



St. Joseph's College of Law

Affiliated to Karnataka State Law University
and Approved by Bar Council of India

4TH SJCL NATIONAL MOOT COURT COMPETITION 2024

PROPOSITION




4th National Moot Court Competition 2024



Proposition

1. The Republic of Aranyaraj is the largest democracy in the world. The preamble of the constitution of Aranyaraj declares the country to be a Sovereign, Socialist, Secular, Democratic, Republic. The demography of Aranyaraj comprises people from various religions, castes, ethnicity, and social strata. Each of the communities, tribes based upon religion and geography have different customary laws when it comes to the matters of Marriage, Divorce, Inheritance, Adoption and other family laws. This has resulted in hardship for the women in certain communities as there are still some communities which adhere to age-old tradition and customs.

2. The Republic of Aranyaraj grants its people right to religion as a matter of constitutional right which allows the individual communities right to carry out the age-old practices without being questioned or challenged in the court of law subject to reasonable restrictions. However, recently the court has taken more of a constitutional stance when determining the validity of the customary laws, it has tried to distinguish the general practices within the religion from essential religious practices, at times preferring the latter over the former.

3. The major part of the territory of Aranyaraj was administered by the United Kingdom of Targareyan whereas the remaining portions were administered by the Dothraki Republic and Republic of Lannister until the independence of Aranyaraj in mid 20th century. When the United Kingdom of Targareyan decided to not interfere with the application of personal laws, the Dothraki Republic had decided to implement a uniform civil code for all individuals residing in its territory known as Goaxim, Damao, Dui and Didra Nagra.









The Republic of Lannister had given an option to the residents of Pondiville to choose between the Lannister Civil Code and Customary Law.

4. Therefore, there is no consistent law in the Republic of Aranyaraj that governs familial relationships cutting across the different ethnicities and religions.

5. The enforcement of fundamental rights and directive principles mentioned in Part III and Part IV of the Constitution of Aranyaraj has resulted in social transformation thereby leading to the realization of rights across all groups. One of the vulnerable groups that are identified in Aranyaraj are women. One of the important directives given by the Constitution was to draft a uniform civil code for all citizens under article 44 of the Constitution.



6. Aranyaraj as a nation state is known to have been committed to the cause of Human rights. It had adopted the principles specified in the Universal Declaration of Human Rights of 1948 into Part III and part IV of its Constitution. Similarly, they have also ratified the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and cultural Rights (1966). Pursuant to the objective of realizing the rights of women, the State has signed and ratified the Convention on the Elimination of Discrimination Against Women (hereafter referred to as CEDAW) of 1979 and the Convention on the Rights of the Child (hereafter referred to as CRC) of 1989.







7. In this background, Safoora is a Muslim woman who was born and brought up in Kudla where the provisions of the Shariat Act 1937 was applicable. She was married in the year 2017 to her husband who is also a Muslim where the Shariat Act 1937 is still applicable. Her husband pronounced Talak-a-Hasan upon her in the year 2022. She filed a petition in the High Court of Vijayanagara challenging the provisions of customary law as violative of the Constitution. She contends that customary law does not provide her the right to defend the allegations against her and the procedure is discriminatory as only men are allowed to pronounce talak whereas women are not allowed the same rights. She further contends that the provisions of divorce that apply to her must be identical to the provisions of divorce that apply to other persons as there cannot be a difference in human rights due to religion, sex and place of birth and hence are per se discriminatory and violative of the Constitution of the Republic of Aranyaraj.



8. Senora belongs to the Nishi tribe in Arnichal Pradesh by birth. She resided with her parents and two elder brothers at Utnagar. Upon the death of her father who was the sole breadwinner of her family in the year 2023, she was denied the right to inheritance of the estate of her late father. The estate was distributed among her brothers according to the provisions of customary law. She filed a petition under Article 226 of the Constitution of Aranyaraj in the High Court of Issam contending that the provisions of customary law are discriminatory in nature against women and violative of the fundamental rights as guaranteed under the Constitution of Aranyaraj.







She contends that her late father's property must be distributed equally among her mother and all children therefore dividing all estate into four equal portions. One of the grounds she contends that this discrimination would not have happened had she been born as a man.



9. Raj, a Hindu and Rachel, a Christian were an interfaith couple in a live-in relationship for a period of 7 years. They reside in the city of Tarus in the State of Gajarat. Due to fear of the society, stigma they face from their families, and stringent anti-conversion laws enacted by that province, they decide not to formally register their marriage and stay as a Live-in-couple. After knowing their relationship, Raj's family disowned him and actively cut off all ties with him. Subsequent to the same, they purchased an apartment by contributing equally to the expenses in procuring the same. In 2017 together they welcomed a daughter Roxana and after a while Rachel decides to take over the responsibility of being a homemaker therefore resigns from her job. However, in a cruel twist of fate, Raj met with a fatal accident in the year 2022 while returning home from his office. Upon knowing the death of Raj, his family members come to the city of Tarus. At that point in time, the family of Raj humiliates Rachel and declares that they will not consider her as the spouse of Raj as their relationship was not a marriage and according to them Roxana and her daughter cannot be considered as a legal heir.


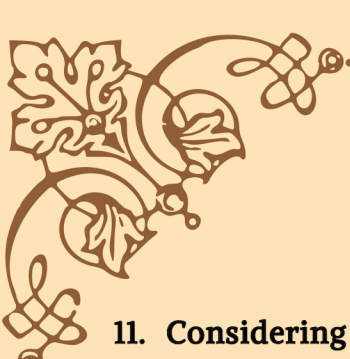




They eventually deny the rights of succession to Rachel and Roxana on the ground that their relationship is not recognized in the eyes of law. Aggrieved by this situation, she approached the High Court of Gujarat, seeking the right of succession for herself and her daughter. She also contended that because there is no dignity given to the choices of herself and her partner enforced through law, she and her daughter have to suffer the ridicule and be destitute. She further contends that the right to have a family should not be within the strict confines of marriage and her cohabitation with Raj must lead to a presumption of marriage and therefore allow her to inherit the estate of Raj in the same capacity as a legally wedded wife.

10. Considering the problems that surfaced in the application of different customary laws, Kedarkhand, one of the Provinces of Aranyaraj enacted the Uniform Civil Code for Kedarkhand in the year 2024. This has led to apprehensions by certain religious communities in Kedarkhand primarily contending that such a uniform civil code is violative of the fundamental rights guaranteed to them under the Constitution. These communities have filed multiple writ petitions in the High Court of Kedarkhand with these contentions.







11. Considering the issues across multiple High Courts of different provinces in the Republic of Aranyaraj, an NGO named (Khawateen-o-Samanadhikar), an organization constituted exclusively for promoting the cause of equal rights of men and women, files a petition under Article 32 of the Constitution to consider all the rights associated with both men and women in the context of divorce, succession and mutual rights of inheritance as there are inconsistencies in the law that applies in different regions and communities that reside in the state and the laws that are enforceable in certain provinces across communities are violative of Article 15 of the Constitution.

12. Upon receipt of the petition, the Honourable Supreme Court of the Republic of Aranyaraj accepted the contention of the Petitioners to hear the issues and invoked its powers under Article 139A of the Constitution to transfer all proceedings pending before various High Courts in the nation to conclusively decide upon the constitutionality of the various provisions of customary law and legislations in the context of equal rights of men and women. Notices were served to the standing Counsels of all provinces and Union territories including Pondiville and Goaxim to analyze the viability of the provisions of a Uniform law that is enforceable throughout the territory of Aranyaraj in matters of divorce, succession and mutual rights of inheritance.

Note: The laws enforceable in the Republic of Aranyaraj are pari materia with those in the Republic of India. The treaty obligations of the Republic of Aranyaraj are identical to the treaty obligations of the Republic of India.





Issues

- 1. Whether forms of divorce as prescribed under the customary law vis-à-vis the provisions of the Constitution of Aranyaraj?**
 - 2. Whether the law passed by Kedharkhand is violative of Part III of the Constitution of Aranyaraj?**
 - 3. Whether the succession laws and inheritance laws based on personal laws are arbitrary and violative of the dignity of women vis-à-vis the constitution of Aranyaraj?**
 - 4. Whether partners in a live-in relationship are entitled to mutual rights of inheritance in parity with spouses in any form of marriage under the constitution and their respective personal laws?**
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