

18th M. C. Chagla Memorial Government Law College
National Moot Court Competition
14th – 15th January, 2012

MOOT PROPOSITIONS
[A & B]



Government Law College
MOOT COURT ASSOCIATION

MOOT PROPOSITION - A

W.P. 25 / 2025

Raise Your Fist Foundation v. Union of India

1. January 26, 2025: For the first time since independence, the Indian population was empowered to vote for a policy and not a politician. The National Online Vote (“**NOV**”) was introduced by a Presidential Ordinance as a voting mechanism in 2023. The NOV enabled the entire voting population to vote through an online mechanism on their personal computers or at computer voting centers established in every town, city and village. The literacy rate coupled with the accessibility of the common man to computers and computer technology, allowed effective participation of the entire population in the NOV. After several reports from numerous expert-bodies, it was upheld as being constitutional by a seventeen judge-bench of the Supreme Court in 2024¹. On January 26, 2025, the NOV became binding law. A NOV could be called for if 3/4th of all the Members of Parliament, present and voting, vote in favor of the proposal to be referred to a NOV.
2. On January 27, 2025, the ruling party introduced the Constitution (Four Hundred and Fiftieth Amendment) Act (“**Amendment**”). The Amendment read as follows:

“The onward march of technology has opened up new vistas of citizen empowerment previously out of reach. The National Online Voting is one such innovation. With the entire population now capable of voting on important policy matters, the system of institutional checks and balances deserves to be diluted in favor of a system of direct accountability to the people. Already Parliament is bound to pass laws in accordance with the popular mandate in matters referred to the National Online Vote, if the proposal garners the support of more than 3/4th of the total population. In the judicial realm, there is now room to include some form of dialogic or soft-form review whereby judicial decisions on borderline issues are not binding but advisory and serve to sharpen and better inform the contours of public debate. As a step in that direction, it is hereby enacted that Article 141A be added to the Constitution which shall read as follows:

¹ Alok Shah v Union of India AIR 2024 SC 25687

Notwithstanding anything contained in this Constitution or declared to be implicit in the Constitutional scheme by caselaw, Parliament shall have the power by an affirmative vote of 3/4th of all Members of Parliament, present and voting, to refer decisions of the Supreme Court on matters of Constitutional importance to a National Online Vote. The Supreme Court decision shall be incorporated in the form of a legislative amendment unless rejected by a vote of 3/4th of the population. If rejected, the decision shall be non est.”

3. In order to cloak the Amendment with unimpeachable legitimacy, Parliament referred the Amendment to a NOV on January 29, 2025. It was passed by an affirmative vote of 77% *for* and 23% *against*.
4. On January 30, 2025, a seventeen judge bench of the Supreme Court found abortion to be unconstitutional. Parliament by a 3/4th majority referred the matter to a NOV (“**Abortion NOV**”). In the NOV, the decision was rejected by an overwhelming vote of 90% *against* the decision, and abortion continued to remain a constitutional practice in India.
5. Unhappy with the result of the Abortion NOV, Raise Your Fist Foundation (“**RYFF**”), filed a PIL, challenging the Amendment on the ground that it violated the basic structure of the Constitution.
6. A fifteen judge-bench has been constituted by the Chief Justice of India to hear the matter. The questions before the Court are as follows:
 - I. Whether the Public Interest Litigation is maintainable?
 - II. Whether Constitutional Amendments effected after a popular referendum through the NOV, are susceptible to challenge on grounds of Basic Structure violations?
 - III. Whether dialogic / soft-form review proposed to be incorporated through the Amendment violates the Constitutional scheme and the basic structure and impinges on the independence of the judiciary and is violation of the principle of separation of powers?

MOOT PROPOSITION - B

A.Wede and Ors. v. Union of Baharistan and Ors.

1. The Union of Baharistan is a democratic republic which was an erstwhile colony of the British Empire. Baharistan achieved independence in 1947 and has since rapidly moved towards modernization. It is a developing economy, currently flourishing with ample opportunities and developments. In 2010, the Baharistan National Secular Party (BNSP), was elected as the single largest Party and formed a coalition government at the Union level.
2. In 2011, Baharistan, for the very first time hosted the prestigious Asian Games as well as the Cricket World Cup. However, recently, numerous scams involving corruption by top-level politicians and bureaucrats were uncovered owing to which there was wide-spread disappointment in the public about the political class.
3. Agyaan Wede, a self-proclaimed 'Gandhian', who had exposed and fought against corruption in the state of Pompei, a state in the Union of Baharistan, announced that he was going to force the Government to put an end to corruption in the country and that he would fast till the Government decided to pass the long-pending *Orwell Bill*. The *Orwell Bill* was essentially aimed to eradicate corruption from state administration, but its implementation faced several hurdles, including questions regarding constitutionality of certain provisions.
4. Agyaan Wede received instant support from an organization called 'Fight Against Corruption' (FAC), which had no previous record or history of being involved in anti-corruption activities. Prominent lawyers, former judges and former bureaucrats came forward as members of the FAC and pledged their support to the movement started by Agyaan Wede. A "core-committee" of such prominent persons was announced which together co-ordinated the efforts of the FAC to optimize Agyaan's efforts, who was referred to as "Agyaan Baba" by the FAC.
5. The Government heeded to the call and for the first time formed a Joint Drafting Committee, to make suitable amendments to the *Orwell Bill* and present it to Parliament. However, there was fierce opposition to such a joint drafting exercise from within the Government, major political parties including the BNSP as well as some segments of the public. The Joint Drafting Committee had 5 Cabinet-level Ministers of the Government, including the

- Deputy Prime-Minister Mr. P.C.Simpul and 5 members from the “core-committee” who proclaimed themselves to be representatives of “civil society”. Agyaan was at no point involved in the drafting process but expressed his full support to the 5 members. On the insistence of the Government, the proceedings of the Joint Drafting Committee were also video recorded.
6. However, the talks collapsed as the Government and the representatives of “civil society” did not agree on all aspects of the Bill. The Government decided to proceed with its own version of the amendments and announced that it would be placing its version of the Bill before Parliament in the coming session, which was due to commence in less than a week.
 7. Undeterred, the FAC proceeded and publicized copies of the Bill as drafted by them. They ensured wide-spread publicity, through all forms of media, including social media and networking websites, to their draft, which was also made available on the website of the FAC.
 8. As soon as the session of Parliament began, Agyaan Wede, announced that he would go on a fast-unto-death in case the draft prepared by the FAC was not passed by the Parliament and would publicly demonstrate at the Dumberhoaks Grounds in Dely, the Capital of Baharistan. The State Police, being seized of the situation, at first citing disturbance of public order, took Agyaan into custody, but due to public protests and agitations by the FAC Volunteers, released Agyaan.
 9. Agyaan continued with his public fast-unto-death at the Dumberhoaks Grounds, which was attended by various celebrities, volunteers and members of the FAC as well as the general public. The Core-Committee was always at the venue and co-ordinated the entire movement. Agyaan and the Core-Committee of the FAC, went on and made calls to their supporters to intensify the movement and carry out protests at the homes of all the Members of Parliament and local politicians. The Government continued to negotiate with Agyaan to call off his fast as it believed that it was not possible for the demands to be met legally or practically.
 10. However, Agyaan and the Core-Committee of FAC refused, and instead asked for the movement to be made more aggressive. Responding to the same, there were many reported cases of violence and clashes with the police across the country. Some reports of self-immolation also came to the fore. The Core-Committee Members in their speeches, openly called the sitting MPs as “corrupt and conniving power hungry illiterate brutes, who had no public interest at heart”. The Core-Committee Members recurrently

mentioned that the present elected Members of Parliament were “like priests of a temple of corruption”. These speeches were not only made to the large crowd gathered at the Grounds but was also broadcasted to all parts of the country through news channels and the internet.

11. On the 6th day of Agyaan’s fast-unto-death, Mr. C. Som, a highly respected jurist and former Member of Parliament, filed a petition in the Hon’ble High Court of Dely, against the Government to take immediate steps to tackle the public order situation in the country. Agyaan and FAC were also made party to this Petition. However, neither Agyaan nor members of the FAC appeared before the Hon’ble Court, openly terming it as a conspiracy to thwart their movement. The Hon’ble High Court of Dely, immediately ordered the Government to take all necessary steps to stop the “show” at Dumberhoaks Grounds and prevent any further damage to public property and restore public order. It also ordered Agyaan and the FAC to stop their movement and held that they had no authority to enforce their draft to be passed by the Parliament. It further observed that their movement was unlawful and was disrupting public order.
12. At the same time, a Breach of Privilege and Contempt of the House motion was carried out in the Lok Sabha against the speeches and actions of Agyaan Wede and Core-Committee Members, and the effect of the actions on their voting privileges. The Privileges Committee was headed by Mr. P.C.Simpul and the motions were unanimously passed by the House.
13. Aggrieved Agyaan approached the Hon’ble Supreme Court of Baharistan challenging the order of the Hon’ble Dely High Court. A separate Petition was filed against the 2 Motions passed by the Lok Sabha as well. In light of the urgency of the issue, the Hon’ble Supreme Court decided to hear all the arguments in both matters together.
14. The laws of Baharistan are *pari material* to the laws of the Union of India.