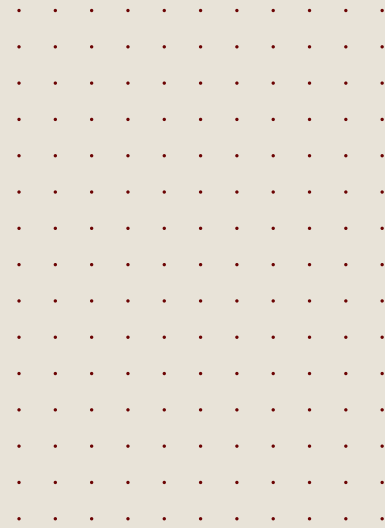
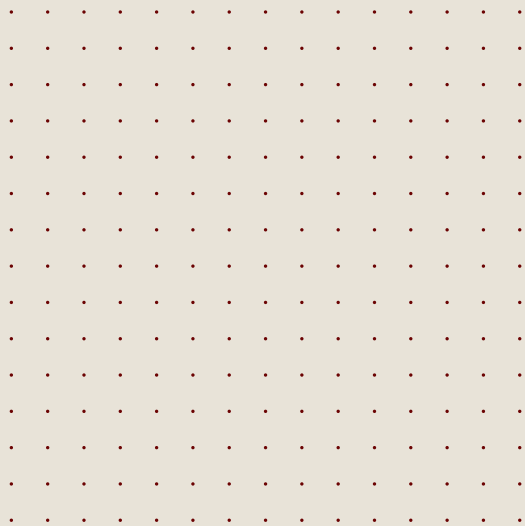




**KIRIT P. MEHTA
SCHOOL OF LAW**



SVKM'S NMIMS KIRIT P. MEHTA SCHOOL OF LAW INTRA MOOT COURT COMPETITION MOOT PROPOSITION, 2023





1. Union of Indica is a Sovereign, Socialist, Secular, Democratic Republic having a federal Constitution providing for securing to all its citizens the cherished values of justice, liberty, equality, and fraternity. Being a former British Colony for 150 years it achieved independence in the year 1947. The social demographics of the state is such that, people of all faiths irrespective of being from different caste, creed and linguistic expression stay and reside together. Indica is perhaps one of the oldest civilizations present in the current world. By virtue of same the culture of Indica has placed heavy reliance on dharmic principles, among other, including the fact that it is an inclusive civilization for people from all kinds of faith including Hind, Budhi, Musli, Jai, Sik and various tribal populations in the country. The constitution of the Union of Indica also envisages the same principles of equality, unity, diversity among others.

2. The constitution of Indica in Part III delineates various fundamental rights for citizens as well as non-citizens. In view of the historical evolution of Union of Indica, Right to Freedom of speech & Expression is an intrinsic part of the Constitution and recognized as one of the very basic fundamental rights. In fact, the judicial evolution and interpretation of the fundamental rights among others puts this right at a higher pedestal as compared to other rights. However, it is also a matter of fact that there are certain reasonable restrictions imposed on the exercise of such basic and fundamental rights as mentioned above. The state can therefore, regulate such application of rights where necessary. One of the other most important fundamental rights that derives its existence from religious practices and faith of worship is article 25 of the Constitution of Indica. This fundamental right grants the freedom of religion to the citizens to practice, preach and propagate their respective religious philosophies and ideologies. It has been a matter of record that religious sentiments have always had some correlation with law-and-order situation, especially in Indica because of the diversified social demographics that it comprises.



3. As mentioned above, people in Indica have strong sentiments towards their religion, Dharma, and culture, and hence, any attempt made towards hurting the religious sentiments of the people of various faith and religion often leads to a situation of law and order. To address, avoid and control such situations the Union of Indica has specific provisions in the Indica Penal Code, 1860 such as Section 153A, 295A & 298 of the IPC, 1860, which acts as a reasonable restriction on exercise of the Fundamental Right to Free Speech and Expression to protect violation of Right to Religious Freedom and Sentiments under Article 25.
4. An anonymous author who goes by the pen name "Azaad" regularly writes about Civilizational history of Indica and its contemporary issues. He is often considered by many scholars a far-right author and someone who writes vociferously against certain sections of the society.

- Despite the historical background of the Union of Indica, which is unity in diversity, it has been lately observed that after the change in the political dispensation in the year 2014, the differences between the two major communities have deepened. There appears to be a religious divide due to which many people are making strong statements on the religious practices and their historical roots in Indica. Azaad is one such individual who has a strong opinion on various religions and their religious practices. Recently, he has published a book titled as "Religion: A Psychotic Phenomenon" wherein he has expressed his opinion that people of a specific religion because of their historical background are by nature very dogmatic, violent, and intolerant towards the people from other faiths. The author further claims that, the fundamental nature of the said religion itself is extremely radical, non-scientific, intolerant, and exclusive to the extent of other existing faiths.

6. Raj Singh, a famous actor who belonged to this religion, posted on a social media intermediary called Chirp, quoting certain extracts from Azaad's book. He expressed his agreement with the author's views. Raj's post mentioned the following excerpts –

a) "The roots of the said religion in the Union of Indica are a result of a religious driven communal invasion of foreign invaders of the said religion. It is important for the majority community to realise and recognize that radical roots of the said religion. More importantly, people/followers of the said religion who promotes the action of Foreign Invader are by their very nature communal, radical and a threat to the society."

b) "There are various discriminatory practices that are followed by the followers of the said religion because of their dogmatic approach which is propounded in their religious texts and hence, it is the right time to call out such religious practices which are completely against the ethos of our constitutional provisions"

c) "There is no such entity as God or what some people claim as the creator of this Universe which exists. The very idea of God and his commandments has been misused by the preachers of religion to misguide and deviate them from their duty towards the country and the national at large."

In his post, he also urged his audience to read the book. Raj Singh's post quickly went viral on Chirp, gaining a lot of traction as it was retweeted by thousands of people.

7. The outcome of the usage of the above-mentioned quotes has led to violent disturbances in various parts of the country. The reaction from the people across different faiths and sects has created a law-and-order situation. There have been violent clashes that have been reported by media among various sections of the society.



8. This created a lot of controversy, and there was widespread backlash against the religious group in the country. In response, Mr. X founder of Centre for Religious Freedom, a Non-Governmental Organization filed an F.I.R against Raj Singh for his deliberate and malicious act, intended to outrage religious feelings of any class by insulting its religion, under Section 153A, 295A and 298 of the Indian Penal Code, 1860[1] and other relevant provisions of the Information Technology Act, 2000. The said organization has filed the F.I.R based on several complaints that were made to them by followers of the said religion.
9. The Police registered an F.I.R under Section 154 of the Code of Criminal Procedure, 1973 based on the said information. The actor was arrested from his residence by the respective state authorities. In the trial that followed, the Magistrates Court convicted Raj for the offences under sections 153A, 295A and 298 of the Indian Penal Code and other relevant provisions of the IT Act. He was sentenced to two years of imprisonment.
10. In the meanwhile, the ministry of Electronics and Information technology, Government of India issued a notification to Chirp to take down Raj Singh's post in the interest of security of the state and to prevent any incitement and disruption of public order. Subsequently, Chirp disabled Raj Singh's post as per rule 3 of IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.
11. Raj Singh has now filed a petition against the notification (No. 13(4)/2023) issued[1] by MeITy under rule 3 of IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 for violating his fundamental rights under Article 19 and 21 of the Constitution of India thus also challenging the validity of the said rule. He filed



another petition in the Supreme Court to set aside the Magistrate's order of conviction, while challenging the constitutional validity of section 295A of the Indian Penal Code. In a preliminary hearing, the Supreme Court, to do complete justice, has clubbed these petitions

12. Following are the contentions of the petitioner, Raj Singh before the Supreme Court of India:
 - a) The petitions filed by Raj Singh are maintainable as it is well within his rights to approach the Supreme Court to get justice when there is a violation of his fundamental rights, and also has a right to appeal when there is an order of conviction passed against him by a subordinate court.
 - b) The notification (No. 13(4)/2023) issued by MeITy to take down Raj's Post, violates his fundamental rights under Articles 19 & 21 of the Constitution of India, and Rule 3 of the IT rules, 2021 under which the notification was issued is constitutionally invalid.
 - c) The lower court was not justified in convicting the petitioner for the offences under sections 153A, 295A and 298 of the Indian Penal Code.
 - d) Section 295A of the Indian Penal Code is constitutionally invalid.

The Constitution of India and other laws of India are pari materia to the laws of India. If the Parties want, they can make sub-issues or add issues which is within the Jurisdiction of the current dispute.