



NATIONAL
HUMAN RIGHTS
COMMISSION

IN COLLABORATION WITH



TAMILNADU
NATIONAL LAW
UNIVERSITY

1ST TNNLU NHRC NATIONAL MOOT COURT COMPETITION 2023

MARCH 3RD - 5TH, 2023



KNOWLEDGE
PARTNER

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About Tamil Nadu National Law University

Tamil Nadu National Law University (TNNLU) was established by the Government of Tamil Nadu by an Act of State Legislature (Act No. 9 of 2012) to provide high calibre legal education at the global level. TNNLU commenced functioning from the academic year 2013-2014.

The University imparts quality legal education, nurtured within a robust culture of interdisciplinary research and teaching in an equitable, respectful, and supportive environment producing legal practitioners and scholars who will be committed to justice, social transformation, and national development.

Through its Moot Court Committee, TNNLU hopes to foster skills of advocacy and depth of reasoning, by organising and hosting intra and inter University Moot Court Competitions. The 1st TNNLU-NHRC Moot is a new step in that direction.

About National Human Rights Commission

The National Human Rights Commission (NHRC) of India is an independent body of the Indian government with the responsibility of advancing and protecting human rights. It is a statutory body established in 1993 in accordance with the "Protection of Human Rights Act", which was amended in the year 2006 and further amended in the year 2019.

The Act extends to the whole of India and was passed in conformity with the Paris Principles adopted for the promotion and protection of human rights, which were endorsed by the General Assembly of the United Nations on December 20, 1993.

In addition to investigating complaints of human rights violations, negligence in the prevention of such violations by public employees, the Commission also studies human rights treaties and international instruments and gives recommendations to the government for their effective implementation.

About the Competition

The 1st TNNLU-NHRC Moot Court Competition, 2023 aims to bring to the fore contemporary human rights issues at the intersection of international instruments on human rights and the Constitution and the ordinary laws of India. While providing an opportunity to sharpen research and oratory skills, this moot court competition hopes to inspire students to engage and develop an interest in the most pressing human rights issues of our time.

Official Schedule

Registration Deadline	30th January, 2023
Last date of clarification	5th February, 2023
Last date for release of clarification	7th February, 2023
Deadline for submission of the soft copy of the memo	23rd February, 2023
Final Submission of the memo (along with Deductions)	26th February, 2023
The Competition	3rd - 5th March, 2023

Rules of the Competition

1. DEFINITIONS

1.1 Advanced Rounds: It refers to the Quarter-final, Semi-final and Final rounds of the 1st TNNLU-NHRC National Moot Court Competition, 2023.

1.2 Memorial: It means the written arguments submitted, on behalf of both parties, according to The Rules of the Competition by each team.

1.3 Competition: The Competition refers to all aspects of the 1st TNNLU-NHRC National Moot Court Competition, 2023.

1.4 Oral Round Scores: It refers to the average of the scores secured by both the Speakers in the Oral Rounds.

1.5 Oral Rounds: It refers to the Competition rounds during which the teams submit their pleadings orally in front of the judges on behalf of one of the parties against another team representing the opposing party.

1.6 Organizers: It shall mean the Moot Court Committee of the Tamil Nadu National Law University, Tiruchirappalli.

1.7 Power Match-up: The fixtures for the Oral Rounds of the Competition will be done on the basis of a power match-up (T1 v. T24, T2 v. T23, T3 v. T22...). For the first round of the Qualifying Round, power match-up will be based on the memorial ranks secured by the team. For the Advanced Rounds, the power-up will be based on the Oral Round Scores secured by the teams.

1.8 Qualifying Round: The Qualifying Round is the preliminary round of the Competition consisting of two rounds wherein teams must argue for both the parties.

1.9 Scouting: Scouting is the act of attending a round in which the members of the team or any person related to the team are not competing.

1.10 Slide match-up: The fixtures for the second round of the Qualifying Round will be determined by the Organizers on the basis of a slide match-up (T1 v. T13, T2 v. T14, T4 v. T15...) of the memorial ranks secured by the teams.

2. GENERAL RULES

2.1 Eligibility

All students enrolled in a three (3) year LL.B. programme or a five (5) year LL.B. programme shall be eligible to participate in the Competition. However, only one team per institution shall be eligible to participate. Students enrolled in post-graduate or diploma courses are not eligible to participate.

2.2 Team Composition

- **2.2.1** The team composition for the Competition shall be either two members (Both the members designated as Speakers) or three members (Two members designated as Speakers and one member designated as a Researcher)
- **2.2.2** Substitution of any team member or alteration of team composition is not allowed after the date of Final Registration except under extenuating circumstances and only with the permission of the Organizers.
- **2.2.3** A Researcher, in extenuating circumstances, may be allowed to argue during the Oral Rounds with the permission of the judges.

2.3 Language

The Competition shall be conducted in English language only. All oral submissions and written submissions (memorials and compendium) shall be in English.

3. REGISTRATION

3.1 General Rules for Registration

- **3.1.1** Selection of teams shall be on first-come-first-serve basis and only 24 teams will be registered to participate in the Competition.
- **3.1.2** Institutions may provisionally register and reserve a slot in accordance with the procedure prescribed in 3.2. However, provisional registration does not secure a slot unless the team has completed the registration process prescribed under 3.3.

3.2. Provisional Registration

- **3.2.1.** Provisional Registration for the Competition shall open on 22nd January, 2023. Institutions can temporarily block a slot by writing to the Organizers at

nhrcmoot@tnnlu.ac.in. Institutions will receive a response immediately regarding the availability of slots and reservation of the same.

- **3.2.2.** Institutions who have provisionally registered must complete the Registration process described in Rule 3.3 by 11:59 PM (IST), 30th January 2023.

3.3. Final Registration

- **3.3.1.** A slot can be secured only after teams complete the Final Registration process by 11:59 PM (IST), 30th January 2023. Teams will receive a unique Team Code, for identification purposes, once the Final Registration is complete.
- **3.3.2.** To complete the Final Registration, teams must email a soft copy/scanned copy of the duly filled Registration Form, which has been annexed with this Brochure at page 24, along with a scanned copy of the Demand Draft drawn in accordance with Rule 3.3.3 to nhrcmoot@tnnlu.ac.in with the subject 'Registration for 1st TNNLU-NHRC NMCC, 2023.
- **3.3.3.** A fee of Rs. 4,000/- (Four Thousand Rupees Only) is payable towards registration. The registration fee must be paid by drawing a Demand Draft in favour of 'The Registrar, Tamil Nadu National Law University', payable at Tiruchirappalli.

4. RELEASE

OF PROBLEM AND CLARIFICATIONS

Clarifications regarding the Moot Problem may be sought by the teams till **11:59 PM (IST), 5th February 2023** via an email to nhrcmoot@tnnlu.ac.in with the subject '1st TNNLU-NHRC NMCC, 2023 - Clarifications.' The Clarifications sought by the teams will be published and circulated to the teams via email by 7th February 2023.

5. MEMORIAL RULES

5.1. General Rules for Memorials

- **5.1.1.** All the teams must submit the soft copy of the memorial to the Organizers **on or before 11:59 PM (IST), 23rd February 2023**. The soft copy of memorials once submitted cannot be revised or resubmitted.
- **5.1.2.** Teams must submit the soft copy of the memorial in the Google Form circulated via email by the Organizers to the teams who have registered.
- **5.1.3.** Memorials submitted 24 hours after the deadline prescribed above will not be accepted.
- **5.1.4.** The memorials shall not contain any annexure, photograph, graph, diagram or any other representation of like nature.
- **5.1.5.** The deadlines for Memorial Submission are as prescribed below:
 1. Soft Copy of the Memorials: 11:59 PM (IST), 23rd February 2023.

2. Hard Copy of the Memorials: To be turned in during Registration/Orientation at the venue of the Competition on 3rd March 2023.

5.2. Rules for Submission of Soft Copy of the Memorials

- **5.2.1.** The soft copy of the memorial must be submitted as Word Document (.docx) as well as PDF Format (.pdf) in the Google Form sent to the teams.
- **5.2.2.** Memorials submitted via email, or any other similar platform will not be accepted.
- **5.2.3.** The memorials must be named in the following format: “Team Code – Petitioner/Respondent”, for example, “T20 - Petitioner”. The file name shall not carry any other identifying marks.
- **5.2.4.** Memorials for both the parties must be submitted together. Separate submissions or any request for separate submission will not be accepted or entertained.

5.3. Rules for Submission of Hard Copy of the Memorials

- **5.3.1.** Teams must turn in five (5) hard copies of each memorial to the Organizers during the Registration/Orientation on 3rd March 2023 at the venue of the Competition.
- **5.3.2.** Memorials must be printed on both sides.
- **5.3.3.** All hard copies of the memorials must be spiral bound.
- **5.3.4.** The colour of the Cover Sheet must be Blue for Petitioner/Appellant/Plaintiff etc. and Red for Respondent/Defendant.

5.4. Rules on the Content and Formatting Specifications of Memorials

- **5.4.1.** Format Specifications: Each Team is required to prepare a memorial for each party of the dispute with the following mandatory heads:
 - Cover Page
 - Table of Contents
 - Index of Authorities
 - Statement of Jurisdiction
 - Statement of Facts (Must Not Exceed 2 Pages)
 - Issues Raised
 - Summary of Arguments (Must Not Exceed 2 Pages)
 - Arguments Advanced (Must Not Exceed 25 Pages)
 - Prayer (Must Not Exceed 1 Page)
- **5.4.2.** The Cover Page must contain only the following information:

- The Team Code in the upper right corner of each memorial. No other page must contain the team code.
 - The name of the Forum resolving the dispute.
 - The name of the Competition.
 - Name of the parties and status before the Forum
 - The party on whose behalf the memorial has been prepared.
- **5.4.3.** All parts of the memorial (including headers, footers and headings) must be typed on A4 sized paper/format, with the following Formatting Specifications:
 - Page Orientation: Portrait
 - Font Type: Times New Roman
 - Font Size: 12
 - Line Spacing: 1.5
 - Margins: One (1) Inch on Each Side
 - **5.4.4.** For Footnotes, the Formatting Specifications are as below:
 - 20th Edition Bluebook style of uniform footnoting must be followed throughout the memorials.
 - Font Type: Times New Roman
 - Font Size: 10
 - Line Spacing: 1
 - Speaking footnotes or endnotes are not allowed.
 - **5.4.5.** The memorials must not contain any identification apart from the team code allotted. If any discrepancy or any attempt to disclose identity by any team is noticed by the Organizers, the team will be disqualified.

5.5. Evaluation of Memorials:

The maximum score for each memorial shall be 100 marks. The memorials shall be evaluated on the following criteria:

Criteria For Evaluation	Maximum Marks
Application of Facts	25 marks
Knowledge, Interpretation and Application of Law	25 marks
Ingenuity and Logical Reasoning	20 marks
Use of Authorities and Precedents	20 marks
Presentation and Formatting	10 marks

5.6. Penalties

Any team violating the specifications as prescribed under Rule 5.1 to Rule 5.4 will be penalised as described in the scheme below:

Description	Penalty
Failure to include all the sections in the memorials	5 marks for each section
Failure to include necessary information on the Cover Page of the memorial or use of a colour on the cover page contrary to the scheme provided	5 marks for each memorial
Disclosure of identity of the team or of the institution being represented	Disqualification of the team
Delay in submission	1 mark per hour of delay
Use of incorrect font style, font size or line spacing	1 mark per violation, maximum of 10 marks per side
Incorrect Margins	2 marks One-Time penalty
Excessive length of any section of the Memorials	1 mark for each extra page
Plagiarism in Memorials	Disqualification of the team

5.7. Copyright and Publication of Memorials

The Organizers reserve the right to reproduce and disseminate the memorials for the purpose of the Competition. The submission of the memorial in this Competition will constitute the consent for the same.

6. COMPETITION ROUNDS

6.1. General Rules for Competition Rounds

- **6.1.1.** The Competition Rounds will comprise of four rounds: Qualifying Rounds, Quarter-Final Rounds, Semi-Final Rounds and the Final Round (Advanced Rounds). Each of the rounds shall be conducted in the manner detailed in the following rules.
- **6.1.2.** The time split between the speakers must be communicated to the Court Clerks prior to the commencement of each round.
- **6.1.3.** There will be no extension of time. If the judges are of the opinion that a certain exigency does require an extension of time, they may extend the cumulative speaking time for a team.

- **6.1.4.** There shall be no oral communication between team members seated on the table and the speaker delivering oral submissions. However, the teammates can write a note to the speaker which shall be passed on by the Court Clerk.
- **6.1.5.** Use of electronic gadgets is strictly prohibited inside the Court Hall. If any of the members of the team are found to be using electronic gadgets during the proceedings in the Court Hall, such a team/s will be disqualified immediately.
- **6.1.6.** The teams shall not disclose to the judges, in any manner whatsoever, for the entire duration of the rounds, either their own individual identities or the identity of the institution that they represent.
- **6.1.7.** Teams may pass on a compendium of the sources they have cited in their Memorials to the judges through the Court Clerk present in the Court Hall.
- **6.1.8.** Sur-rebuttals may be allowed at the discretion of the judges.
- **6.1.9.** If a team scheduled to participate in the oral submissions of a round does not appear for ten (10) minutes after the scheduled commencement of such round, the team will be disqualified, and the other team shall make oral submissions ex-parte.

6.2. Qualifying Rounds

- **6.2.1** Each team will argue in two (2) Qualifying Rounds, once for each party.
- **6.2.2.** The fixtures will be based on the memorial scores secured by the teams. The fixtures for the teams will be prepared by the Organizers on the basis of a power match-up (T1 v. T24, T2 v. T23, T3 v. T22...) and slide match-up of ranks (T1 v. T13, T2 v. T14, T3 v. T15...) for the first and second rounds respectively.
- **6.2.3.** Each team will be given 30 minutes which is inclusive of the time for rebuttal and sur-rebuttals. Each team is entitled to a maximum of five (5) minutes out of the thirty (30) minutes for rebuttal and sur-rebuttal.
- **6.2.4.** The ranking of the teams in the Qualifying Round will be based on both Memorial Scores and the Oral Round Scores. The scores of the Qualifying Round will be the aggregate of the average scores in both the oral rounds and the Memorial score (70% of oral round scores and 30% of Memorial Score). For example, if the average of the memorial scores is x, the average for the oral rounds is y, then the aggregate score will be a combination of 30% of x and 70% of y.
- **6.2.5.** If two or more teams have the same cumulative score (Memorial Score + Oral Round Scores), the team with the higher cumulative Oral Rounds Scores shall be ranked higher.
- **6.2.6.** In case of a tie, it shall be resolved in the following order:
 - Memorial Score
 - Highest Score under the scoring criteria ‘Application of Legal Principles & Usage of Authorities’
 - Coin Toss

6.3. Advanced Rounds

- **6.3.1.** The fixtures will be prepared by the Organizers on the basis of power match-ups generated using the ranks from the Qualifying Round. The party each team has to argue on behalf of will be determined by draw of lots.
- **6.3.2.** The teams will be given forty-five (45) minutes each which is inclusive of time allocated for rebuttal or sur-rebuttal. Each team is entitled to a maximum of five (5) minutes out of the forty-five (45) minutes for rebuttal and sur-rebuttal.
- **6.3.3.** The qualification in the Advanced Rounds shall be on the basis of win/loss, which will be determined by taking into account the Oral Round Scores in the respective rounds.

6.4. Scoring Criteria

The maximum score a Speaker can get is 100 marks. The criteria for evaluation in the Oral Rounds are as below:

Criteria for Evaluation	Maximum Marks
Application of Legal Principles & Usage of Authorities	25 marks
Knowledge of Facts	20 marks
Structure, Articulation & Clarity	20 marks
Ingenuity & Response to Questions	20 marks
Court Etiquette, Presentation Style & Time Management	15 marks

6.5. Researcher's Test

- **6.5.1.** The Researcher's Test will be conducted on 3rd March 2023.
- **6.5.2.** Only a participant designated as the Researcher at the time of Final Registration shall be eligible to participate in the Researcher's Test.
- **6.5.3.** The duration of the test is One (1) hour. The test will have both objective and subjective questions based on the facts in the Moot Problem and the law applicable to the same.
- **6.5.4.** Usage of any notes, bare acts, books or any other material or electronic aid is strictly prohibited. Any participant found violating this rule shall be disqualified from the Researcher's Test.

7. AWARDS

7.1. The Competition includes the following awards:

- Awards Prize Money
- Winners Rs. 45, 000/-
- Runners Up Rs. 25, 000/-
- Best Researcher Rs. 10, 000/-

- Best Speaker Rs. 10, 000/-
- Best Memorial Rs. 10, 000/-

7.2. Best Speaker: Will be decided on the basis of Oral Round Scores in the Qualifying Round.

7.3. Best Researcher: Will be decided on the basis of the Researcher's Test only.

8. MISCELLANEOUS

8.1 Code of Conduct

- **8.1.1** The Rules governing the conduct of the Competition should be strictly adhered to. Any deviation thereof can attract penalties or disqualification at the sole discretion of the Organizers.
- **8.1.2** Any attempt to contact the framers of the Moot Problem will result in immediate disqualification.
- **8.1.3** The identities of the teams shall not be disclosed in any form in the memorials or the compendiums.
- **8.1.4** All participants shall maintain decorum in the Court Hall during the Competition and are expected to conduct themselves in a manner befitting the legal profession. Within the campus, the participants are also expected to strictly adhere to the Rules of the Organizing University including Zero Tolerance of Sexual Harassment.
- **8.1.5** Scouting of a team's future opponent is strictly prohibited. Violation of this rule will result in immediate disqualification.
- **8.1.6** No team member or individual participating in the Competition shall attend the arguments of any other team or individual except for the Final Round or receive information from any person who has attended any of the other rounds in the Competition.
- **8.1.7** The Dress Code for the participants shall be formals. Men are expected to wear Western Formals only (Black Blazer, Black Pants, White Shirt, and Black formal shoes). Women can wear either Western Formals (Black Formal Skirt or Black Pants, White Shirt, Black formal footwear) or Indian Formals (White Kurta, Black Salwar/Churidar, Black formal footwear).
- **8.1.8** The Organizing Committee reserves the right to take appropriate action regarding any dispute, unethical, unprofessional or immoral conduct.

8.2 Organising Powers

- **9.1.** If and when any one of the members of a team is notified or informed of any detail or information concerning the Competition, it shall be deemed as if the said team as a whole has been duly notified or informed.
- **9.2.** In case of any doubt in the understanding or interpretation of any matter concerning the Competition, the decision of the Organizers shall be final and binding.

- **9.3.** The Organizers reserve the right to amend, alter, vary or change, in any manner whatsoever, the Rules governing the Competition, which would be communicated to the teams within a reasonable period of time.

CONTACT INFORMATION

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MOOT PROPOSITION

1. Arrakis is a country with a rich history dating back to the early ages of human civilization. It went through an assortment of rulers until it was colonised by Harkkonens for nearly 200 years. The Harkkonens however left on 15 August 1947 leaving behind their laws and widely influencing the legal system of Arrakis even today. Since then, wanting to set an example for the global community and to take a stand against colonial powers, Arrakis has been a responsible and communicative nation with a demonstrated commitment to international law and the protection of human rights. The country ordinarily has been a refuge for those fleeing persecution in their own countries and has a significant record of rehabilitating and supporting refugees as well as migrants.

2. Cognizant of the excesses an organised state can commit against its people, in 1993, the Parliament of Arrakis passed the Protection of Human Rights Act. The enactment set up the National Human Rights Commission (hereinafter NHRC), a statutory body that was to take account of any and all human right violations by the government. The NHRC possesses the power to investigate any alleged human right violations by the State, and recommend action against officers, as well as direct the grant of compensation to the victims of the violations. The NHRC also has the power to issue advisories to private and public authorities in how they conduct operations that may have an impact on human rights. It has however, historically been debatable whether the directions of the NHRC must compulsorily be followed by the State.

3. However, despite the attempts to set up a robust human rights regime, Arrakis continues to struggle with the fallouts of colonisation. A heavily populated country whose economy was depleted by the Harkkonens, Arrakis has found it difficult to produce employment for its working population. This has led to an alarming increase in the number of people clamouring for menial jobs, with the select few in positions of power, exploiting this set of the population. Adding to this, Arrakis, which is designed as a federation, did not develop uniformly. Some states in Arrakis such as Kumro, Pratha and Khimani are very well off, attracting a bulk of corporate offices and factories, manufacturing units, and in general investment. This has led to significant inter-state movement of the labour force, with people from poorer states thronging to richer states, invariably resulting in overcrowding, and imposing significant pressure on the relevant state's limited resources.

4. Large multinationals also routinely set up factories and sweatshops in Arrakis, looking to lower costs by employing cheap labour. All this trouble is only compounded by the large influx of migrants, and refugees fleeing persecution in neighbouring countries, coming to Arrakis in search of any kind of work that they can find. Arrakis is therefore, caught between inviting foreign direct investment to support the economy and its growing population, preventing the exploitation of its labour force, harbouring refugees and migrants, as well as creating employment for all those within its borders. With such competing responsibilities, successive governments of Arrakis have constantly gotten the balance wrong, leading to much criticism from civil rights activists for its failure to enact stringent labour laws.

5. Meanwhile Arrakis has ratified the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), but in a curious occurrence, did not ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 (the MW Convention hereafter) despite being an active participant in the negotiations. Relevant to the current case are Articles 25 and 43 of the Convention which provide for equal treatment to international and domestic migrant workmen in respect of remuneration, conditions of work as well as amenities provided. Unsubstantiated reports aver that Arrakis was not able to economically support international migrant workers beyond allowing them to cross into the country given its floundering attempts to keep up with domestic labour challenges.

6. In 2012, the Arrakis Liberation Front (ALF) came to power as the newly elected Government of Arrakis with an overwhelming majority. One of their primary promises was to create more jobs to battle unemployment rates. In furtherance of this, the ALF had set its sight on winning the bid to host the 2024 Freezeball Tournament. Freezeball originated 100 years ago in the country of Harkkonens where freezing temperatures allowed people to skate across frozen lakes attempting to take each other out with snowballs. Over the years, the game became popular across the world, with nations constructing temperature-controlled stadiums to train teams for international tournaments. Freezeball became very popular in Arrakis as a direct result of its colonial history, although participation was limited to simply watching games on television. Sportspeople interested in Freezeball could never play in Arrakis as it is an extremely hot country, with a mean annual temperature of 35 degrees Celsius and a scorching summer where temperatures soared to 50 degrees. There was no question therefore, of constructing ice rinks that would simply melt away.

7. Even so, in 2012, the Government of Arrakis made a bid to host the 2023 Tournament. Fortunately, or unfortunately, the International Freezeball Association (IFA), had not received very many applications to host the tournament, owing to an impending global recession. Therefore, as luck would have it, Arrakis was awarded the opportunity to host the tournament. This came as quite a shock to the global community, Arrakis neither had the climate, nor the infrastructure to support Freezeball, let alone accommodate the millions of spectators that would inevitably throng to Arrakis to witness the Tournament. At the time, several reputed news outlets reported the existence of clandestine agreements between ALF and IFA, suggesting that the Prime Minister of Arrakis had donated a large sum of money to the IFA prior to coming to

power. Even so, journalists had nothing more than sources they could not disclose, and the ALF flatly refused to comment on any press that unfavourably reported on the Tournament.

8. With only 11 years to get ready for the Tournament, a Public Private Partnership agreement whose validity is not under challenge here was entered between the Ministry of Sports and Youth Affairs, Arrakis, the Ministries of Sports in the States of Khimani, Pratha, and Kumro, the AAFB (All Arrakis FreezeBall Federation) and two multinational infrastructure giants in with registered offices in Arrakis – Resilience Pvt. Ltd. and Akhuni Pvt. Ltd. Pursuant to this agreement, several sites across the country are identified for construction of stadiums, hotels, and other infrastructure for the Tournament. While there were to be a total of fifteen stadiums to be built, eight of these, including the largest two, were to be built in the State of Kumro. Kumro is a state to the east of Arrakis. The outskirts of Kumro are known for its massive, untouched forests and vast tracts of land populated only by a small rural population. Over the last few years, rainfall has been sparse, due to which the people in this part of Kumro have not been able to farm, relying instead on odd jobs that they can find. Hoping to catch two birds with one stone, the Government of Arrakis decided that the bulk of the infrastructure would be set up in Kumro, to first, take advantage of the primarily clear land, and second, to generate employment for the people of the state and neighbouring areas. The central and state governments also anticipated that several labourers would travel to Kumro from other states to avail of the newly generated employment opportunities.

9. Construction began in April of 2014. The process of building a stadium, which was carried out directly by Resilience and Akhuni, involves first creating a closed dome, installing temperature control, and then finally constructing the ice rink. For the stadiums, approximately 40,000 people were employed by Resilience and Akhuni and private sub-contractors under them on a temporary contract basis. The first two stages of construction go smoothly, with the private entities mandated to employ the highest safety standards to aid workers. Historically, loose scaffolding was used by workers who had to climb to great heights, however, the government of Arrakis and Kumro took a widely publicised ‘no tolerance’ attitude towards such practices, instead providing every worker with state-of-the-art harnesses, head gear and equipment. For the first 3 years then, construction progressed rather uneventfully.

10. However, it is in the third stage, which began in early 2019, when things begin to go dramatically wrong. The ice rinks, which are as big as football fields, were estimated to take over 120 days each to complete. Further, the construction of the ice rink requires the temperature of the stadium at -3 degrees Celsius. This means that the workers involved at this stage are required to work at sub-zero temperatures with no more than a single sweater that is provided for by the private contractors employing them. Exhausted workers, who spend close to 14 hours a day in this environment, walk out into hot, humid nights, their bodies shocked by steep shifts in temperature.

11. As construction continues in full swing, several news pieces started emerging about poor working conditions, non-payment of wages and non-adherence to minimum wages and shockingly, the estimated death of over 150 workers. While the government asserted that the deaths were caused by comorbidities, The Watcher, a reputed media outlet reported that they

were in fact caused by alternating spells of hypothermia and severe dehydration. It also reported extremely unsanitary resting premises being allotted to workers which were constructed within the stadium domes, shielded from the public. The HBC, another reputed global media organisation, reported that of the 150 workers who had died, around 40 of them were migrants from neighbouring nations of Ladakh and Kisan. These were reportedly workers who had secured employment through questionable documentation, although, the private contractors were notoriously lax about verifying them. Both these pieces were a result of the investigation and research by “Equal Voice”, a well reputed NGO in Arrakis. It submitted a detailed report subsequently around 19 December 2019 highlighting the human rights violations that occurred in consequence of building of the stadiums.

12. As public agitation steadily begins to mount against the State and Central Governments, as well as the private companies involved, the NHRC releases an Advisory dated 21st September 2018. The relevant part of the Advisory is extracted as follows:

Subject: Advisory to Identify, Monitor and Protect Migrant and Daily Wage Workers

21st February 2020

Actionable Recommendations on Protection of Rights of Migrant Workers

- 1. Equality of Treatment: Migrant Workers both domestic and international must receive equal treatment which includes adequate redressal forums for violation of rights arising from employment under the State.*
- 2. Maintenance of Employment Register: District Administrations must maintain a record of information of all residents of the nearby villages and those that have migrated to towns/cities for work.*
- 3. Interventions to Ensure Right to Safe Working Environment: All migrant workers are to be provided with safe working conditions and protective gear in relation to their responsibilities within the capacity of the employers.*
- 4. Funds for Healthcare: The State Government should consider creating dedicated funds for providing healthcare to the vulnerable and daily wagers as well as their dependents in case of loss of life or injury.*

Monitoring of the Implementation of the Advisory:

The Secretary, Ministry of Sports and Youth Affairs, Government of Arrakis and the Chief Secretaries of the States and UTs shall submit monthly reports to the NHRC until the completion of the Freezeball Tournament, 2024, with respect to measures taken for implementation of this Advisory.

13. Rahul Gupto, the leader of opposition questioned fiercely at the House of Parliament on the Government’s negligence on this regard and complacency of the activities of the Resilience and Amani Groups sanctioned by them and AAFB. His party put this to wider public notice by lodging protests and even created hashtags on social media such as #SayNoToWorldCup, and

#CorruptAAFF. Under severe pressure, a government bill was introduced in Parliament titled the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Bill, 2019. It was a special legislation which was passed with the intent to provide benefits of inter-state migrant workers to strengthen the labour law regime in Arrakis and fulfil constitutional promises against non-exploitation of the labour force. Owing to the majority ALF had in the Parliament, the Bill passed in record time amidst protests by the opposition that it was not in line with either the NHRC Advisory, or the Migrant Workers Convention. The Act came into force on 16th December 2020 (hereinafter the ISMW Act).

14. Under Section 20 of the ISMW Act, Inspectors were empowered with the discretion to enter any premise where migrant workers were employed, to satisfy themselves as to whether all the provisions of the enactment with respect to payment of wages, sanitary conditions, amongst others, were being followed by the relevant employers. Section 28 also empowered the Inspectors to file a complaint before a Metropolitan Magistrate to take cognisance of any offence committed under the enactment, provided that the complaint was made within 3 months of the offence coming to the knowledge of the Inspector.

15. By this time, newspapers were rife with reports of human right violations in the stadium domes. On 13th March 2021, the Inspector in charge of the district in Kumro launched an investigation into the Kumro Domes (Stadiums). On 25th March the Inspector entered the premises to find squalid living arrangements, minimal blankets, cold food and all in all, miserable working conditions. The workers, however, were being paid their minimum wage, though payments were often delayed and not nearly enough to support their families and the medical costs they were incurring due to illnesses caused by the dire temperature fluctuations. When questioned however, workers did not report, nor recognise how dire the situation was, testifying instead that they were grateful to at the very least be earning a living, and find respite from the sweltering heat outside. Workers who had migrated from other countries also testified similarly.

16. The Inspector visited the premises of the Kumro Domes on four separate occasions, some alleged, to give multiple opportunities to the contractors to remedy the conditions. With 29th June 2020 being the last visit, the Inspector finally studied the report by Equal Voice, conducted interviews at a rather languid pace, and finally decided to file a complaint against the private contractors before the Magistrate on 30th September 2020. However, vide order dated 15th November 2021, the Magistrate rejected the complaint stating that the limitation period for filing had elapsed according to the provisions of the Act. Further, the Magistrate noted that the Inspector had neither mentioned the migrant workers who were not citizens of India but were still employed in the construction of the Kumro Domes, nor noted any of the now 250 reported worker deaths. Stating that he was restrained by the provisions of the enactment, the Magistrate reluctantly dismissed the complaint. The Opposition and media both heavily came down on the Government of Kumro and the Center and suggested that it was an intentional collusive tactic to protect the AAFF, Resilience Pvt. Ltd. and Akhuni Pvt. Ltd. from being prosecuted.

17. 'Equal Voice' submits a petition before the National Human Rights Commission of Arrakis on 28 January 2022 against the Inspector and AAFF for violation of human rights stemming from the treatment of the labour forces employed in the construction of Freezeball Domes.

They press into service the 2020 NHRC Advisory and a dereliction of duty under the ISMW Act. The petition also argues that the NHRC in its investigation, must take cognisance of the treatment of international migrants by relying on the MW Convention, which by this time, had taken on the status of customary international law.

18. The Commission pursuant to the petition submitted by ‘Equal Voice’ begins its investigation on the conditions of living and service of the workers employed at all FreezeBall constructions, but focusing especially on the Kumro Domes, where the most egregious of violations were said to have taken place. At the conclusion of its investigation, the NHRC noted the following (i) that it had not received a single report on the implementation of its 2020 Advisory from the Secretaries, (ii) that a significant factor in the deaths of the workers was the lack of warm clothing and blankets within the domes, and this in itself was a violation of the right to a safe working environment (iii) that the wages were in no sense commensurate to the costs the workers were incurring and (iv) the delay caused by the Inspector had led to additional deaths, varied violations and an escape from liability for the private contractors. The NHRC also noted that though Arrakis had not ratified the MW Convention, the 2020 Advisory had explicitly enjoined the State from differentiating between domestic and migrant workers. Accordingly, the NHRC vide order dated 7th June 2022, ordered that 10 lakh Rupiah be paid to the dependants of all those workers who passed away, 1 lakh compensation for medical expenses for all workers, and recommended the initiation of criminal proceedings under the laws of Arrakis against the private contractors. It sends the said report to the Government of Arrakis and the Government of Kumro for enforcement.

19. However, neither the Government of Arrakis nor the Government of Kumro take necessary action in this regard despite multiple calls for compliance by the NHRC. Instead, the Tournament which had been nearing commencement all this time, is slated to begin in Kumro with much pomp and celebration in January 2023. Regardless, pursuant to the non-response and absolute silence of both governments, the NHRC pursuant to its powers under the Act approached the High Court of Kumro under Article 226 of the Constitution on 18 December 2022. In its pleadings NHRC submits that the AAFF, State of Kumro, and the Resilience and Amani Groups had blatantly exploited the migrant workers and had also violated Article 14 of the Constitution by meting out unequal treatment to domestic and international workers.

20. The AAFF and the private contractors submit that it is not a ‘public servant’ in any capacity and no action can be taken against it. The State of Kumro on behalf of the Inspector submits that it was necessary to undertake detailed study on the conditions of work in Kumro and the delay was unavoidable. It submitted further that non-prosecution under the ISMW Act was unfortunate and opined that its actions were completely bonafide, and that in any case, neither the Advisory, nor the MW Convention were binding on it in any manner. The matter was admitted before the Division Bench of the High Court and is set for final hearing on March 5, 2023.

NOTE:

- The Inter-State Migrant Workers Act 2020 is pari materia to the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- The Protection of Human Rights Act 1993 is pari materia to the Protection of Human Rights Act 1993.
- The Appendix contains the extracts of the legal documents mentioned in the Moot Proposition. Teams are at liberty to consult other sections of these enactments as well.
- The Covid-19 pandemic and any measures which were done in pursuance of the same shall be inapplicable for the purpose of this problem.
- All judgements of courts of law in India and other relevant jurisdictions will only have persuasive value before the courts of Arrakis.

APPENDIX

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.

Article 25:

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;

(b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

(a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;

- (b) Access to vocational guidance and placement services;
- (c) Access to vocational training and retraining facilities and institutions;
- (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
- (e) Access to social and health services, provided that the requirements for participation in the respective schemes are met;
- (f) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
- (g) Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorised by the State of employment, meet the appropriate requirements

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

INTERSTATE MIGRANT WORKERS ACT, 2020

20. Inspectors.—

(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, within the local limits for which he is appointed, an inspector may— (a) if he has reason to believe that any inter-State migrant workmen are employed in any premises or place, enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, such premises or place for the purpose of—

- (i) satisfying himself whether the provisions of this Act in relation to the payment of wages, conditions of service, or facilities to be provided to such workmen are being complied with;
- (ii) examining any register or record or notices required to be kept or exhibited by the provisions of this Act or the rules made thereunder, and requiring the production thereof for inspection;

(b) examine any person found in any such premises or place for the purpose of determining whether such person is an inter-State migrant workman;

(c) require any person giving out work to any workman, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) seize or take copies of such register, record of wages, or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by a principal employer or contractor, and

(e) exercise such other powers as may be prescribed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if a State Government considers it necessary for the purpose of satisfying itself that the provisions of this Act are being complied with in respect of any workmen belonging to that State and employed in an establishment situated in another State, it may, by order in writing, appoint such persons, being persons in the service of that Government, for the exercise of such of the powers mentioned in sub-section (2), as may be specified in that order: Provided that no such order shall be issued without the concurrence of the Government of the State in which such workmen are employed or where the establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, without the concurrence of the Central Government.

(4) Any person required to produce any document or thing, or to give any information required, by an inspector under sub-section (2), or by a person appointed under sub-section (3), shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

(5) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code

25. Contravention of provisions regarding employment of inter-State migrant workmen.—Whoever contravenes any provisions of this Act or of any rules made thereunder regulating the employment of inter-State migrant workmen, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

29. Limitation of prosecutions.—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the inspector or authorised person concerned: Provided that where the offence consists of disobeying a written order made

by an inspector or authorised person, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

30. Effect of laws and agreements inconsistent with the Act.—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act:

Provided that where under any such law, agreement, contract of service or standing orders, the inter-State migrant workmen employed in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the inter-State migrant workmen shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any inter-State migrant workmen from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

PROTECTION OF HUMAN RIGHTS ACT, 1993

12. Functions of the Commission.—The Commission shall perform all or any of the following functions, namely:—

(a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf 1 [or on a direction or order of any court], into complaint of—

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the promotion of human rights.

18. Steps during and after inquiry.—The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:—

- (a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—
 - (i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;
 - (ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;
 - (iii) to take such further action as it may think fit;
- (b) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
- (c) recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
- (d) subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;
- (e) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(f) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.