

Army Law College Pune

Moot Court Problem for

“ALC Pune Online National Moot Court Competition 2021”

Aryadvip is a federal democratic republic with Rule of Law, Independent Judiciary, Free Media and Vibrant Civil Society and its political Capital is *Lalkot*. The Constitutional and Legal System of *Aryadvip* is identical to that of “Union of India”. *Shivrajya* is one of the States under the Union of *Aryadvip*, having its own Legislative Assembly and Legislative Council. *Shivrajya’s* Capital is “*Mumbapuri*” which is also known as the Financial Capital of *Aryadvip*.

The Parliament of *Aryadvip* has recently enacted a law to legalize and regulate female prostitution called “*Aryadvip Sex Workers (Protection and Regulation) Act 2021*”, hereinafter referred to as “The Act”. The recently enacted law replaced the earlier law called “*Aryadvip Immoral Traffic (Prevention) Act, 1956*”. The New Law aims to safeguard public health, promote the welfare and health of sex workers and protect the children under 18 years of age from sexual exploitation and prostitution.

The Act imposed duty on operators of Brothels to promote safer sex practices and violation of the same is made punishable with a minimum fine of Rupees 10,000 and a maximum fine up to Rupees 1,00,000 and a maximum punishment up to 3 Years Simple Imprisonment under this Act. Advertisement of commercial sex services through Newspapers, Magazines, Radio, TV or OTT platforms is made punishable with a minimum fine of Rupees 1,00,000 to a maximum fine up to Rupees 5,00,000 under the Act and a maximum punishment up to 5 Years Simple Imprisonment.

Under the Act, compelling any adult person to provide commercial sex services is made punishable with minimum 5 Years Rigorous Imprisonment and maximum 10 Years of Rigorous Imprisonment. Any person who assist or induce or compel any person under 18 years of age to provide sexual services to receive earnings out of it or otherwise is made punishable with minimum punishment of 7 Years Rigorous Imprisonment and

maximum punishment of 14 Years Rigorous Imprisonment under the Act. Registration of Brothels & obtaining License from District Magistrate is made mandatory under the Act, failing which, a maximum fine up to Rupees 5,00,000 can be imposed. Persons with previous convictions resulting into 2 years or more imprisonment or mere conviction for sexual offences/drug abuse, irrespective of the length of the imprisonment, are disqualified from getting the license to operate brothel.

After the enactment of the Act, two young adult women, *Vasantsena* and *Khalida* jointly purchased a flat in a posh residential housing society called “Sanskriti Raksha Housing Society” in *Mumbapuri* City. They also obtained valid license from the District Magistrate to provide sexual services at a “small Owner-Operated Brothel”. The residents of the “Sanskriti Raksha Housing Society” objected to the sexual services offered by *Vasantsena* and *Khalida*. However, the sexual services provided by the two women were strictly confined to the four walls of their flat in a private space and hence it did not cause any nuisance or inconvenience to the residents of the housing society. They were regularly paying their taxes to the Government and maintenance charges to the Housing Society. They were complying with all the laws applicable to them.

The Bye Law framed by the “Sanskriti Raksha Housing Society” under “the *Shivrajya* Co-operative Societies Act, 1960” prohibited acts against morality or acts against public interest committed by the occupants of the flats within the premises of the housing society. A resolution was passed by the members of the “Sanskriti Raksha Housing Society” with 3/4th of the majority and expelled *Vasantsena* and *Khalida* on the ground that their ‘acts were detrimental to the interest or proper working of the housing society’. No opportunity to represent to the General Body was given to *Vasantsena* and *Khalida* before the resolution was passed. The Registrar of the Co-operative Societies approved the expulsion. Subsequently, the two women were forcibly evicted from their flat.

Vasantsena and *Khalida* filed a writ petition in the *Mumbapuri* High Court and challenged their expulsion from the “Sanskriti Raksha Housing Society”. The Registrar of the Co-operative Societies was also made a party to the writ filed along with the Secretary of the “Sanskriti Raksha Housing Society”. They challenged the expulsion on the ground of violation of their rights under Article 14, 19(1)(g) and 21 of the Constitution of *Aryadvip* and their statutory rights under “*Aryadvip* Sex Workers (Protection and Regulation) Act”

and “the *Shivrajya* Co-operative Societies Act, 1960”.

The respondents in their reply, filed in the Court, challenged the validity of “*Aryadvip* Sex Workers (Protection and Regulation) Act” on the grounds of violation of their rights under Article 14, 19(6) and 21 of the Constitution of *Aryadvip* and also on the grounds of Public Morality and Public Interest. The law was challenged on the ground that Parliament lacked the legislative competence under Article 246 read with the VII Schedule of the Constitution of *Aryadvip*. The Court, thereafter, issued notices to the “Union of *Aryadvip*” and “*State of Shivrajya*” and the Secretary of the “Sanskriti Raksha Housing Society”.

The matter is listed before the *Mumbapuri* High Court for final hearing.

Disclaimer: All characters, names and events mentioned in this ‘Moot Court Problem’ are entirely fictitious and used purely for academic purposes only. Any similarity with actual events or persons, living or dead, is purely coincidental.

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