**UNIVERSITY INSTITUTE OF LEGAL STUDIES**

**2nd NATIONAL MOOT COURT COMPETITION**

**(26-28th OCTOBER, 2017)**

**MOOT PROPOSITION**

1. Benedict(Benoit) is a French young boy, who lives in Cognac (South-western French province) has just completed his 20th Birthday and is very happy as his father has permitted him to study medicine at a highly prestigious Bute Medical School (University of St Andrews)Fife, Scotland, UK. Before he leaves for study he promises his father that his sole aim will be to achieve a good degree and to be a good surgeon.
2. The days are passing and Benedict is showing his excellence to the study day by day. One day, when he was in his fourth and the final year of studies, he was doing an autopsy to identify the reason of an accidental death; his class mate naming Sandra Kaur, (23 years) a Scottish girl of Indian punjabi origin, got fainted to see the horrible inner part of a human body and disgusting smell. She was rushed to the hospital for first aid and was admitted for recovery which lasted 4 days during which she was passing through mental trauma and sickening hallucinations.
3. Benedict used to visit her every day with a bunch of flowers and used to share lighter jokes to help her speedy recovery. Even after getting discharge from the hospital they often used to share good time together for many months until they got graduated with a respectable grade.
4. Benedict was very happy and was eager to share his success with the family so rushed back to Cognac just after completion of academic work. His success was a big blast at the entire extended family, so the celebration lasted for many days.
5. During his medical studies, in usual free time Benedict started reading about para psychology and occult interpretations of mystic Indian and Nepali, religious and customary traditions where it was believed that there is a life after death and some people, called ‘Aughad’ do perform practices to give a real experience by inviting

spirit through certain occult performances using men, women and children. Benedict had a huge curiosity to see and experience that performance.

1. One day when he was talking with Sandra about his desire along with a proposal to visit India and Nepal, she instantly accepted his proposal and convinced her parents that she will be safe with Benedict during her visit to India and Nepal.
2. Benedict discussed his idea with the parents, who were initially reluctant to send him alone with a girl for a quite longer time but later got convinced and allowed them to go together to see the world.
3. The Government of India and Nepal were not very difficult to extend them a joint tourist visa for duration of 3 months on a condition that just before completion of the scheduled time they will return back to their native place instantly.It was a happy moment when Benedict and Sandra boarded their flight from London to New Delhi with a scheduled return from the same place.
4. On 12th Jan 2014, they landed in Delhi and enjoyed their stay by visiting many beautiful monuments in Agra and Jaipur. In their visit to Rishikesh and Haridwar, on the bank of river Ganga, Benedict could identify the place where some ‘Agori’ were worshipping near burnt dead bodies and performing exotic rituals. It was the same Benedict was hearing since long. He asked Sandra to come along and be a witness to the mystic practices but she refused as she had no interest in that horrific idea.
5. Benedict chose to go alone with one ‘Ramashish’ a young unmarried boy working under a famous Mastakanand ‘Aghori’ and supporting him to find out the recent cremations enabling the Aghori to do the desired practices.
6. It was a huge attraction for Benedict to be a part of the practice but Mastakanand asked him to come with his wife, as Hindu rituals cannot be performed without a wife and the ‘Tantra’ practice cannot be achieving its desired results and accomplishments.
7. It was a huge setback to Benedict as he was unmarried and due to his status the dream was about to destroy. He requested Mastakanand to give a solution to his problem and asked, what if, he could be married to Sandra, would it work? Mastakanand consented to solemnize their marriage first and thereafter include them into the practice by honouring them as Husband and Wife.
8. Sandra refused the idea as she was not ready to marry Benedict in this manner and without approval from her parents. Benedict tried to convince her that it is not an actual marriage like Christians (where a boy and a girl do promise against each other in a Church and the parents ,relatives and friends do witness the marriage with the blessings of a Priest), it is just a little formality of Hindu ritual where Benedict and Sandra will be ‘considered only’ married for a specific purpose and after doing a ‘Saptapadi’ (a marriage pattern of Hindus, where a Boy and a Girl take seven steps around fire and promise to each other for protection, care and maintenance for life). He insisted that after ‘Saptapadi’ they will be allowed to perform the practice.
9. After a long discussion and initial hesitation, Sandra and Benedict decided to pass through the formalities of Hindu marriage and to be a part of the ‘Aughad’ practice. Mastakanand and Ramashish were the witness of the marriage where Benedict and Sandra got married as per the directed Hindu pattern including Saptapadi, and exchanged the garlands to each other. The photographs were collected for the occasion and for the ‘Aughad’ practice purpose also.
10. The ‘Aughad’ practice was extremely horrific, strange and exotic to both of them. Sandra was shivering with fear, curiosity and disgust and also not feeling comfortable in disguise presence of Mastakanand and Ramashish at that lonely bank of river in chilling cold night but struggling hard to remain supportive to see Benedict’s happiness. Both Mastakanand and Ramashish were drinking alcohol and eating human flash and also insisting both Benedict and Sandra to do the same. Sandra refused to do so but Benedict took some alcohol and also tasted the human flash with reluctance initially but later he started enjoying human flash like Hungry animal.
11. During ‘Aughad’ practice when Benedict and Sandra were performing the guided activities, Benedict was intoxicated and deeply thrilled, collecting strange photographs and uploading them on face book and other social sites instantly. He was dancing, singing and behaving like completely insane having no mind.
12. Benedict and Sandra could return back to the hotel early morning and slept. Next day by afternoon they could get up late and after lunch they planned to see the rest of the temples and scenic places across. The photographs of Benedict, while eating human flash along with Mastakanand and Ramashish were published by many local newspapers prominently. Benedict was feeling normal but Sandra was still uncomfortable with the recollection of previous night.

1. Due to Aughad’ performance by a foreigner couple, cannibalism and publication of horrifying photographs, It became hue and cry by local community and religious groups, demanding Benedict and Sandra be arrested for showing disregard to the religion and public sentiments. One lawyer Mr. Rajratnam from Delhi High Court, made a complaint case against the couple for cannibalism and destroying social harmony.
2. As per the schedule Benedict and Sandra had to move for Nepal in next two days. Within this time Sandra observed that Benedict has started dictating terms and often started calling her as wife, although it was usually in lighter mood but still it was identifiable.
3. After reaching Nepal, while check-in hotel he got their names registered as Mrs. and Mr. Benedict. Sandra gave it a damn and moved in, as she was tired and wanted a deep sleep.
4. Nepal was a pleasant stay and they were roaming to see beautiful temples and monuments across. While visiting ‘Pashupatinath Temple’ Sandra was intimated by the tour guide that today early morning the temple authorities have found an infant of barely one month on the staircase. Sandra got moved and wanting to see the infant, a baby girl. The baby was extremely cute like a white teddy bear and was crying due to hunger and cold. She requested the temple authorities to allow her to keep the child but they refused to do so until both Benedict and Sandra propose to adopt the child by surrendering their identities. Benedict suggested her to reveal their newly acquired identity of married couple to keep the child. It was difficult for Sandra to do so but to see the infant she accepted the proposal and shown their status as ‘Married’ along with photographs. After surrendering certain documents and photographs and with the little formalities, the child was handed over to them.

1. Sandra and Benedict were very happy and thrilled to have the child and enjoyed the presence of a third soul in the middle by keeping it warm, fed and relaxed like parents. It was a wonderful feeling Sandra could live with. Both newly adopted parents lived in Kathmandu for almost a week and purchased a lot many things for adopted child.
2. While returning back to Delhi, at Tribhuvan International Airport, Kathmandu, the immigration officer asked the passport of all three along with a valid visa issued by Indian Ministry of Foreign Affairs but the newly adopted child was having none so was refused to get a clearance. Sandra and Benedict were deeply disappointed to see the legal technicality of the issue so rushed back to the local administration to make some ad-hoc arrangement to get the work done and to obtain the permission to take the child along with.
3. The local administrative authorities asked the couple to show the documents reflecting the child’s identity and establishing the parenthood. Besides this the couple was unable to reveal the marital status of Benedict and Sandra, whereas some photographs were the only support to establish them as married couple .It was not possible for them to adopt a child without having status of a married couple. On special request, extended by French Embassy in Nepal, and after submitting an undertaking along with an affidavit by the French Councillor, to maintain the very best upbringing of the child, the couple was allowed to leave the country along with the infant.
4. The very moment the couple landed in India the immigration officer asked to show the identity of the child, as there was no specific document of adoption and the couple had one additional person with them, who was not registered while departing for Nepal. The police took them into custody assuming that the child has either been bought or stolen by the couple. The police authorities produced the couple before the Judicial Magistrate and Magistrate released the couple on bail after furnishing bail bond and handed over the child to the Indian government authorities to further return back the child to Nepalese authorities.
5. Benedict and Sandra contacted French Embassy but they denied any help. Then they contacted British Embassy which suggested them to get married in Embassy itself to legitimize the marital status and so the adoption of the child as per the Indian laws.
6. Benedict got furious and agitated on the proposal as he had no idea to get married without parental approval and to adopt a child without intention. Sandra was also disappointed to see the legal hassles but despite she was ready to fight for the protection of the child and to carry on with her recently acquired motherhood.
7. Benedict had a consultation with his father who was very angry with these developments and directed him to return back to France instantly.
8. Benedict suggested Sandra to leave the child at its own fate and return back to UK but Sandra denied doing so as she felt it inhuman and against all ethics, she learnt. They had a bitter fight and after that Benedict decided to leave for France without even consulting Sandra. The joint decision of parenthood and marriage was ignored by him and without understanding her emotional attachment with the child and also assuming forthcoming legal complexities he left for France.
9. The moment he landed in Cognac his father took him to the local Registrar of Marriage and got his marriage nullified on the basis of illegality of the marriage solemnized in India without any approval of parents and without any appropriate rituals. Such marriage is not accepted in France and Christian religion.
10. Sandra remaining alone in India contacted British Embassy again with the recent developments but they refused to help except suggesting her to return back to UK without the child.

Finally, Sandra filed a case in Indian Court on the following grounds,

1. Her marriage must be considered as a valid marriage and re-instituted .
2. She may be considered as a single parent of the child for adoption purpose.
3. The adoption should be considered legal and valid
4. She should be provided with maintenance for herself and the child
5. She should be allowed to take the child with her to UK
6. The case of cannibalism and child stealing be withdrawn against her.

**Note: The Parties may raise any other issue in accordance with the facts stated in the moot proposition.**