

**26<sup>TH</sup> M. C. CHAGLA MEMORIAL GOVERNMENT LAW**  
**COLLEGE NATIONAL MOOT COURT COMPETITION, 2019**

**MOOT PROPOSITION**

1. The island nation of Dharmasthaan is situated 200 nautical miles south-west of the Indian sub-continent. The rest of the world has always been privy to very limited information about the activities of the island of Dharmasthaan. Access to the outside world is very limited, and the internet facilities are monitored and filtered by the agencies of the Government of Dharmasthaan. It is widely known that (a) there have been significant strides in science and technological advancements; (b) self-sufficiency is greatly enhanced; and (c) religion plays a prominent role in the day-to-day life, in Dharmasthaan.
  
2. Since more than a century, a special police force known as the “Unsullied” implemented and enforced religious practices and was the sole security and intelligence agency for the island nation.
  
3. In Dharmasthaan two religions, *i.e.* Hinduism and Mahabhaktism, are prominent and these two religions date back more than 4,000 years. Although commonly regarded as distinct religions as they share a similar trajectory. Many citizens of Dharmasthaan believe that Mahabhaktism is a rebranded form of Hinduism. By virtue thereof, it could be said that the nation of Dharmasthaan is largely non-secular and Hinduism is the unofficial state religion.

4. One of the most visited sites by the citizens of Dharmasthaan is a shrine devoted to Lord Kadamba known as Mannath is situated in the province of Shoryu. Legend has it that the Mannath shrine was built at least two centuries ago. It is the holiest land for the Mahabhakts. In so far as the practices conducted at Mannath are concerned, there are some similarities with those conducted at Hindu temples.
5. The Mannath shrine is open for only twenty-eight days in a calendar year, *i.e.* seven days each in the months of January, April, July and October, and only upon completion of Karvatam is a person permitted to enter the shrine. Karvatam applied to both men and women equally and entailed several restrictions that resulted in a person being of pure body, mind and soul at the time of entering the Mannath shrine.
6. The devout followers believe that (a) Lord Kadamba derives powers from due to his abstinence from all forms of worldly pleasures, particularly as he was a celibate; and (b) prayers must be offered only after following a strict sacrifice over a period of 100 days by following the practices known as the 'Karvatam'. Due to this, it is observed that some women find it difficult to follow Karvatam. Nonetheless, it was interpreted from the holy texts and the depictions on the walls of the holy caves that, if a person enters the Mannath shrine, such person is very likely in his next birth to enjoy a better quality of life and that death shall not be painful in any manner whatsoever.

7. After word began to spread about the benefits of entering the Mannath shrine, every citizen was interested in entering the shrine, irrespective of the restrictions and sacrifice involved.

8. Sometime in the year 1965, the Government of Dharmasthaan, passed the Dharmasthaan Religious Activities Act. In this (“**DRA Act**”), it was provided that:

*“Notwithstanding anything to the contrary contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law, every place of public worship shall be open to Mahabhakts generally or to any sections and all classes of Mahabhakts and no Mahabhakts of whatsoever section or class shall, in any manner, be prevented, obstructed or discouraged from entering such place of public worship, or from worshipping or offering prayers thereat, or performing any religious service therein, in the like manner and to the like extent as any other Mahabhakts of whatsoever section or class may so enter, worship, pray or perform.*

*Provided that in the case of a place of public worship which is a shrine founded for the benefit of any religious denomination or section thereof, the provisions of this section shall be subject to the right of that religious denomination or section, as the case may be, to manage its own affairs in matters of religion”.*

9. In the year 1966, the Association governing the Mannath Shrine passed a formal directive as follows:

*“In accordance with the fundamental principles of the holy shrine of Mannath and to promote only Mahabhakts to enter the shrine, it is hereby directed that Mahabhakts must follow and observe only Karvatam strictly to obtain permission to enter the shrine”.*

10. One section of the Mahabhakts strongly believed that women are an inferior race and they could not attain the purity of mind, body and soul to perfectly perform Karvatam. Their interpretation of the depictions found in the holy caves adjacent to the shrine was that women were only meant to take care of domestic needs, and no impure woman should be allowed to enter Mannath. However, this interpretation was based on several assumptions and inferences. This section of Mahabhakts approached the Mannath shrine and called for a revision of the 1966 directive. The local government of Shoryu, that largely comprising of Mahabhakts, accepted this view. Within a few weeks, the government of Shoryu issued the Shoryu Mahabhaktism Religious Rules, 1967 extracted at **Annexure I**.
  
11. In 1968, the Association of the Shrine modified the 1966 directive, as follows:  
*“Of late, there seems to have been a deviation settled customs and practices. In order to maintain the sanctity and dignity of this shrine, it is hereby notified that Mahabhakts who do not observe the Karvatam are prohibited from entering the shrine and women between the ages of twelve to sixty are forbidden from entering the shrine”.*
  
12. In addition to the above, as part of the security requirements of the shrine, citizens were also required to submit a detailed form containing personal details. This was coupled with a written examination to prove that each person desiring to enter the shrine was in fact a Mahabhakt.
  
13. For several years, the Mahabhakts followed the practices to the fullest and there was no reported dissent among the citizens of

Dharmasthaan. The Unsullied believed that they had achieved their mandate. However, some women adopted various measures to enter the Mannath shrine.

14. By the early 2000's, a group of bandit women with the assistance of some gender activists in Dharmasthaan discovered a method to submit information for those individuals, otherwise restricted by custom/ usage, to enter the Mannath shrine. In so far as their real identity and/ or their religious inclinations were concerned, documents containing these details may have been stored on various electronic devices, including computers, tablets, *etc.* These bandits used only encrypted social media platforms to share their methods and troubleshoot queries from individuals.
15. Shortly thereafter, informal reports suggested that some persons had entered the shrine without meeting the required criteria. Some persons posted their achievements on private forums on social media and circulated chain emails for the same. One member of the Unsullied was looped in to the email chain. Although this email chain was forwarded to the high-ranking members of the Unsullied. In the year 2015, the Unsullied observed that the number of persons entering the shrine it was observed that a significantly high number of persons had entered the Mannath shrine – this was alarming as it was significantly higher than the number of Mahabhakts on the island of Dharmasthaan. By this time, the submission of forms and examination to gain access to enter the shrine was entirely digitized.
16. By May 2015, a large number of protests for allowing access to the Mannath shrine for all persons (irrespective of their faith and

religious beliefs) were being carried out in different parts of Dharmasthaan. On several instances, these protests turned violent, and led to the death of several Unsullied officers. The accused were arrested and their actions were dealt with as per the due process of law. However, in November, 2015, when several high ranking members of the Unsullied attended a closed door meeting in the town of Shoryu, within a few minutes, all of the persons attending the meeting were found dead. It was later discovered that infectious agents were released in the meeting room. The 2<sup>nd</sup> senior most leader of the Unsullied, Thakur Pragyanam was also assassinated in this incident.

17. At this point, a curfew was declared in the province of Shoryu. No person was allowed to leave their residence other than for medical emergencies – basic supplies were delivered at common and convenient drop-off points by the members of the Unsullied.
18. Within a few days, two persons carrying hand-held rocket launchers were intercepted 250 meters away from the gates of the Mannath shrine. Upon interrogation, the Unsullied discovered that these mercenaries were hired to decimate a section of the gates. On the very same day, a message was broadcast by the bandit women on local video streaming networks, messaging services and through email chains that the final goal was to break open the gates for members of all communities to enter the Mannath shrine. To achieve this goal, they would use any method available to ensure that all of the gates of the shrine are demolished.

19. To put an end to such activities, the Government of Dharmasthaan passed a Notification in the year 2016 under Section 69 (1) of the Information & Technology Act, 2000 (“**IT Act**”) read with Rule 4 of the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009 (“**IT Rules**”) directing that, “*The Unsullied is authorized to intercept, monitor and decrypt any information generated, transmitted or stored in any computer resource by any citizen of Dharmasthaan*”.
20. An internationally renowned investigative journalist, Tarkha Bholenath, uncovered the practices followed on the island of Dharmasthaan and reported the same to the world at large. It was believed that Tarkha, who was once a Mahabhakt, had fled from Dharmasthaan after being caught by the Unsullied for having entered the Mannath shrine without completing Karvatam. The devout followers of the Mannath shrine rubbished the reports published by Tarkha, and her effigy was burnt in the province of Shoryu. In addition, religious texts of Mahabhaktism were distributed for free on the entire island.
21. The 2016 Notification resulted in a large volume of data, on the basis of which the Unsullied arrested over two hundred individuals, including some Mahabhakts and a large number of bandit women. At the time of their arrests, the Unsullied found several automatic and semi-automatic weapons and plans to construct a biological weapon.
22. In 2017, some of the prominent newspapers published articles in respect of the restrictions imposed by the Association of the Mannath shrine. Because of this, some women along with non-Mahabhakt

lawyers and foreign gender activists made several representations to the Mannath Shrine Association, local government of Shoryu and the Government of Dharmasthaan that (a) the Shoryu Mahabhakt Religious Rules, 1967; (b) the directive of 1968 passed by the Mannath Shrine Association (c) the Notification of 2016, be recalled; and (d) the directive of 1966 be implemented as that was the true and correct interpretation of the religious texts of Mahabhaktism. Despite best efforts, they could not succeed in respect of any of these issues.

23. This led to several protests and riots within the island nation and the international media managed to disseminate information on the restrictive practices to the world at large. Immediately, the Mannath Shrine Association inducted two female members, this was in addition to the twelve male members that governed the Association.
24. A few months later, a female journalist (without disclosing her religious inclination) and some non-Mahabhakt lawyers filed separate Petitions under Article 32 of the Constitution of Dharmasthaan wherein they challenged (a) the exclusionary practice; (b) the Shoryu Mahabhakt Religious Rules, 1967; (c) the directive of 1968 passed by the Mannath Shrine Association (d) the Notification of 2016, as being violative of the Constitution.
25. To dissuade the momentum that was gathered by the filing of the Petitions, the Government of Dharmasthaan issued a public referendum to seek the opinion of the citizens of Dharmasthaan. In the referendum the question framed was, “*whether the practices of the Mannath shrine are in consonance of the personal beliefs of the citizens of Dharmasthaan*”. Within 12 hours from the closure of voting, the



results of the referendum were published that 95% of the citizens of Dharmasthaan voted in favour of the referendum.

26. Both Petitions are now listed for final hearing at the stage of admission before a bench comprising of seven judges of the Supreme Court of Dharmasthaan. Incidentally, all the Petitioners have engaged the same counsel for the Petitions and the State, local government and the agency are being represented by a common counsel for the Petitions. It was directed that, for brevity and to serve the ends of justice, the Petitions would be heard together. Except as specifically provided herein, the laws of Dharmasthaan are *para materia* with the laws of India.
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## ANNEXURE I

The classes of persons mentioned here under shall not be entitled to offer worship in any place of public worship or bathe in or use the water of any sacred tank, well, spring or water course appurtenant to a place of public worship whether situate within or outside precincts thereof, or any sacred place including a hill or hill lock, or a road, street or pathways which is requisite for obtaining access to the place of public worship-

- (a) Persons who are not Mahabhakts.
  - (b) Women at such time during which they are not by custom and usage allowed to enter a place of public worship.
  - (c) Persons under pollution arising out of birth or death in their families.
  - (d) Drunken or disorderly persons.
  - (e) Persons suffering from any loathsome or contagious disease.
  - (f) Persons of unsound mind except when taken for worship under proper control and with the permission of the executive authority of the place of public worship concerned.
  - (g) Professional beggars when their entry is solely for the purpose of begging.
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