes all jurisdictions of all other regional courts and becomes the final adjudicator when all efficacious national remedies have been exhausted.

(b) The World Court shall consider materials from all international, regional and domestic forums.

(c) The World Court will be the arena where the moot court participants will present and argue their case.

THE USE OF AUTHORITIES

(a)

Participants should primarily rely on arguments developed and composed from the following sources: The Inter-American Court of Human Rights, European Court of Human Rights, African Court of Human Peoples Rights – (including Reports of the respective regional Commissions), decisions of municipal courts from both civil and common law jurisdictions, and decisions of the Human Rights Committee in relation to the International Covenant on Civil and Political Rights.

(b) There will be no hierarchy amongst the authorities listed in paragraph (a).

- (c) No limitations apply to academic literature.

In the matter of Mr. Chimzan Taramisu vs. Government of Ampleland

1)

At the end of Second World War, as the process of de-colonization was initiated by the United Nations, Ampleland was one of the first British territories to be declared Independent State in the year 1965. Ampleland adopted a parliamentary form of democracy and also became part of the Commonwealth out of its own accord. The Supreme Court of Ampleland was established by the President in the year 1966 and is the highest judicial forum and final court of appeal. The Parliament of Ampleland is the supreme law making body but its laws are subject to judicial review by the Supreme Court of Ampleland. Ampleland does not have a codified Constitution and the legal system is governed by the Acts of Parliament and the decisions of local Courts

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2)

Ampleland Nationalist Party (ANP) and People's Liberation Party of Ampleland (PLPA) are the two main political parties active in Ampleland since 1965. In the last 48 years, it was only during the initial years of independence, i.e. 1965-70 and 1970-75 that the PLPA was successful in attaining majority in the Parliament. Ever since 1975, it is the ANP which has continued to win the mandate of Ampleland's public by clear majority in the Parliament. The next parliamentary elections are due in May, 2015. The campaigning had already begun as early as 2012 and in fact top leaders of ANP were quoted making tall claims and serious statements about going "all guns blazing" in 2015. In fact, Mr. Dremlin, the party President of PLPA even openly said during one of the TV interviews that "this was an all or nothing" situation for the PLPA and if PLPA did not attain full majority in the Parliament in 2015, he

would rather “prefer exile than to spend another day in the regime of this corrupt and arrogant Government”.

3)

The Grayboom Inc. is a media house owned by Mr. Gary Kilmish, one of the prominent industrialists and businessmen in Ampleland. The Grayboom Inc. was incorporated in the year 1989 under the provisions of The Companies Act, 1966 with its headquarters at Hangovaa, the capital city of Ampleland. “Grayboom Today” is a leading English news and current affairs TV channel broadcasted by The Grayboom Inc. and operates out of Hangovaa as well. Mr. Kilmish is married to Mr. Dremlin’s sister which is also the reason why Grayboom Today has often been blamed for being biased towards PLPA in his coverage. However, Mr. Kilmish has always brushed away such rumors and maintained that his news channel is independent from all or any political influence whatsoever.

4)

Post Wikileaks in 2006 – 2007, the Government of Ampleland became overly cautious about random incidents of leakage of official government documents containing sensitive confidential information in public domain. In fact, after witnessing untraceable mass document leaking across the Globe, the Parliament enacted the Regulation of Dissemination of Information Act in March, 2008 with the aim and object to prevent dissemination of any information through media which in the opinion of the Government was likely to cause threat to, compromise or jeopardize sovereignty, national security or public order and friendly relations with foreign states. The IIB is the premier intelligence, surveillance and monitoring agency run by the Government of Ampleland. It was established immediately after the independence in 1965 by the President of Ampleland through an administrative Order and it enjoys full autonomy in its day-to-day financial and administrative affairs.

5)

The RDI Act, 2008 empowers the IIB to continuously monitor the nature of information disseminated through various local media in Ampleland and to take appropriate action against any such local media, if sufficient grounds to do so were made out in its opinion. As per the RDI Act, 2008, upon receipt of information or formal complaint, the IIB may call upon the concerned media house to show cause why appropriate action be not taken against it for contravening the provisions of the RDI Act. The concerned media house may then file its written submissions within 30 days and then 60 days thereafter, it shall be given an opportunity of appearing and being heard through duly recognized agent or counsel before the Dispute Resolution Committee of the IIB. The decision taken by the IIB shall be final and binding on the media house however, the aggrieved party may appeal against such decision before the Supreme Court of Ampleland, the highest judicial forum in Ampleland.

6)

From 2008 till 2010, total 120 cases were registered against various media houses under the provisions of the RDI Act, 2008. However, till July, 2012, there had been no final decision in any of the said proceedings. On 5th April, 2008, one show cause notice was issued by the IIB to The Grayboom Inc. for showing a videotape where one of the senior leaders of the ANP was seen allegedly accepting bribe from a sting operation; however, the said show cause notice was quashed by the Supreme Court of Ampleland on technical grounds. Thereafter, no action was taken against the Grayboom Inc. or any of its holdings.

7)

Mr. Taramisu had begun his career as a news reporter with The Grayboom in 1993 and was actively involved in numerous sting operations exposing underlying corruption and malpractices in bureaucracy. In fact, one of the sting operations led by Mr. Taramisu resulted in sacking of a Union Minister in 1996 and even nation-wide public uproar against the then ruling party. Apart from various other achievements and awards, Mr. Taramisu was presented

with the National Award for Excellence in Journalism in 1997. From the face of investigative journalism in Ampleland, Mr. Taramisu rose through ranks to become the face of “Grayboom Today”. Mr. Taramisu became the Editor-in-Chief of Grayboom Today in July, 2006.

8)

Since 2002, “Speak your mind: with Chimzan Taramisu” airs every weeknight at 9PM on Grayboom Today and is the most popular and most watched news show in Ampleland. The show revolves around Mr. Taramisu, who interviews a public personality in the presence of a live studio audience and involves the audience to actively interact with the invited guest in a candid manner. Mr. Taramisu’s aggressive style of conducting the interview has remained a hit with the masses but has often been criticized by guests appearing on the show. Many top politicians, businessmen, world leaders, artists and eminent personalities have appeared on the show from time to time.

9)

On 27th October 2012, Mr. Fincox, the present Chief of IIB, was slated to appear as the guest on *Speak your mind* alongside Mr. Taramisu. This was the first time that Mr. Fincox was appearing on a public platform and the show producers were banking upon the interview to be a huge hit. The interview was also available to international audience through Pay-per-view facility available on the official website of Grayboom Inc.

10)

The interview began on an aggressive note as usual; however, the turning point came when Mr. Taramisu confronted Mr. Fincox with certain documents accusing him of running the largest undercover surveillance program in the history of Ampleland called as WIPE 2.0. The said documents revealed how all the Internet users based in Ampleland were being continuously monitored and kept under surveillance 24 X 7 by WIPE 2.0 and how the

information with respect to all their private activities was being collected by the IIB for the past 10 years. The documents and information even revealed the secret codes deployed by the IIB to track and obtain third party private information about all the Internet users based in Ampleland. One of the documents flagged by Mr. Taramisu contained details of surveillance carried out in respect of a foreign diplomat as well as a Member of Parliament from PLPA.

11)

There was an immediate public furor in the studio itself but Mr. Fincox remained calm yet nonresponsive. He chose to silently walk out of the interview while Mr. Taramisu continued to flaunt the pile of flagged documents and repeatedly saying “*Ampleland wants to know Mr. Fincox.... The people of Ampleland are asking some serious questions about the integrity of IIB and today, they need answers from you*”. The show received the highest TRP ratings for the month of October, 2012. However, there were small scale non-violent protests across Hangovaa on the same night which required the local police authorities to intervene.

12)

The following day witnessed large scale protests across Ampleland by various NGOs and Human Rights activists criticizing the IIB for abuse of power and many top leaders of PLPA even demanded that the Prime Minister must step down. For the next 30 days, Grayboom Today continued to re-run the interview with Mr. Fincox and to randomly reveal the contents of the documents shown during the interview. The expose was termed as the biggest fundamental rights violation of the Ampleland citizenry at the hands of their Government. One of the leading columnists in a newspaper owned by the Grayboom Inc. was found saying: “Are you a Suspect or a Citizen? Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every Web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book, every social event you attend -- all these transactions and communications

will go into what the NIB describes as a virtual, centralized grand database called WIPE 2.0. Every possible little detail of your private life is now embedded into the WIPE 2.0.”

13)

On 20th December, 2012, the IIB served the Grayboom Inc. with a show cause notice under the RDI Act, 2008 calling upon to show cause why action be not taken against its officials, employees etc. The show cause notice further demanded the Grayboom Inc. to reveal the identity of the source that had provided alleged information about WIPE 2.0 to the producers of Grayboom Today. In its reply dated 10th January, 2013, Grayboom Today stated that it was under no obligation to reveal the identity of the source of their information but maintained that the source was a credible one since he was associated with Wikileaks and was also an erstwhile employee of the IIB. The hearing was then scheduled for 04th March, 2013 where Mr. Taramisu appeared before the Dispute Resolution Committee of the IIB and deposed that the public of Ampleland had the right to know if its basic fundamental rights were being arbitrarily encroached upon by the Government and that the disclosure of documents was necessary in public interest.

14)

Mr. Taramisu refused to disclose the identity of his source despite being continuously asked by the members of the Committee and maintained that WIPE 2.0 was “the ugliest truth” in the history of Ampleland.

15)

After various hearings held between March and July, 2013, the Committee finally pronounced its decision on 29th July, 2013 and found Mr. Taramisu guilty under the provisions of the RDI Act, 2008. Mr. Taramisu was sentenced to rigorous imprisonment for 4 years and fine equivalent to USD 1 Million, the severest punishment available under the RDI Act, 2008. Mr.

Taramisu was immediately taken into judicial custody in the evening of 29th July, 2013 amidst massive public protests. Mr. Taramisu described the verdict as “unfortunate but expected”.

16)

Mr. Taramisu’s appeal to the Supreme Court of Ampleland was also dismissed on 15th October, 2013 on grounds of limitation; since it was filed beyond the statutory period of 30 days. The Home Minister of Ampleland issued a public statement on 20th October, 2013 stating that Mr. Taramisu’s actions had severely jeopardized Ampleland’s national security and public order and had even led to embarrassment at the international level.

17)

On 22nd October, 2013, a permanent restraining order was issued by the Government of Ampleland against the Grayboom Today from disseminating any information related to WIPE 2.0 or disclosure of documents made by Mr. Taramisu during his interview with Mr. Wincos. The restraining order was issued in exercise of executive powers by the President. Mr. Kilmish was detained the following day at the Hangovaa International Airport, while he was leaving for an international business conclave. Mr. Taramisu has now approached the World Court under Article 19 of the ICCPR on 6th November, 2013 seeking the following reliefs:

(a) To declare that the RDI Act, 2008 is violative and in contravention of Article 19 of the ICCPR and rights guaranteed to Mr. Taramisu thereunder;

(b) To quash and set aside the Order dated 29th July, 2013 passed by the Dispute Resolution Committee of the IIB and to consequentially hold that Mr. Taramisu is under no obligation to disclose the identity of his source to the Government of Ampleland; The Government of Ampleland is at liberty to raise its preliminary objection(s) with regards to

jurisdiction of the World Court, if it deems it necessary and appropriate.

**** The problem has been drafted by Mr. Subhiksh Vasudev, Advocate, Delhi High Court and Supreme Court of India. Any attempts to contact the drafter in relation to the moot proposition will lead to immediate disqualification.**