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INTERNATIONAL MEDIA LAW
MOOT COURT COMPETITION
2015

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MOOT PROPOSITION

Mustapha Mond & Big Brother Enterprises Vs. The Government of Farallon & Thomas Tomakin

WRIT PETITION NO.53000 of 2210

AND

Terra Gaia Vs. The Government of Farallon & Thomas Tomakin

WRIT PETITION NO.72521 of 2210

The Background

1. The year is 2210. The Republic of Farallon is the world's most populous state with more than 6 billion citizens. A conglomeration of earlier nations that comprised parts of the erstwhile Asian and African continents, Farallon is a vibrant democracy, which is one of the planet's three great superpowers, along with Nuna and Rodinia. In the Great Conflict of 2015, Peter Keating, a champion of non-violence and peaceful struggle, had played a part in the creation of Farallon and is often considered in later years as one of the founding fathers of the nation. His death in 2027 was nationally mourned and the anniversary is marked annually by Farallon as Remembrance Day.

2. The official and national language of Farallon is English, and the literacy rate is 100%. All residents of Farallon have access to television (known as Viewbicles) and newspapers (known as Printicles). Farallon has a strong fourth estate, which plays its role as a regulator on Government, and also an independent judiciary vested with the powers of judicial review. The currency of Farallon is known as the Farthing (£).

3. At the time of its creation, after much debate and consideration, the new Republic of Farallon had adopted the Constitution and the laws of the erstwhile Republic of India as its governing documents and is also guided by the principles of common law that had found favour with the courts of that country. The only provision of the Constitution that is repealed is Article 141.

4. Farallon has a bicameral legislature, but with a strict two-party system. Farallon is presently governed by the Equality League, a conservative political party of which Peter Keating had been a member. Prime Minister Prometheus is in his second term in office and brooks virtually no dissent within the League. In opposition is the Liberty Foundation, a liberal group of diverse ideologies who believe in free speech, no Government control in channels of communication and complete transparency. The capital of Farallon is Airstrip One, which is the largest city as also the seat of Government.

The Players

5. Mustapha Mond is the Chairman and CEO of Big Brother Enterprises, a successful multinational company registered in Farallon that has interests in Viewbicles, Printicles, Readicles (publishing), Fallicles (sports broadcast) and Flickles (film production), which are controlled through respective subsidiary companies. Mond resides in Airstrip One and is the second richest citizen of the country.

6. Thomas Tomakin is a longstanding member of the Equality League and is at present the Minister for Media in Prometheus' government. He is many years senior to the Prime Minister both in age and in the party, and harbours long time resentment against Prometheus, feeling that he should be Prime Minister instead. In this, he has the active support of his old friend Henry Foster, who is the Minister for Communications. Mond's overtures to Tomakin have been constantly rebuffed, as Mond's brash and abrasive style is not to Tomakin's liking as is the fact that Mond is a close confidante and golfing partner of Prometheus.

7. Bernard Marx is a flickle producer contracted to Big Brother Enterprises to make 5 flickles with a political message at the cost of the company. He has strong Liberty Foundation sympathies and is a frequent donor to the party.

8. Terra Gaia, also a citizen of Farallon, runs the web portal BuyMe (www.buyme.far) which is a popular site for the purchase and sale of goods by online users. Gaia gets a stock fee of ₣ 100 for each transaction that takes place on her site. As of 2210, there are more than 1 billion registered users of BuyMe. Nearly half of the transactions involve the trade of clips from flickles and viewbicles which are either dated or otherwise difficult to access.

The Disputes

9. On the 4th of October, 2209 a weekly Farallon printicle *The Convoy* carried a cover story entitled “Was Keating Cheating?”, penned by a prize-winning author which relied on Peter Keating’s self-published collected works to reveal that Keating was both a racist and a sexual pervert, whose practices had remained under the radar because of the media gags imposed by the Equality League governments from time to time. *The Convoy* had a print circulation of only 10,000 copies and so the story received little attention.

10. However, when Bernard Marx came to read the *Convoy* article, he realized that this could form the basis for a no-holds barred biographical account of Peter Keating’s life, the narrative thus far having been extremely hagiographic. Accordingly, after a hectic shooting schedule, Marx’s production of *The Keating Story* was released in theatres in June 2210. The flickle bore the banner of Big Brother Enterprises, and acknowledged *The Convoy* article in the credits. Upon release across Farallon, *The Keating Story* rapidly rose to break all previous box-office records for a biographical flickle. Reviews in leading printicles were positive and praised the unapologetic warts-and-all recounting of Keating’s life. *The Keating Story* received accolades at leading international Film Festivals in Nuna and Rodinia, and back home in Farallon, it was quickly endorsed by the Liberty Foundation as evidence of the duplicity of Equality League’s founders.

11. Thomas Tomakin saw in this the opportunity for one-upmanship against the Prime Minister, and on 14th July 2210, the Ministry of Media issued a Government Order banning the broadcast or sale in any format of *The Keating Story*, stating that the flickle was “defamatory, divisive and against public interest”. On the same day, upon orders of Thomas Tomakin, complaints of criminal defamation were registered by the Farallon police in Airstrip

One against Mustapha Mond and Big Brother Enterprises alleging that Peter Keating and the Equality League had been defamed. Both the accused immediately initiated writ proceedings [W.P.No.53000/2210] challenging the ban as well as seeking quashing of the criminal proceedings *inter alia* on the ground that criminal defamation provisions are unconstitutional.

12.Sensing the gathering popularity of Tomakin within the League, and facing criticism that he had been soft on *The Keating Story* because it had been financed by his friend Mond, the Prime Minister had a meeting with Mustapha Mond on 16th July 2210.

13.On the 27th of July 2210, a story starts circulating on the internet containing an explicit video of Thomas Tomakin's married son John Tomakin engaged in homosexual activities with Helmholtz Watson, a junior Professor in the University of Airstrip One. The video, seemingly recorded on Watson's cellular phone quickly goes viral, and clips from it are broadcast on Big Brother Enterprises' Viewbicles news channels, which repeatedly accuse Minister Tomakin of not having taken action against his criminal son.

14.On the 28th of July 2210, Thomas Tomakin receives a dossier carrying details of the transactions that took place over the previous month on www.buyme.far, which discloses the sale of flickle and viewbicle videos of *The Keating Story* and the John Tomakin scandal. Immediately, Thomas Tomakin's Ministry issues an emergency Government Order of the same day directing Internet Service Providers to block access to www.buyme.far and to the local police to arrest Terra Gaia for violation of law.

15.However, despite repeated denials by Thomas Tomakin as to the veracity of the video allegedly featuring his son or its contents, pressure from within the Equality League forces him to resign from his post of Minister on 30th July, 2210. When contacted by members of the press, both John Tomakin and Helmholtz Watson maintain silence and offer no comment.

16.Terra Gaia files a writ [W.P.No.72521/2210] against the Government of Farallon challenging the Government Order of 28.7.2210 and also Sections 66A and 69A of the Information Technology Act as being unconstitutional.

The Litigation

17. The Supreme Court of Farallon is concerned about these cases which have captured the national imagination. On the administrative side, the Chief Justice of Farallon directs both Writ Petitions to be taken up together on a particular date in 4 months time. In the meanwhile, counsel appearing for the various parties are directed to file their written pleadings on the issues framed as under:

- a. The validity of the G.O. of 14.7.2210.
- b. The validity of the criminal proceedings initiated against Mustapha Mond and Big Brother Enterprises.
- c. The validity of the G.O. of 28.7.2210.
- d. The constitutional validity of Sections 66A and 69A of the Information Technology Act.

18. Common counsels represent the Petitioners and Respondents respectively in both petitions. Counsels for the Respondents have waived any contentions on maintainability of the Petitions.

19. To allay any doubts, the Farallon Penal Code (erstwhile Indian Penal Code), the Criminal Procedure Code and the Information Technology Act as they stood in the Republic of India in 2014 have remained unchanged.

-VERITAS-

Note- (a) Participants are advised to rely on arguments developed and composed from the Common Law principles from other Common Law jurisdictions as well.

(b) No judgment of any court is binding upon the Supreme Court of Farallon, but they may have persuasive value.

*This Moot proposition has been drafted by Mr. Gopal Sankaranarayanan, Advocate, Supreme Court of India. Any attempt to contact the author shall lead to disqualification of the team.