



## **MAR GREGORIOS COLLEGE OF LAW**

**MAR IVANIOS VIDYANAGAR, THIRUVANANTHAPURAM**

**Affiliated to the University of Kerala & Approved by the Bar Council of India**

# **CLEA MOOTING (SOUTH ASIA ROUNDS) COMPETITION -2022 MAR GREGORIOS COLLEGE OF LAW Thiruvananthapuram, Kerala 10-12 November 2022**

(To Select Teams from Bangladesh, India and Sri Lanka to Represent the respective countries in the CLEA Mooting - Goa, March-2023)

*This moot problem is solely authored for the purpose of CLEA Mooting (South Asia Rounds) Competition -2022 to be held on 10-12 November, 2022 at Mar Gregorios College of Law, Thiruvananthapuram, Kerala to select teams from Bangladesh, India and Sri Lanka to represent the respective countries in CLEA Moot-2022 to be held at Goa in March 2023. This Problem is authored by Prof. (Dr). Lisa P Lukose, Professor, GGSIPU/Executive Member, CLEA – Asia/Honorary Director, Commonwealth Institute of Justice Education and Research (CIJER). The copyright in the moot problem vests exclusively with CLEA -India.*

### **NATIONAL ROUND CLEA MOOT**

1. Rosehill is a country in South Asia. It is the seventh-largest country by area, the second-most populous country, and the most populous democracy in the world. It's law and jurisprudence stretch back into the centuries, forming a living tradition which has grown and evolved with the lives of its diverse people. Rosehill's commitment to law is created in the Constitution which constituted Rosehill into a Sovereign Democratic Republic, containing a federal system with Parliamentary form of Government in the Union and the States, an independent judiciary, guaranteed Fundamental Rights and Directive Principles of State Policy containing objectives which though not enforceable in law are fundamental to the governance of the nation. The laws of Rosehill are *pari materia* to the laws of India.
2. On 30. 01. 2020, World Health Organisation declared that coronavirus is a global emergency of international concern as the death toll in Chinovia jumped to 170, with 7,711 cases reported in the country. At this point, more than 7500 cases were reported in 20 countries of the world. On March 11, The World Health Organization declared Covid-19 a pandemic, which is defined "an epidemic that has spread over several countries or continents, and most people do not have immunity against it".



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3. To curtail the spread of the virus through social distancing, 'Ministry of Home Affairs' (MHA) of Rosehill *vide* its executive order dated 25.03.2020 imposed countrywide lockdown, till 14.04.2022 and trains, flights, public transport, universities, schools, offices, factories, and manufacturing units were shut. All public movement was totally prohibited through all means of roadways, airways, *etc.*, and only essential services kept out of its purview.
4. As the factories and workplaces closed down, millions of migrant workers had to deal with the loss of income, food shortages, and an uncertain future. The government did not provide any immediate relief to the workers. With no money, no job, and unsure when the lockdown will finally end, the migrant workers had no other option than to return to their villages. Their massive migration from working states formed a humanitarian and health security challenge and an exceptional logistical nightmare. With road and rail transport links still suspended, walking back was the only option and they initially took to the road. People undertook hazardous journeys, sometimes walking up to 1000 km with no money to spend and often without food for days together. Many were arrested by law enforcement officials for violating the lockdown, some died due to exhaustion or accidents on the roads. Random instances of looting and abuse were also reported.
5. The Government of Rosehill on 10.4. 2020 came up with a new scheme called the *Pradhan Mantri Mittr Kalyan Yojana* (PMMKBY) to address the distress of the public. The scheme included free food to the "poorest of the poor", income support to farmers and unorganised sector workers, as well as provision of free food grains and other essential items through the Public Distribution System (PDS). However, there were constant media reports on the ineffective implementation of the scheme that only a few migrant workers benefitted from these schemes and many were left distressed with no livelihood, food or other basic necessities.
6. Meanwhile, the State Government of Braavos, Capital of Rosehill, through an ordinance dated 25.04.2020 temporarily suspended significant labour laws (The Factories Act 1945, The Industrial Disputes Act, 1947; The Payment of Wages Act, 1936; The Minimum Wages Act; The Bonus Act, 1965 and The Employees' State Insurance Act, 1948) for three years in view to incentivize economic and industrial



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- activities in the State except for Section 5 of the Payment of Wages Act, 1936. This was done to add vigour to the economy, which had crashed due to the pandemic. This invigorated the already abysmal situation of the labour and migrant worker class.
7. During this massive surge in Covid cases, many dead bodies were left abandoned for a very long period of time which later decomposed. There were reports about numerous incidents during this pandemic where several dead bodies were found floating in the holy rivers. Even the immediate family members of Covid-19 victims could not perform the funeral rites of the deceased and bodies were not handed over to them. Later on, on the basis of WHO study reports the Government of Braavos started handing over of corpse to the families, however, many corpse remained unclaimed.
  8. Further, in order to curb the spread of the pandemic in the country, the Central Government launched Covid-19 tracking application, CoviTrack and made it mandatory for all the citizens to download it and upload all the information like name, contact number, health data *etc.* The app. sought continuous access to location information for its social movement graph. However, this caused uproar amongst the public who were of the view that the privacy policy of the app. is completely silent on as to what security practises are being followed and concerns regarding the safety of the data stored. The public was also ambiguous about the fact that the personal information captured might be shared with unknown entities for unknown purposes.
  9. Also, the Health and Family Welfare Department of Braavos published the addresses including the names, contact details, house numbers, street numbers, and localities of 16,910 people who have been quarantined because they had come from abroad, on its official website. This list also included the countries that they had recently visited. This has further aggravated the privacy concerns of the public.
  10. Another bizarre situation that was reported widely in Braavos was the alleged use of mysterious drones by the Government. The drones were seen announcing orders to pedestrians below to maintain social distancing and they were also being used to scan fevers. Law enforcement officials were allegedly using drones to scan parks, beaches, and city squares for violators not complying with the social distancing protocols as mandated by the government.



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11. In June 2020, the Government started developing the vaccine, CoviSave, against the COVID-19 disease through a public-private partnership. There were reports that the private laboratories straight away conducted trials on humans without any preclinical trials on animals. One instance has been reported where the private laboratory was conducting human trial of the CoviSave on orphans (as no parental consent was sought) from slum areas in Braavos and using them as guinea pigs to test the safety of the vaccine. Further, there were also reports that a handful of such orphans have even died during the trials. However, the Government refuted all such claims.
12. The Government spread massive awareness about the benefits of the vaccine. However, majority of the population was reluctant in administering the vaccine due to reports that it may cause side effects like blood clotting and other pulmonary issues in the body.
13. The Director General of WHO addressed the media where he stressed on the need to safely achieve herd immunity, which can also be achieved through vaccination. Also, the Covid-19 cases burgeoned continuously and deaths were increasing exponentially. In this background, Government issued regulations under the Epidemic Act, 1897 on 15. 7. 2020 whereby Vaccination Certificate is made mandatory for inter-state travel and those employed in educational institutions, government offices, manufacturing industries and factories. The public alleged that this caused violation of array of their constitutional and human rights. Further, this step was seen to be infringing their Fundamental Right to Life, Personal Choice and Bodily Autonomy and Integrity.
14. Rosehill is a signatory to all international human right legal instruments.

In this background, Association of Democratic Rights (ADR) has filed a writ petition before the Supreme Court of Rosehill challenging various actions of the Government during the covid period. The Supreme Court of Rosehill has admitted the petition and framed the following issues for consideration:

1. Whether the executive order of the Government of Rosehill declaring lockdown on 25. 03. 2020 is constitutionally valid? Whether sudden imposition of lockdown *via* an executive order violates Articles 14 and 21 of the Constitution of Rosehill?



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2. Whether the ordinance passed by the State of Braavos dated 25. 04. 2020 which suspended several labour laws, violated fundamental rights of workers, and the International Labour Organisation Conventions?
3. Whether the application CoviTrack, Braavos's sharing of the personal data of the quarantined persons on the website and use of mysterious drones violative of the right to privacy?
4. Whether the Central Government of Rosehill and the State Government of Braavos violated several human rights, both enumerated and unenumerated, under the national and international legal regime during the post Covid regime?
5. Whether the regulations issued by the Government under the Epidemic Act, 1897 on 15. 07. 2020 making vaccination compulsory violative of the rights protected by its Constitution?

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